

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

Decision No. 1364

In the Matter of the Application)
of HERMOSA BEACH WATER COMPANY for)
Permission to withdraw from the)
Territory embraced within the lim-) Application No. 993.
its of the City of Manhattan Beach)
and El Porto.)

W. J. Carr, for applicant.
Frank C. Hill and George S. Hupp,
for protestants.

EDGERTON and LOVELAND, Commissioners.

O P I N I O N

The Hermosa Beach Water Company, of Hermosa Beach, California, is a water plant or system constructed for the purpose of serving the towns of Hermosa Beach, Manhattan Beach and territory contiguous thereto.

From the testimony adduced at the hearing of this application and during the hearing of former applications and cases before this Commission brought by the Hermosa Beach Water Company or some of its consumers, it appears that this water system was originally started as an auxiliary to or in conjunction with the real estate transactions incidental to the sale of the land embraced in Hermosa Beach Town Site.

As is usual in such cases, it appears that the service rendered to the public was not satisfactory. Later, the water plant or system was sold and thereafter conducted in the name of the Hermosa Beach Water Company.

Judging from the complaints received by the Commission, the service to the public was still unsatisfactory and to such an extent was this apparently true that the Hermosa Beach Water Company seems to have incurred the criticism, often amounting

to decided ill will, of many of its consumers.

From the testimony before the Commission in this and other hearings, it is apparent that there was real ground for criticism. In October, 1913, the ownership of the Hermosa Beach Water Company was transferred to the present owners, who, from the time they took possession, have apparently been actuated by a sincere desire to serve the public to the best of their ability and to put themselves in position to give good service.

The Commission regards it as an unfortunate circumstance that the present owners fell heir to the ill will which had been engendered under former ownership. The efforts of the present owners, however, to counteract this feeling seem to be appreciated by the people of Hermosa Beach and at a hearing held at Hermosa Beach for the purpose of considering rules and regulations offered by the Hermosa Beach Water Company for the Commission's approval, it seemed apparent that the efforts of the water company to do right by its consumers would be appreciated.

We recite these facts as showing the position of the Hermosa Beach Water Company under its present ownership in Hermosa Beach where the major part of its installation is located.

In addition to serving Hermosa Beach, the Hermosa Beach Water Company has, for some time, been serving the City of Manhattan Beach, although it never had a franchise from county or city authorities in that municipality. Recently the City of Manhattan Beach voted bonds for the purpose of constructing a municipal water plant or system. It appears that the owners of Hermosa Beach Water Company were advised of the intention of the City of Manhattan Beach to vote bonds to install a municipal plant and that the water company interposed no objections, but, we are informed, advised the voters of Manhattan Beach that it would be to their advantage to have a municipal plant.

The testimony of witnesses for applicant in this

application shows that the owners of the Hermosa Beach Water Company did this, believing that if the bonds carried and a municipal plant were constructed in Manhattan Beach the present installation of the Hermosa Beach Water Company would be taken over by the municipal plant.

The testimony also shows that the Hermosa Beach Water Company applied to Manhattan Beach for a franchise to operate in Manhattan Beach, which application was denied.

The election in Manhattan Beach was favorable to the construction of a municipal plant and the Hermosa Beach Water Company then took up with the Board of Trustees of Manhattan Beach the question of Manhattan Beach taking over the installation of the Hermosa Beach Water Company in Manhattan Beach.

The first offer of the Hermosa Beach Water Company was that three appraisers should be appointed, consisting of one representative of Hermosa Beach Water Company, one of Manhattan Beach and one disinterested engineer and that the Hermosa Beach Water Company would accept whatever price these arbitrators placed upon its installation. This proposition was declined by Manhattan Beach.

The Hermosa Beach Water Company then proposed that the engineer of the Railroad Commission should place a value upon its installation in Manhattan Beach and it would abide by that valuation. This, too, was declined.

In the meantime, certain street improvements undertaken by Manhattan Beach rendered it necessary that some of the water pipes of the Hermosa Beach Water Company in Manhattan Beach should be lowered to correspond with the new grade of the street, entailing an expense, according to the testimony of witnesses for the Hermosa Beach Water Company, of about \$1,000.00.

In view of the fact that its installation in Manhattan Beach would be practically junked or valuable only for the salvage to be obtained from it, the Hermosa Beach Water Company declined to go to this expense, and applied to this Commission to withdraw

from serving the City of Manhattan Beach. The City of Manhattan Beach, through its Board of Trustees, intervened in protest against the granting of the application to withdraw.

A hearing was held at Manhattan Beach and the matter was thoroughly investigated. Witnesses for the Hermosa Beach Water Company testified that the value of that company's installation in Manhattan Beach was in the neighborhood of \$16,000.00; that if permitted to remove such installation now, the salvage would be in the neighborhood of \$5,000.00, but if compelled to continue serving Manhattan Beach until the municipal plant is ready to serve the consumers of that city, the possible salvage would probably be wiped out by the increased cost of removing the installation resulting from the fact that the City of Manhattan Beach is paving its streets and by that time would have put down macadamized streets over much of the water company's installation.

Witnesses for Manhattan Beach questioned the valuation placed by the Hermosa Beach Water Company upon its installation in Manhattan Beach, but gave no figures as against that valuation or in favor of any other. Such witnesses also testified that the expense of removing and lowering the pipes incidental to street improvement, estimated by the Hermosa Beach Water Company to be \$1,000.00 was really only about \$300.00.

A difficult situation is presented to the Commission. In justice and equity, it seems wrong for Manhattan Beach to ask, and for the Commission to compel, the Hermosa Beach Water Company to stand ready to serve Manhattan Beach with water while its installation is being rendered valueless, or practically so, and particularly is this true when it is remembered the conciliatory attitude of the present owners of the Hermosa Beach Water Company and their apparent desire to put themselves in position to give good, efficient service.

In justice to the City of Manhattan Beach, it may be

said that the trust deed under which the bonds of the city were sold contained a clause that the water system installed by the municipality must be an entirely new system and also that, in asking the voters to vote the bonds, a similar promise had been made to them.

There is no question that if the Commission insists upon the Hermosa Beach Water Company standing by to serve Manhattan Beach until the municipal plant is ready for service, the property of the Hermosa Beach Water Company in Manhattan Beach will be rendered practically valueless.

On the other hand, the Commission cannot look with favor upon the consequences of permitting the Hermosa Beach Water Company to withdraw from Manhattan Beach, thus depriving the residents of that city of water, to their great inconvenience and distress.

The Commission does not wish to be understood as declaring at this time what action will be taken, but realizes that if the situation cannot be relieved by the parties to this application arriving at an amicable adjustment, it shall be compelled to render such a decision as will be warranted by the law and the facts of the case. The Commission does not believe that the situation should ever have been presented to it in the present form and it entertains the hope that, upon receipt of this Opinion, the Board of Trustees of Manhattan Beach and the owners of the Hermosa Beach Water Company will try to get together in a spirit of fairness, justice and equity.

The Commission realizes its responsibility and its authority in the premises, but, while accepting such responsibility, it prefers, before exercising its authority, the results of which must be loss and annoyance to someone, to suggest such amicable adjustment as it believes will result from an unprejudiced consideration of the facts surrounding this application.

To that end, we shall make no Order at this time, but will

postpone such Order until the fifteenth day of April, 1914, pending the attempt which it hopes the parties to this application will make to come to some agreement.

The foregoing Opinion is hereby approved and ordered filed as the Opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23rd
day of March, 1914.

John M. Eshleman
H. S. Cleveland
Geo. S. Foster
Max Thelen
Edwin O. Edgerton

Commissioners.