

Decision No. ✓

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

JAMES M. SHARP,

Complainant,

vs.

SWEETWATER WATER COMPANY,

Defendant.

ORIGINAL

Case No. 568

Tyndale Palmer for complainant
 F. S. Jennings, Hunsaker & Britt, and
 A. E. Sweet for defendant.

EDGERTON, Commissioner.

OPINION

Twenty-two years ago complainant constructed a pipe line 1600 feet long running from the main of defendant to his land. He received water from defendant under a contract which by terms covered a period of five years, and which specified a certain rate for water. Subsequently the Federal Courts held that complainant was entitled to a continuation of the water service, and defendant has continued to supply him with water at the point where his pipe connects with defendant's mains.

Complainant now asks that defendant reconstruct this pipe line at its own expense and provide adequate water service on his land, and that it be compelled to reimburse him for charges made under the original contract and for service rendered since, which charges it is claimed are unjust and discriminatory. Also for reimbursement for his expenditures in maintaining this 1600 feet of pipe line.

We can dismiss consideration of the claim for reparation by calling attention to the Public Utilities Act, Section

71-b which provides:

"All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues."

Therefore, no consideration can be given to any claim of reparation where the overcharge occurred prior to two years from the filing of the complaint. Complaint was filed March 21, 1914, so that as to all alleged overcharges made prior to March, 1912, this Commission is powerless to act.

Both the allegations in the complaint and the evidence show conclusively that complainant has paid exactly the same rate as other consumers of defendant since 1907. Therefore, it is clear that for all of the time which may be considered by this Commission defendant is on exactly the same basis as all consumers, and in order to hold that he is entitled to reparation it would have to be found by the Commission that all like consumers were entitled to reparation. This, of course, cannot be done under the evidence in this case as no attempt was made by complainant to establish any such contention.

There remains to be considered the demand of complainant that defendant reconstruct the pipe line running from its mains to his property. I am of the opinion that the Commission has no power to compel a corporation to take over a specified plant or part of plant and attach the same to its system. Nor do I believe that a corporation can be compelled to repair or reconstruct a pipe line owned by a private individual which may be connected with its system. This being true, applicant stands before this Commission asking for the only thing which he can ask, and that is that defendant be compelled to construct a pipe line from its main to his property some 1600 odd feet, and thereafter produce on his land or at his land an adequate water supply.

Viewing the matter from this angle, we are confronted with a very serious situation over the whole system of defendant. From the evidence it is a matter of grave doubt whether the present water supply of defendant is adequate to properly serve existing consumers. In fact, from the evidence I would not recommend that any new consumers be added to those already being supplied by defendant. If this company was compelled to build this pipe line and produce service to complainant there could be no good ground upon which a denial of a like extension of service to others situated exactly as complainant is could be made. It is true that complainant is now a consumer of defendant, but he receives his water at the main of defendant and conducts it through his own pipe line to his property.

As the matter now stands the company is only responsible for service at its main, whereas, if complainant's prayer were granted it would become responsible for adequate service at his property. This might result in very heavy additional obligations being placed upon defendant and also might result in a diminution of service to some of the other consumers.

Considering that complainant is already receiving water upon his property I do not believe that he is entitled to any special consideration at this time, and I do not believe a showing has been made which would warrant this Commission in opening the way for new and additional consumers to be added to the system of defendant.

I recommend therefore that the complaint be dismissed and submit herewith the following form of order:

O R D E R

Complaint having been made by James M. Sharp vs. Sweetwater Water Company, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the foregoing opinion said complaint should be dismissed,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that the complaint herein be and the same hereby is dismissed.

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 30th day of November, 1914.

W. H. Boardman

Max Thelen

Edwin O. Edgerton

Commissioners.