

ORIGINAL

Decision No. 5065

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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MONTE VISTA VALLEY BOARD OF TRADE,
a corporation, et al,

Complainants,

-vs-

WESTERN EMPIRE SUBURBAN FARMS
ASSOCIATION, a corporation,

Defendant.

Case No. 1065

In the Matter of the Application
of WESTERN EMPIRE SUBURBAN FARMS
ASSOCIATION, a corporation, for
authority to adjust and increase
its water rates.

Application No. 2912

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T. C. Gould, for complainant,
C. S. Tappan, for defendant,
W. H. Wieman and W. T. Helms, for intervenors.

LOVELAND, Commissioner.

O P I N I O N

The complaint against the defendant alleges, in brief, that defendant is a public utility corporation subject to the jurisdiction of the Railroad Commission of this State with all the rights and obligations of a public utility developing and distributing water for irrigation and domestic use; that defendant is capitalized for \$800,000 divided into 8000 shares at the par value of \$100; that it has authorized a bonded indebtedness of \$258,900 of which \$129,450 par value and 3883 1/2 shares of stock were transferred to M. V. Hartranft January 5, 1911, together with a certain agreement providing for further issues to Hartranft; that complainants and other land owners have paid to defendant a large sum of money in return for which defendant was to have provided certain facilities;

that defendant has failed to provide the facilities agreed upon; that, without right, it has imposed charges for service connections and meters; that the rates charged for water are discriminatory and excessive; and that the service of water is insufficient and inadequate and the pressure in the mains not sufficient for fire protection or domestic service. The prayer of the petition is that this Commission inquire into all the matters complained of, fix reasonable rates and charges for domestic and irrigation service and prescribe rules and regulations governing such service. Also, that the defendant corporation be required to extend its system to all portions of the territory which it purports to serve. Incidental measures indicated in the prayer are naturally to be provided in the establishment of rules and regulations which will conform to the general requirements of this Commission.

The answer of defendant admits its status as a public utility; that it is capitalized at the sum of \$800,000 as stated by the complaint; denies that the complainants or other owners of land ever paid into the corporation any monies for the purchase or development of water rights or system, and alleges that defendant has acquired water rights and a complete system for serving all lands with irrigation water, and denies inadequacy of service. Referring to an independent domestic water supply, it is denied that the property owners have paid the defendant a large amount of money for the installation of a domestic water system, and while it admits that \$5008 were so paid, it is alleged that defendant expended an additional sum in excess of \$7000 for this purpose. It is denied that rates are excessive or discriminatory; that the pressure or quantity of water furnished is inadequate for either irrigation purposes or domestic use, and defendant prays that the complaint be heard in conjunction with its application filed together with the answer.

The application of Western Empire Suburban Farms Association states that its water department, which alone is operated as a

public utility, is intended to serve lands aggregating 1726 acres, this area being constituted by various described parcels dealt in by applicant as a land subdividing and selling agency. Service is also rendered adjacent lands. It is alleged that applicant was incorporated for the purpose of establishing a colony of small land owners, and that all contracts and deeds provided for the construction and maintenance of a water supply system; that the system was constructed and since 1911 has been in operation; that purchasers of a considerable part of the tract have failed to avail themselves of the water supply; and that the rates originally fixed in contemplation of complete use of the system have proven to be unjust to applicant.

The present cost of maintaining and operating the system and making necessary changes is stated to be such that the rates collected are insufficient to cover even these expenditures without any return upon investment.

The prayer of applicant is that the Railroad Commission make its order authorizing applicant to readjust rates and increase the same so that it can properly and adequately maintain and operate its water system.

We will discuss the questions involved in this complaint and application under appropriate headings and in the order that appears to be most logical.

LEGAL STATUS OF DEFENDANT: -

The complainants allege and defendant admits that the Western Empire Suburban Farms Association is a public utility corporation, this status affecting, according to defendant, only the water system constructed by it and the maintenance and operation of the same.

Testimony clearly shows that many persons who are not stockholders in the defendant corporation are served with water at established rates, some of the water users having at one time

been stockholders and since relinquished that stock in preference to paying assessments. We find that the Western Empire Suburban Farms Association, in fact, owns and operates a water system as defined in the Public Utilities Act and Chapter 80, Laws of 1913. We find, however, that it is necessary for the Commission to look into the operations of defendant corporation in certain other matters in determination of the charges properly to be covered by rate payers for public utility water service.

ADEQUACY OF SERVICE: -

The testimony shows that all purchasers of land were given reason to expect through representations of defendant that a complete irrigation system reaching every part of the tract was installed and ready for use previous to a certain so-called distribution day, June 7, 1911, and that arrangements were later made for a separate domestic water system to be paid for by an assessment of \$10 per acre, this amount to be paid by land buyers in addition to the payments for the land. One complainant paid the assessment for domestic water which defendant's manager stated by letter was to be provided on every street of the tract and said complainant was thereafter denied the separate domestic service unless said complainant would construct separately a pipe line 600 feet in length.

The testimony shows that in another instance a separate pipe line was installed at the outright expense of defendant to the higher portion of a tract when a pipe line already reached the lower portion. There clearly has been discrimination in this particular instance and I shall recommend an order that will cure this discrimination and will provide against its recurrence. It is not certain that there should in all instances be a duplication of pipe system to provide from one system irrigation water and from the other domestic water available at all times and under adequate pressure, but if there is one pipe system only it should be available for all equally and should there be demand

for domestic use, it must be made available at all times and under pressure that will reach all parts of the premises as customarily served by companies providing for domestic use.

The defendant, until a recent date, subsequent to the first of December, 1915 when a general order of the Commission stopping such practices became effective, has collected payment for the installation of services and meters. The Commission's general order referred to is printed in Volume 8 of Opinions and Orders of the Railroad Commission at page 372 as decision #2379 in Case 683. This order provides that services and meters of normal size must be installed at the utility's expense. The only exception is made in case the utility believes that the service will not be used in the reasonably immediate future, this being subject to review by the Railroad Commission. The Commission, therefore, must find that defendant is under obligation to return all amounts collected since December 1, 1915 to cover the installation of services to the property line or meters, together with interest on such payments at 6%.

Defendant, during recent months, has filed with the Commission a tentative rule under which it has required prospective irrigation consumers to deposit the cost of irrigation connections, claiming these to be of other than normal size. It was allowed to file this rule subject to consideration should complaint arise. There has been complaint and the Commission must hold that defendant is under obligation to provide such connections without deposit unless the size of connection requested is clearly greater than that warranted by the probability of use as evidenced by the area to be irrigated and the size of service that has customarily been provided for like acreage. The testimony relating to shortage of water supply, general inadequacy of pressure and periods during which no water supply was available is extremely conflicting. The fact that the area served by defendant varies in elevation

some 500 feet and that this is divided into two service zones makes it very possible that those on lower levels may receive water continuously and under satisfactory pressure while others at higher levels may be entirely without water. That defendant realizes this is indicated by its stated plan to divide the distribution system into three or four zones, thereby making pressures more nearly uniform and reducing the present very excessive pressure that obtains in portions of both the higher and lower zones of service. The testimony indicates that defendant has under its control a sufficient water supply for the satisfaction of all demands of consumers at the present time and that it can by either development work in the watershed where it obtains part of its supply or by the sinking of additional wells or installation of pumping plants, meet any increased demand that is likely to arise from additional use of water in the district that it has undertaken to supply.

It seems clear that there has been unwarranted and unnecessary cessation of service in various portions of the tract, and the map of the system shows that complainants whose service has been irregular have in every instance resided in the higher portions of one or the other of the service zones. It is difficult to arrive at a determination of the extent of deprivation of supply that has been experienced by complainants. We will endeavor in the order herein to so provide that the particular territories in which it has been claimed that there was shortage of water at times will be better provided either by pipe lines or by so operating the system that especial attention will be given those particular districts.

Certain of the complainants protest against the deliveries of water on the irrigation system by the so-called rotation method, the rotation periods being at intervals of two weeks or three weeks and it being alleged that this makes it impossible to irrigate ^{adequately.} gardens and berry crops. For some seasons previous to 1917 the

rotation period was generally three weeks. During 1917 it has been two weeks. It is testified that even this interval is too great to allow ^{adequate} irrigation of the crops named. This will be cared for in the order herein.

Discrimination exists in that where all water used is delivered through the so-called domestic water pipe lines and no irrigation pipe lines are installed, there is no limitation of water use either as to time or amount, excepting in case of general emergency. This should be corrected either by fixing a higher price to be paid when there is no limitation of use or by so providing that the service for like uses will be alike in all portions of the district served by the defendant.

There were many charges that discrimination has resulted purely from the acts of the manager of defendant, M. V. Hartranft, or various employees. Whether or not the statements made or the denials of such statements by those charged with improper practices are true, it is unnecessary for this Commission to determine in this proceeding. We believe that the record in this case clearly indicates that the policy of the management has been arbitrary in the extreme, the management appearing to have constituted itself a paternal agency with a right to guide the purchasers of land in this district in matters involving general conduct as well as the affairs of the public utility. Defendant must realize that all water users served have a right to be fully informed upon all points in which their interests are involved. This is not only required by the Railroad Commission as a general policy but is advisable from a business standpoint as well. The testimony discloses some carelessness in the handling of accounts that may or may not have resulted in actual discrimination in the payment of rates. This will, of course, be corrected.

PROPERTY OF THE ASSOCIATION: -

The Commission's Assistant Auditor, J. W. White, and others of this department made a careful examination of the books of

defendant. The report setting forth their determinations is filed under Application #2912 as Commission exhibit #4. This shows the operations of defendant in all its activities to have resulted in an expenditure of \$393,377.00, \$26,441.44 remaining unpaid, and receipts amounting to \$405,378.26, less accounts receivable and cash on hand of \$36,486.02. The water system investment is found to be \$117,899.88. While the Commission has no jurisdiction in the operations of defendant that are not of a public utility nature, it is to be noted that there are still certain amounts due in payment for land sold to colonists and defendant remains owner of some 810 acres which it has for sale.

The financial history of defendant is greatly involved with that of other corporations promoted by M. V. Hartranft, who was the principal in the development of this project. Of these, the Fruit World Publishing Co., a certain Suburban Farms Association Pool, which was an association of individuals, the Glendale and Eagle Rock Railway and operations of Hartranft as an individual received particular mention in the hearings. In the hearings on the application, Mr. A. R. Carter, witness for defendant, presented as Applicant's exhibit "C" (amended) a determination of original cost, reproduction cost and reproduction cost less depreciation of the water system, amounting to respectively \$124,885.93, \$170,720 and \$153,255.72. The Commission's Hydraulic Division made a separate determination and suggested as the fair cost of the operative property that should be considered effective in determining rates to be paid by water users as of 1915, \$44,255 and as the cost of the remaining part of the property charged by Applicant to the water system \$68,562, a total for the entire property of \$112,817.

The testimony shows that water service was extended to three tracts of land outside the original area and in addition to land purchased by defendant since the original area of 1725 acres was determined upon. The Commission is of the opinion that the proportion of the property used and useful in the service of present

consumers is of the fair value of \$44,255. The acreage that has been served with water in whole or part amounts to 850 acres according to the Commission's engineer, basing his determination upon approximate records and this indicates a cost of system per acre of \$52.00.

DEPRECIATION: -

The Commission's engineer testified that there should be set aside annually the sum of \$677.25 to cover operative property subject to physical deterioration and that \$12.60 would be necessary to provide for replacement of the portion of the property considered non-operative.

Mr. Carter shows in Applicant's exhibit "A" an estimated allowance of \$2560.87 per year. It appears that Mr. Carter made his determination by first determining reproduction cost then more or less arbitrarily, present value or reproduction cost less depreciation and dividing the difference by the average age. The method pursued by the Commission's engineer is in conformity with this Commission's practice, and we will assume that there should be provided in rates the sum of \$700 annually to be considered as a fund for the replacement of structures.

MAINTENANCE AND OPERATION:

The records of Applicant show maintenance and operation expense exclusive of general expenses to have averaged \$2200 per annum during the last four years. The 1916 expense is shown to have been \$3580. During this year it is of record that Applicant expended an unusual amount in repair of mains and general rehabilitation of the system. It will be assumed that \$3000 per annum should be provided for maintenance and operation expense other than general; that a general manager and superintendent should be employed at \$1800 per annum and that \$500 should be provided for all other general expenses. This makes in all \$5300.

ESTABLISHMENT OF A RATE:

It is in testimony that an analysis of the Company's accounts of the year, March, 1916 to February, 1917, inclusive, indicates 2222 individual consumer months during which water was used, or minimum charges paid, and 7,300,000 cubic feet of water consumed. At least two consumers were not included in this record these being M. V. Hartman and Captain E. F. Hatch. It will be assumed that the use of water actually reached 7,500,000 cubic feet and the number of consumer months were 2300.

The records in proceedings under the application indicate a recent annual increase in gross revenue of 7 $\frac{1}{2}$ %.

We have used the above data in determining that the schedule of rates set forth in the Order herewith will provide reasonable returns to the Company on that portion of the investment which has been found proper as a rate base under present conditions, and the sum of \$6000 per annum for maintenance and operation of the system and replacement of structures.

The initial charge of \$4.00 per acre that the Commission will establish in the Order herewith, will apply where water is taken or in instances in which the landowner desires to retain the right to take the water.

I recommend the following order:

O R D E R

Complaint having been made by the Monte Vista Valley Board of Trade, a corporation, and others against the Western Empire Suburban Farms Association, a corporation, engaged, among other things, in the business of developing, selling and distributing water, and the said Association having made application for authority to adjust and increase its rates for water sold, and the Commission being fully apprised in the premises, the Railroad Commission hereby finds that the rates now charged by defendant for water are unjust and unreason-

able and that the rates herein established are just and reasonable rates.

Basing the Order herein on the foregoing finding of fact and on the further findings which are contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that Western Empire Suburban Farms Association shall discontinue the rates that it has been charging for water service and shall substitute therefor the following schedule of water rates:

R A T E S

An annual payment in advance of any water use of \$4 per acre of net area in the tract where the service is desired.

Minimum monthly payments when water is used, for each service connection:

One inch diameter or less.....	\$1.00
One and one-half inch diameter.....	1.50
Two inch diameter.....	2.00
Three inch diameter.....	3.00

For water used:

First 500 cu. ft. at 20¢ per 100 cubic feet,
Next 500 cu. ft. at 10¢ per 100 cubic feet,
All use above 1000 cu. ft. from domestic pipe lines, 3½¢ per 100 cubic feet,
All use above 1000 cu. ft. from irrigation pipe lines, 2½¢ per 100 cubic feet.

IT IS FURTHER ORDERED that the Western Empire Suburban Farms Association install service connections at its own expense upon application of persons desiring to use water and that it return, together with 6% interest, all payments or deposits for service connections to the property line and meters that have been received by it subsequent to December 1, 1915.

IT IS FURTHER ORDERED that Western Empire Suburban Farms Association provide means for measurement of water delivered to consumers from the so-called irrigation pipe lines in such manner as may be satisfactory to the individual consumer, subject, in case of controversy, to determination by the Railroad Commission.

IT IS FURTHER ORDERED that the Western Empire Suburban Farms Association arrange, insofar as it is possible to do so, for deliveries

of water from the irrigation pipe lines at shorter intervals than two weeks for use on small fruits and gardens when application for such service is made at the beginning of the season.

IT IS FURTHER ORDERED that the Western Empire Suburban Farms Association provide a self-registering device at the so-called lower reservoir to record the level of water at that point and keep the record sheets on file and to see that the reservoir is not allowed to run empty, and to so provide that pressure at points of delivery on the domestic system shall not fall under twenty pounds per square inch, except in an emergency.

IT IS FURTHER ORDERED that the Western Empire Suburban Farms Association formulate and file with this Commission a complete schedule of rules and regulations to be in conformity with the requirements of this Commission's general order #2879 in Case #683 and to contain provisions covering the matters hereinbefore decided upon, as well as all customary general requirements. These rules are to be filed with the Commission within 20 days from the date hereof, whereupon they will be given consideration and, with such modifications as the Commission may then require, will become effective and subject to publication by this company in pamphlet form and distribution among all consumers or applicants for service within 30 days from the date upon which notification is received from the Commission that the schedule is in acceptable form.

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 twenty-first day of January, 1918.

Max Thelen
H. H. Loveland
Wm. Gordon
Erwin O. Edgerton

Commissioners.