

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA

J. D. WARREN, et al.,  
Complainants,  
v.  
MURPHY WATER, ICE and LIGHT  
COMPANY,  
Defendant.

Case No. 579.

J. W. Curtis, of Curtis & McNabb, for complainants.  
S. M. Haskins, of Gibson, Dunn & Crutcher, for defendant.

GORDON, Commissioner.

OPINION

This complaint was filed with the Commission on April 3, 1914, and is the outcome of a number of controversies between individual water users and the management of the utility furnishing water for domestic use in the town of Needles, California. The Murphy Water, Ice and Light Company, defendant in this case, is a public utility engaged in the furnishing of water in wholesale quantities to the Atchison, Topeka and Santa Fe Railway Company and for domestic use to the inhabitants of the said town of Needles. For some time previous to the filing of this formal complaint these controversies had been under consideration informally by this Commission but only temporary relief from the conditions complained of was obtained from such informal action.

J. D. Warren and the seventeen other complainants associated with him in this matter are all residents of the Needles Boulevard tract addition to the town of Needles and are at present furnished or desire to be furnished with water by the defendant company.

This complaint alleges inadequate service to those complainants now reached by the mains of this company; that several of the present complainants were obliged to lay long individual service pipes to their homes across private property; that fifteen applicants for water service residing in the Needles Boulevard tract have been refused service by defendant company; that the water reaching a part of said Boulevard tract now served is transmitted through more than a mile of pipe in a roundabout way from the town of Needles, while a pipe line approximately 800 feet long direct from the pumping station or principal main of the company would render adequate service; that a charge for "tapping the main" in installing each service is unreasonable and that the present main supplying a portion of this tract is largely of boiler flues and in unserviceable condition.

Complainants now ask this Commission to order the defendant company to furnish an adequate supply of water to the complainants and to prospective consumers in the Needles Boulevard tract; that the defendant be ordered to furnish and lay, at its own expense, water mains in certain specified streets in said tract of such size as to furnish an adequate supply of water to all who wish service; that defendant be ordered to make a water main connection ~~x~~ direct at its pumping plant or on the main that is laid south of its pumping plant and bring the service direct to said tract and that defendant be ordered to make service taps, bring water to the property line and furnish water meters free of charge to water consumers.

A public hearing was held in the town of Needles on May 28, 1914. At this hearing considerable evidence was presented by each of the contesting parties and all correspondence and exhibits acquired by the Commission in connection with the various informal complaints hereinbefore mentioned were, by stipulation, admitted as evidence in this case.

I will now consider the complainants' allegations in the following order:

Inadequate service to those reached by mains of the company.

A number of the present consumers testified that during the summer months at certain times of the day little or no water supply is available on this tract. While one witness testified that he personally knew of no lack of water supply at any time, it developed that this witness visits his residence only late in the evening and did not know definitely of conditions at other times, and that also his residence is so situated as to be one of the first to receive service, while the supply of others at the same time may have been depleted.

The witnesses of the company made no particular effort to refute the testimony of these consumers but claimed that this company should not be required to improve service conditions, as it had made no definite promise to provide any sort of service and is desirous of discontinuing its public utility duties. The company claims that these duties were assumed purely as a charitable act of assistance to persons who chanced to need water service during the growth of the town of Needles and that in making the single extension of the company's own mains to the southern part of this tract they should not be considered to have assumed any definite obligation.

A pipe line was extended by this company north across the main line tracks of the Atchison, Topeka and Santa Fe Railway Company along "K" street and west along Spruce street to between "L" and "M" streets. To this pipe line twenty-seven (27) meters and connections are attached, through which twenty-eight (28) individual consumers now receive water and make payment monthly to the company.

Investigation by the engineers of the Commission of the water supplied directly to these twenty-eight individual consumers showed that, due to the large number of consumers on one small pipe line and to the distance which water was forced to travel, the pressure was very low and that at times entirely failed when any large number were using it.

The claim of the consumers that service is inadequate during certain periods was well set forth and, being practically uncontroverted by the defendant, I consider this point proved and shall recommend that the company take steps to remedy the present inadequate condition of its system.

Several present consumers were obliged to lay long individual service pipes to their homes across private property.

The apparent reason of the company for refusing to make extension of service to a number of present consumers, particularly those residing on Walnut street one block north of its present main has already been stated to be its desire to force these consumers to pay to the company the entire cost of extension without a possibility of return for this investment. Any service to a number of these consumers was consistently denied before informal intervention by this Commission.

There are seven consumers on Walnut street who could be reached by an extension of a two-inch main from the present existing pipes of this company, at a cost of not over \$150.00. One of these users alone during April consumed 20,000 cubic feet of water and the payment by each of these consumers of no more than the minimum amount monthly would make this extension a particularly good business investment on the part of any utility.

It is clearly unreasonable that a consumer be forced to lay pipe lines across private property but that rather some equitable arrangement be made whereby, if it is at all proper that he receive service from the utility, this utility should install

the extension and connection at its own expense if there be assurance of compensatory returns, and if such returns are not assured, that the consumer should hold the company safe by placing a deposit, or in some other way insuring the company against loss.

Fifteen applicants have been refused service and now subsist upon a limited domestic supply at great inconvenience.

The refusal of the company to extend service to any one of the fifteen alleged prospective patrons is granted to be in line with its general refusal of extension of service in this tract. The attorney for the defendant apparently established his contention that these persons were aware when they built their residences that there was no pipe line laid to their property and they did not receive a personal promise from any agent or official of the company that water service would be provided. This, however, does not absolve the defendant from its obligations as a public utility corporation. Such service was provided for at least a part of this tract. Whether or not further extension would be compensatory would depend upon a determination of the amounts of water likely to be consumed and the payment therefor to be received by the company, and the cost of extension,- and this alone,- should be the proper and reasonable measure of determination of the extension to be made. A detailed method for determination of what extensions should and what should not be made by a water company such as this will be considered hereinafter.

We find here certain persons with established residences making apparently bona fide application for water service to the only agency in the field in any way capable of providing adequate domestic water service within the town of Needles. The only other source of domestic water is the private wells which some of these people have sunk.

Mr. T. J. Murphy, on behalf of the company, testified

that he did not consider the present available supply sufficient to extend service to these complainants and other future consumers who might, from time to time, demand service and that should these people be provided with water, it would set a precedent and might in the future require service beyond the capacity of his company's plant and wells. This company has provided no storage of any sort and during the portion of the day of greatest demand, the capacity of the pumps lifting water from wells directly into the mains is the limit of ability to serve. It is known that two complete pumping units are installed in the pumping plant of this company and that on the day of the hearing, - the most humid of this season, - only one pump was in operation. There is no doubt of the ability of the company, by sinking other wells, to obtain an almost unlimited supply of water of the same character as that now produced, and, with the installation of an equalizing tank or reservoir the full capacity of the plant could be utilized. There appears no probability that the demand upon this company will increase at such a rate for a long time to come as to require more than an ordinary tank or reservoir such as could be constructed at reasonable cost on the bluffs in the southwest portion of the town.

By the testimony of Mr. Murphy, about 20,000,000 gallons per month is the average output of his system, of which about 3,000,000 gallons are delivered to the five hundred consumers in the town of Needles. An increase to double the pipe line of the town would not then require more than a fifteen per cent increase in the output of the plant and the addition at the present time of fifteen consumers would be an inappreciable increase over the present demand. It is hardly reasonable to anticipate a rapid increase in growth in the town of Needles, depending, as it does almost exclusively, upon the shops and division quarters of the Atchison, Topeka and Santa Fe Railway Company.

The defendant, in its contention that it should not be required to continue its utility service, still desires to provide water to the Atchison, Topeka and Santa Fe Railway and the Harvey house,- its principal present consumers. It appears to me that it should be considered as fully obligated and should find it as reasonable to provide water service for the employees of these concerns and other inhabitants of the town of Needles, upon whom these companies depend for their working force, as for the use of these concerns directly. It is no more than fair, not only to the utility company, but to all other consumers of this utility who would have to pay a proportional part of an increased rate, should expensive and non-compensatory extensions be made by the utility company, that in some cases the applicant for service should guarantee the company against loss. This guarantee may most readily be made by the deposit with the company of a sum sufficient to cover the cost of making extensions, this deposit to be returned when the use of water on the extension has reached such a volume that the water sales bear their proper part of the charges due to the company. The form of guarantee may be provided in any of a number of ways and the measure of compensatory returns must be fixed largely by a full understanding of the local conditions directly affecting any particular instance.

I shall recommend that certain public extensions be made at once, at the expense of the company, into this territory where these extensions will apparently immediately develop sufficient business to warrant the company in making the necessary investment. Further extensions that have been requested from this company do not appear capable to develop sufficient water use to warrant the company in making extension without some form of guarantee by the consumer such as has been described hereinbefore.

Water reaching the part of this tract now served is transmitted through more than a mile of pipe, in a roundabout way

from the town of Needles, while a pipe line of only 800 feet in length directly from the pumping station or principal main of the company would render adequate service.

The roundabout route followed by the supply for this tract would not be of moment excepting that it has been shown that the service obtained at the tract is inadequate. To provide adequate pressure and the full required amount of water would necessitate that the pumps operate against a considerably greater head than would be necessary if this part of the town were reached more directly through the mains of the company. There seems to be no doubt that the general capacity of the system will be increased by the installation of a pipe line somewhat in accordance with the request of the consumers. There is no question whatever that service conditions at this point will be very decidedly improved if the company be required at this time to furnish a minimum pressure at all points on its system. To provide this pressure at the end of the present roundabout system of pipes would undoubtedly require a decidedly higher pressure in the main pipe line of the company than if the distance be decreased to one-fifth of that through which the company at present delivers water.

A charge for "tapping the main" in installing each service is unreasonable.

Such a charge as this has been under consideration by the Commission in a large number of cases wherein various terms have been used to designate such a charge and it has been consistently decided that any such charge is improper. The rules of a number of companies have been approved by this Commission and in the rules of some companies provision has been made that in such cases consumers may be required to deposit with the company some amount as service charge to be returned in rates. The Commission



has, however, never approved an outright payment to the company that it could retain as a part of its income. I would recommend that this charge be discontinued.

Present main supplying a portion of this tract is largely of boiler flues and in unserviceable condition.

The condition of the pipe lines of the particular line of this company delivering water to the complainants was not made a vital issue. The company will, of course, <sup>comply with</sup> ~~assume~~ its obligation to maintain its property in a fit condition to render service and can not afford to pump water and let it waste through a leaky pipe system. If it desires to reduce the supply to these complainants, the company would be expected to choose some method not so expensive to itself. Any difficulty arising from the condition of this pipe line will be obviated by the installation of a line directly to the tract, such as requested by these complainants.

Incidental to the particular matters brought up by the complaint, mention was made in the complaint and denied in the answer of a personal contention between the principal complainant, J. D. Warren, and the defendant in this case. Such matters as this can be allowed to have no influence in a decision upon the proper conduct of the affairs of this utility in its relations to its consumers and no testimony upon this point was permitted during the hearing.

The matter of the rates of this company was not an issue in this case and a request made by the company immediately before the hearing that the hearing upon this matter be delayed and conducted in conjunction with a consideration of an application for the establishment of rates, later to be filed by the company, was denied.

During the course of the hearing, a certain detailed plan of installation of pipe lines by this company was suggested and it was agreed that the Commission should furnish the company with a statement of this plan for its consideration and, further, that the complainant J. D. Warren should provide the company with a proper deed granting the right to construct and maintain a pipe

line across property intervening between the main transmission line of the company and the Boulevard tract. The defendant company has agreed to the proposal of the Commission and the construction of pipe line extensions to be required of this company, in conformity with this agreement, will be embodied in the order herein.

I submit herewith the following form of order:

ORDER

J. D. WARREN and others having complained against Murphy Water, Ice and Light Company, alleging that certain practices of said company are improper and unreasonable, as more fully set forth in the opinion herein, and a public hearing having been held, and being fully apprised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that complainants in this case are within the territory to which defendant company has dedicated the use of its water; that the service rendered the present consumers of the defendant company in the Boulevard tract in the town of Needles is inadequate; that the requirement that certain of these consumers lay, at their own expense, long service pipes, is unreasonable; that certain of the applicants for service who have been denied extension of mains and service connections by this company, should receive service at the expense of the company and that others should be allowed to obtain service upon making substantial guarantee that the rendering of such service shall not cause excessive separate expense for their benefit; that the present method of furnishing water from the pumping plant of the company to the Boulevard tract and vicinity is unreasonable and should be changed, thereby benefitting both the company and these consumers; that the charge assessed by the company for connecting service pipes with the company's mains is improper and should be discontinued; and, basing its order upon the foregoing findings of fact,

IT IS HEREBY ORDERED:

1. That Murphy Water, Ice and Light Company, immediately upon receiving a proper deed granting the right to construct, maintain and operate a water pipe along the line of Walnut street produced easterly from "K" street to the 8-inch main of the water company, from J. D. Warren, shall construct a 6-inch main along this right-of-way and make connection with the 8-inch main aforesaid.

2. That the company shall lay a 4-inch pipe along "K" street from Spruce street to Walnut street and a 2-inch pipe along "K" street from Walnut street to Race street; a 4-inch pipe line along Walnut street from "K" street to "L" street and a 2-inch pipe line for approximately 300 feet from "L" street along Walnut street.

3. That the above mentioned pipe line extensions be connected with the 6-inch main first described and with the mains at present in the tract.

4. All existing dwellings along the line of these extensions shall be provided, upon application, at the expense of the company, with connection and service pipe to the curb line or property line.

5. That applicants for water service not reached by the pipe line extensions hereinbefore provided to be installed at the expense of the company shall be entitled to receive service upon depositing with the company a sum sufficient to pay the cost of making extension to their property, this sum to be returned to such applicant or applicants when the gross receipts from water sales on such extensions shall have reached a sufficient amount so that one-tenth the average returns for four months is equal to six per cent per annum upon the amount deposited.

6. That the company shall make all connections with its

mains free of charge except where it may be provided that the applicant place a deposit with it subject to later refund.

7. That the extensions and connections hereinbefore ordered shall be placed in full operation within sixty (60) days from the date upon which the right-of-way is provided for the 6-inch main hereinbefore described.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17<sup>th</sup> day of June, 1914.

John M. Eschleman  
H. K. Woodard  
Alfred Gordon  
Max Thelen

Commissioners.