

Decision No. 25379

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Chester F. Slinger and Catherine
E. Slinger,

Complainants,

vs.

Vivian V. Hurley,

Defendant.

ORIGINAL

Case No. 3274.

In the matter of the investigation on
the Commission's own motion into the
operations, practices, rates, rules,
regulations, services, service area,
contracts, classifications, or any of
them, of Vivian V. Hurley; Hare,
Brewer and Clark, a corporation; the
Estate of S.C. Jones and Palo Alto
Mutual Building and Loan Association,
a corporation, in the sale and dis-
tribution of water in and in the
VICINITY OF BAYNON TRACT, Santa Clara
County, State of California.

Case No. 3284.

Frank L. Crist and Lorenz Costello,
by Lorenz Costello, for complainants.
J.M. Atkinson, for defendant Vivian V. Hurley.

BY THE COMMISSION:

O P I N I O N

The complaint of Chester F. Slinger and Catherine E. Slinger, his wife, states that defendant Vivian V. Hurley has been shutting off the water service to their premises during the hours from eleven o'clock P.M. until six o'clock A.M., leaving no water

available during said period. Request is made that the Commission require defendant to furnish water continuously throughout both day and night. By way of answer defendant alleges that she is not operating a public utility but has supplied water to complainants and others merely as a matter of accommodation and that the water supply is subject to discontinuance upon notice at any time, and for these reasons requests that the matter be dismissed for lack of jurisdiction.

The investigation upon the Commission's own motion into the operations, practices, etc., of Vivian V. Hurley; Hare, Brewer and Clark, a corporation; the Estate of S.C. Jones and Palo Alto Mutual Building and Loan Association, a corporation, was instituted in order that the proper party or parties defendant might be brought before the Commission and, further, in order that any relevant and pertinent matters which might arise and which were not within the issues of the complaint as filed could be given due and proper consideration.

A public hearing in these two proceedings was held at the California Military Academy adjoining Palo Alto, Santa Clara County, before Examiner Johnson, at which time the matters were consolidated for hearing and decision. Several other consumers were present and asked that they be granted permission to be joined as parties to the complaint. It was so ordered.

The somewhat bitter and acrimonious controversy over issues giving rise to and involved in these two cases has since become moot. Vivian V. Hurley has quitclaimed to Emway Mutual Water Company all of the pipe lines supplying consumers herein involved. Consumers are now being served by that water company. It appears at the present time that Emway Mutual Water Company not only

has sufficient water to serve these consumers, but there is available to them an additional source of supply from a well located on adjacent property owned by one R.F. Driscoll. Apparently all of the practical necessities of the situation have been taken care of as well as might have been accomplished by any orders of this Commission directed against any of the respondents. The well on the Hurley property, from which water has been obtained heretofore, is fifty years old, has caved in and is beyond repair. The pumping plant and storage works are antiquated. Whether or not as a matter of law all or any of the respondents are public utilities by reason of their operations is now unimportant because they are not at present operating and all of the consumers are being supplied by another and different source.

In order to close the record, it would seem appropriate here for the Commission to approve the arrangement by which the water plant has been quitclaimed to Emway Mutual Water Company so that, if as a matter of fact a public utility status has attached to it, this mutual water company will not be embarrassed in the future as to its title.

O R D E R

A public hearing having been had in the above entitled consolidated cases, the matters having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the complaint be dismissed and that the transfer of the water system to Emway Mutual Water Com-

pany, referred to in the foregoing Opinion, be authorized and approved and respondents be authorized to abandon any utility service, if any such was in fact engaged in by them, and as to all other matters the said case instituted by the Commission be dismissed.

Dated at San Francisco, California, this 21st day of November, 1932.

C. C. Seaver
Leon Arthur
W. A. Lee
W. B. Harris
Fred G. Stewart
Commissioners.