

Decision No. \_\_\_\_\_

ORIGINAL

Decision No. 5112

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

---oOo---

Elmer F. Ellis,  
Complainant,

-vs-

City Water Company of Banning,  
California, a corporation,  
Defendant.

Case No. 1053.

A. C. Delbo, et al.,  
Complainants,

-vs-

City Water Company of Banning,  
California, a corporation,  
Defendant.

Case No. 1089.

Wing and Sherrard for complainants.  
Frank L. Miller for defendants.

BY THE COMMISSION:

O P I N I O N

The above enumerated proceedings were consolidated for hearing and decision by the consent of all parties thereto.

The complaint in Case 1053 alleges in effect: That the City Water Company of Banning, hereinafter referred to as defendant, is a public service corporation operating in the City of Banning, Riverside County, California, and delivering water to inhabitants thereof for domestic uses; that complainant, Elmer F. Ellis, is supplied with water by defendant but that the service rendered complainant Ellis by defendant is insufficient and inadequate; that defendant's water supply is at all times abundant and sufficient to supply complainant and all other inhabitants of the district served and that defendant's service to complainant is inadequate and unsatisfactory.

Defendant in its answer denies all the material allegations of the complaint and alleges that it has not refused to render adequate service to complainant; that it is willing to serve complainant through the pipe system of the East Banning Mutual Pipe Line Company, provided complainant will qualify himself to receive water through said pipe system by joining with his neighbors in its ownership.

Complainants in Case 1089 consist of twenty-three consumers of the City Water Company of Banning who are at present furnished with water through the pipe system of the East Banning Mutual Pipe Line Company.

In addition to the usual allegations of poor service it is stated that prior to the incorporation of the East Banning Mutual Pipe Line Company, complainants demanded that defendant supply them with water for domestic uses and were refused, except on the condition that complainants at their own expense install facilities for distribution of water. That because of said refusal by defendant, complainants at their expense installed the pipe system now known as the East Banning Mutual Pipe Line Company's System; that complainants were also compelled to furnish service connections and meters; that the cost of installation of the pipe system of the East Banning Mutual Pipe Line Company was about \$3,200.00; that complainants and all other stockholders of the East Banning Mutual Pipe Line Company's System now desire that defendant do not use the said pipe line system and other equipment for the delivery of water to complainants or other consumers; that complainants although they installed the above mentioned system are compelled by defendant to pay the same rate as is charged the consumers who were not compelled to install an expensive pipe system to obtain service and that the East Banning Mutual Pipe Line Company are ready and willing to sell their pipe system to defendant. Complainants pray that this Commission order defendant to furnish adequate service through

2.

its own equipment and refund to each complainant their money expended for the use and installation of the meter and service connections and for such further relief as may be just and proper.

Defendant in its answer denies all material allegations and in denial states; that it is ready and willing to furnish adequate service at its expense where it can be furnished at reasonable cost and without discrimination; that before a certain date it compelled all prospective consumers to pay a connection charge of \$15.00 and to purchase and install meters; that it would be unreasonable to defendant to require the service desired by complainants at defendant's expense; that the system of the East Banning Mutual Pipe Line Company was installed with the express understanding that it would be given to defendant when completed and paid for by water users; that it has no franchise and has not undertaken to serve the entire city of Banning with domestic water but only such consumers as it can with reasonable extensions of its own mains and through the irrigation mains of Banning Water Company, a mutual company.

In 1884 the Banning Water Company was organized as a mutual corporation for the purpose of supplying water for the irrigation of certain lands now within the corporate limits of the City of Banning.

From the beginning of its operations it supplied water for both domestic and irrigation uses to any applicant located along its pipe lines.

The City Water Company of Banning, a California corporation, was organized in 1913 to take over the public utility service of the Banning Water Company and for the purpose of selling water for domestic uses to the inhabitants of the City of Banning. It acquired from the Banning Water Company all its pipe lines, meters, and equipment used exclusively for the delivery of water for domestic uses and 120 shares of the capital stock of the Banning Water Company

in consideration of the issuance by the City Water Company of shares of its stock to the stockholders of the Banning Water Company in number equal to the number of shares of Banning Water Company stock. The ownership of 120 shares of Banning Water Company stock by the City Water Company gave it the right not only to its water supply but also to carry its water through the pipe lines of Banning Water Company, delivering it to consumers wherever it saw fit. All of the outlying portions of the City are served through the mains of the Banning Water Company which delivers water for irrigation in addition to its use by the City Water Company for delivering water to domestic consumers.

In 1913 residents of what is locally known as East Banning requested defendant to extend its mains and serve that portion of the town. The defendant refused and some 48 residents or landowners formed a mutual company known as East Banning Mutual Pipe Line Company, which they caused to be incorporated, January 31, 1914. This company constructed a pipe system through which water has since been delivered by defendant.

Prior to the installation of this pipe system defendant delivered water to twelve consumers in East Banning through the mains of the Banning Water Company. The service received was admittedly inadequate.

We now find defendant delivering water through a pipe system owned and maintained by its consumers which it forced the consumers to construct at their expense. This is obviously unfair and not in accord with the obligations of a utility as established by the Courts and this Commission.

The owners of this system now desire that defendant discontinue its use and have provision made for adequate delivery of water. The gist of the controversy in Case 1089 is, whether or not conditions warrant the extension of

defendant's mains to serve complainants. The record shows that the revenue which the company would probably derive from sales of water through such extension would be approximately \$425.00 and that the estimated cost of construction of the facilities to serve complainants if connected with the City Water Company's system on San Geronia Avenue would be approximately \$2,500.00. It appears that this income is adequate and that the company should make this extension especially in view of the fact that of the complainants desiring this extension twelve were heretofore served by the company and therefore this installation is, so far as these twelve go, only an improvement upon the poor service hitherto rendered.

Complainant Ellis in case 1083 is now receiving service from defendant through the mains of the Banning Water Company. The evidence is clear that this service is poor and intermittent and it is clearly the duty of the utility to improve it.

#### O R D E R

Public hearings having been held in the above entitled proceedings and said proceedings having been regularly submitted and being now ready for decision,

IT IS HEREBY ORDERED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA that the City Water Company of Banning be and it is hereby directed to provide adequate facilities at its own expense for the delivery of water to complainants herein.

IT IS FURTHER ORDERED that within thirty days from the date of this order, City Water Company of Banning shall

file with this Commission for its approval, plans for this improvement and shall with due diligence proceed with the improvements upon the plans being approved by this Commission.

Dated at San Francisco, California, this 18<sup>th</sup> day of ~~August~~ <sup>September</sup>, 1918.

Edwin O. Egerton

W. H. ...

Alex ...

Frank R. De ...

Commissioners.