

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

E. W. NICKERSON,
Complainant,

vs

PEOPLES WATER COMPANY,
Defendant.

Case No. 696

ORIGINAL

Decision No. 2127

R. Stuart Browne, for complainant.

A. E. Tesheira, for defendant.

LOVELAND, Commissioner.

OPINION

This case came on regularly for hearing February 25, 1915, upon complaint and answer, no testimony being offered at the hearing but it being stipulated that the case would be submitted upon the pleadings supplemented by statements of counsel made at the hearing.

Counsel for complainant stated that the complainant had requested the defendant, the Peoples Water Company, to connect his residence with the defendant's system, and that defendant had declined to make such connection unless complainant paid the sum of \$10.00 to defendant to make the connection; that complainant had paid this amount under protest and that he, counsel for complainant, had since learned that the defendant, the Peoples Water Company, had made connections for consumers in Alameda without charging for such connections.

Counsel for defendant admitted that the complainant in this case had paid the charge for the connection under protest but denied that the defendant, the Peoples Water Company, had made connections for others without making the usual charge for such connections; that after a conference with the Commission

the defendant, the Peoples Water Company, had on January 1st, 1915, voluntarily discontinued making the charge for connections, which resulted in considerable decrease to the Company in revenue. Counsel for the defendant also stated, as was shown in the answer of said defendant company, that the charge of \$10.00 for connecting complainant with defendant's system was authorized by Ordinance No. 484 N.S. of the city of Oakland, county of Alameda, State of California, adopted on June 26, 1913.

On February 17, 1914, the city of Oakland, by a vote regularly had under the Statutes in such case made and provided, voted its power to supervise and regulate public utilities into the Railroad Commission.

The service connection comprehended in the case at bar was made on September 14, 1914, at which time the Ordinance of the city of Oakland, above mentioned, authorizing the defendant, the Peoples Water Company, to make a charge for connection, was in full force and effect.

The policy of the Commission upon the question of claims for reparation was set forth in the decision in Case No. 277, Pioneer Box Co. vs Southern Pacific Co., reported in California Commission's Report, Volume 1, page 570. We quote from that decision -

"The practise of filing claims for reparation after a carrier has voluntarily reduced its rates is deprecated by this Commission. In the multitude of rates which railroads find it necessary to make in the handling of traffic it is unreasonable to suppose that they will not at times recognize the justice of reducing rates, something which they should be encouraged in rather than discouraged by the filing of suits for reparation after a rate has voluntarily been reduced."

The same reason there applied to a reduction in rates by railroads applies with equal force to reductions in rates or the discontinuance of charges which amounts to a reduction in the cost of service by other public utilities. The practise of

charging for connecting consumers with the systems of public utilities was quite general. in this state previous to the position taken by the Commission, as outlined above, and counsel for the complainant in this case, in his statement to the Commission at the hearing, admitted that it was proper and right for utilities to receive rates upon the amount necessarily invested in such connections but that he believed it should appear as an addition to the system in the way of additions and betterments, or charged to the expense of operation.

Under all the circumstances of this case, in view of the fact that the defendant, the Peoples Water Company, was authorized by the city of Oakland by Ordinance No. 484 N.S., above referred to, to make this charge, which Ordinance was still in full force and effect at the time the charge was made, and in view of the voluntary act of the defendant company in discontinuing the charge at the suggestion of the Railroad Commission, I believe and find as a fact that this is not a case where reparation should be granted, and that the complaint should be dismissed.

I submit the following order:

ORDER

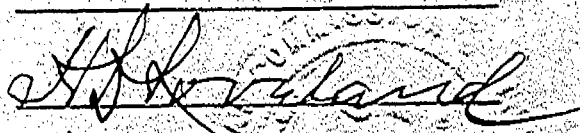
W. H. WICKERSON, of Oakland, Alameda County, California, having brought suit against the PEOPLES WATER COMPANY, also of Oakland, Alameda County, California, praying for reparation in the sum of \$10.00, an amount which had been charged by defendant company for connecting complainant's residence with defendant's water system, and it appearing to the Commission, for the reasons set forth in the opinion preceding this order, that such reparation should not be granted,

and that the case should be dismissed,

IT IS HEREBY ORDERED that the complaint in this case
be, and the same is hereby dismissed.

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

Dated at San Francisco, California, this 27th day
of February, 1915.


H. H. V. Leland


Edwin C. Edgerton

James R. Doherty

Commissioners.