

Decision No. ✓

ORIGINAL

Decision No. 1764

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 Western Water Company for an order)
 that no certificate of public con-)
 venience and necessity is necessary)
 to continue to sell and distribute)
 water in certain parts of Kern County.)

Application No. 958

Joseph Haber for Western Water Company
 Guy C. Earl and Chaffee E. Hall for Western
 Oil Company
 D. S. Ewing for August Oil Company

EDGERTON, Commissioner.

OPINION

This is an application by Western Water Company for an order that no certificate of public convenience and necessity is necessary for said company to continue to sell and distribute water in certain specified portions of the State of California, or in the event that the Commission finds that such certificate is necessary that said certificate issue.

A protest against the granting of this application was made by August Oil Company and Northern Oil Company, which companies furnish water to a portion of the territory claimed to be supplied by applicant.

Prior to March 23, 1912, applicant operated a water main commencing in the southeast corner of Section 33, T 32 S, R 24 E, running thence northwest to a point in Section 25, T 31 S, R 22 E. As to this territory no certificate is required and no contest is made. The territory in dispute here lies south of Section 33, above mentioned.

From this line prior to March 23, 1912, consumers were served through laterals built by them under agreement that water was delivered by the Western Water Company at its main line, the laterals being owned and operated by the consumers. Among others, the Kern Trading and Oil Company had prior to March 23, 1912, connected with applicant's main line in Section 33, laterals running into the following sections:

Sections 31 and 5, T 12 N, R 23 W

Section 1, T 12 N, R 24 W,

and Union Oil Company had laterals attached to the same main line, laterals running into

Sections 36, 35, 34, 33, 25, 27 and 28, T 12 N, R 24 W

Sections 2, 11 and 12, T 12 N, R 24 W.

Applicant claims that because of the connection of these laterals with its main line that in effect it was serving water prior to March 23, 1912 in the territory covered by these laterals and therefore that no certificate is necessary, but if it be decided that a certificate is necessary that it be made to cover the territory covered by these laterals.

Subsequent to March 23, 1912, there was constructed and leased to applicant an addition to its main line, which addition commences in Section 33 aforesaid and ran across Section 34, T 32 S, R 24 E, Section 25, T 12 N, R 24 W, Sections 31 and 5 to center of Section 4, T 12 N, R 23 W.

One new service has been given from this addition to the main line in Section 4 to the Union Oil Company. Laterals theretofore served by the old main line were attached to this additional main line for the purpose of bettering service.

Both the August Oil Company and Northern Oil Company serve water in the territory crossed by this additional main line and these companies protest against the entry of applicant into this field.

An analysis of the whole situation as presented by the evidence shows clearly that applicant by its written agreements and by its entire conduct delivered water only at its main line and the addition thereto, and it carefully avoided obligating itself to give service through any laterals. Hence it must be concluded that the only territory actually served by applicant prior to March 23, 1912, was that through which its main line ran. As to this territory, of course, no certificate is necessary. The additional main line running south from Section 33 was built subsequent to March 23, 1912 and ever since and now is being operated by applicant and as to the territory traversed by this line a certificate is necessary.

No certificate can be granted applicant for the territory covered by laterals which in no sense are operated by it, but are the exclusive property and are operated entirely by consumers.

Therefore, the whole consideration here is whether or not applicant should be given a certificate for that territory traversed by the extension to its main line from Section 33 south. I do not believe from the evidence that either of the protesting companies are being seriously interfered with by the existence and operation of this last mentioned part of applicant's line. The consumers served therefrom are almost entirely consumers under contract for service in other parts of the field and there is no evidence to show that if this certificate was denied these consumers would fall to the protestants. On the other hand, under the contracts held by applicant with these consumers, if the use of this additional main line were discontinued, in all probability connection would be made with the laterals of the Kern Trading and Oil Company for any needed service, which could be done under the contract between that company and applicant. This would only result in less efficient service than is now being given.

I recommend that this application be granted as to those sections through which the additional main line runs from Section

33 south.

There was much conflicting evidence as to the quality of water furnished by each of the companies in this field, but under the conclusion above reached, it is unnecessary to determine which has the better water.

No advance in price of water was claimed by any of the companies.

I submit herewith the following form of order:

O R D E R

Application having been made by Western Water Company for a certificate of public convenience and necessity for the construction and operation of a water pipe line system, and a public hearing having been had and it appearing to the Commission that said application in part should be granted,

IT IS HEREBY ORDERED AND DECLARED by the Railroad Commission of the State of California that public convenience and necessity require and will require the construction and operation of a water pipe line system by Western Water Company in the following described territory:

Section 33, T 32 S, R 24 E, Section 34, T 32 S, R 24 E, Section 25, T 12 N, R 24 W, Sections 31, 5 and 4, T 12 N, R 23 W, all in S. B. B. M.

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, *1st* day
September
of ~~August~~, 1914.

John W. Buchanan
Alfred Gordon
Max Thelen
Edwin O. Edgerton
Commissioners