

Decision No. 5829

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

J. W. FRAZER and C. L. GOETZ,

Complainants

vs

STANFORD WATER COMPANY, FRANK
M. OSTRANDER, O. C. STINE & CO.,

Defendants.

Case No. 1209.

ORIGINAL

F. G. Hoge for complainants
John R. Selby of Corbett and Selby
for Stanford Water Company.

BY THE COMMISSION:

O P I N I O N.

The complaint alleges that defendant, Stanford Water Company, seeks to collect exorbitant charges for irrigation and domestic water served to complainants on their properties near Mayfield, Santa Clara County; that land was purchased from the other defendants upon an agreement that adequate water plant would be provided to furnish water at a rate of \$3.00 per acre per year for irrigation purposes, the purchasers to receive one share of water stock for each acre of land purchased and that the plant would be turned over to purchasers to operate when sufficient land had been sold and purchasers were numerous enough to justify the expense to holders of small tracts, but that no stock has been issued, that defendants have been serving other persons than purchasers of land or water stock; and that sufficient water has not been supplied to complainants. The prayer is that service be restricted to land purchasers and that an adequate supply be provided at reasonable rates.

Defendant, Stanford Water Company, by its

answer denies most of these allegations, alleges that it is a mutual water company organized solely for the purpose of delivering water to its stockholders or members at cost; that it never sold water to any but stockholders, never on a rate basis, and that there is no provision in its articles of incorporation or by-laws by which a rate can be fixed. It also filed a motion to dismiss the complaint for lack of jurisdiction in the Commission to entertain it, based upon the above grounds.

Two public hearings were held in the case by Examiner Westover at Palo Alto. The testimony developed that the principal ground of complaint is poor service, consumers being frequently entirely without water.

Defendants Ostrander and Stine & Co. were not served and are not before the Commission. Subsequent reference herein to defendant will refer to Stanford Water Company.

Defendant Stanford Water Company is incorporated with a capital stock of 1500 shares of the par value of \$1.00 each "for the purpose solely of delivering water to its stockholders or members at cost and to that end**** to engage generally in business as a mutual water company". Its stock was to be made appurtenant to 1500 acres of land, in the ratio of one share per acre, but the original plans were changed and the tract to be irrigated reduced to about 270 acres, and all but 270 shares of stock returned to the water company's treasury and cancelled, leaving outstanding 268 shares issued to defendant Ostrander, then owner of the land, and made appurtenant to all but two parcels of land in the tract, one share each being issued to O. C. Stine and W.F. Sandercock, to qualify them as directors, and made appurtenant respectively to lots 57 and 58, which contain 1.11 and 1.26 acres each.

The pleadings and testimony show that all parties in interest expected the water plant and system to be turned over to the land purchasers for operation as a mutual water company. This has not yet been done. The plant is operated by said defendant.

Complainant Frazer purchased three parcels of land of which he is in possession under installment contract, which provides, among other things, for the payment for water furnished, of charges in proportion to the number of shares of stock of defendant "to which the purchaser shall hereafter become entitled *****", or proportionate to the acreage of the said land as the case may be". Under his contract, he will be entitled to stock when his land is fully paid for.

Complainant Goetz has deed to three parcels of land which he paid for. He also holds his original purchase contract, covering one of said parcels. It is made subject to earlier contract between defendant and Spokane-Stanford Water Company, providing that defendant would construct and operate the plant and supply water at cost, unpaid water bills to constitute liens on the lands served. A dispute exists between the parties as to whether he is entitled to his water shares. Said contract was subsequently cancelled, and defendant Ostrander subsequently acquired title to the lands in question. It was stated at the hearing, on behalf of defendant water company, that it would not issue stock to Mr. Goetz. The question of the rights of the parties to stock is not before the Commission, no testimony on this point was presented, and it will not be passed upon.

No stock has been issued to either complainant or to any land purchaser, but only to the three directors of defendant. Defendant water company is not a party to any of the land purchase contracts.

The amended by-laws of defendant describe the lands to which its stock is appurtenant. However, water has regularly been served upon lands owned by Messrs. Olsen, Dudfield and Lumgren, and which are not described in the by-laws.

No charge for any water served to any person or persons owning lands within or beyond the area described in the articles had been made by the water company until bills were sent to various consumers for domestic and irrigation service for various periods beginning July 1, 1917. The bills for domestic service are at the flat rate of 50¢ per month; and for irrigation service usually at the rate of 16¢ per hour for service through a 4" hydrant, regardless of pressure. The testimony shows that the charge for irrigation service was based on cost of operation of the plant for a fixed period. The basis for the apparent flat rate for domestic service was not known and could not be shown by the testimony. The company has not succeeded in collecting ^{certain bills} for service rendered, largely owing to disputes as to the amount of bills when finally rendered. Several of the bills for domestic service only, are admittedly satisfactory, but remain unpaid.

From the above facts, we find that defendant Stanford Water Company, by selling water to those who do not own or hold its stock, has become a public utility within the meaning of Chapter 80, Laws of 1913, and subject to the regulation and control of the Railroad Commission, and should at once file its rates, rules and regulations with the Commission.

It appears from the testimony that defendant does not provide sufficient water for the needs of its present consumers, but that the supply can be greatly augmented by reasonable rules and regulations tending to conserve the amount of water now developed and by taking proper steps to further develop its water supply. These features will be covered by the present order, leaving the matter of fixing just and reasonable rates to be covered by a supplemental order herein.

The system derives its water from the gravels that underlie the Santa Clara Valley. Owing to the recent extreme drought, the water level has been lowered so rapidly and the available water supply diminished to such an extent that in order to obtain water, it has been found necessary to lower the pumps in wells that have heretofore yielded an abundant supply. Defendant should lower its pump, which is approximately twenty-two feet above the water surface, in order to procure efficient operation.

Only a few of the irrigation hydrants are locked and there are no meters on the system. These conditions and the existing unmeasured rate, encourage a wasteful use of water in both field and garden irrigation, and very seriously affect the quantity available for domestic purposes.

As the matter of improving the service and developing and conserving an adequate supply of water, will depend very largely upon the co-operation of the consumers and those managing the plant and system, it is urgently recommended that all consumers actively aid by carefully conserving water; and that the company and its patrons promptly adjust any disputes as to bills for water heretofore served; and that the bills so adjusted be promptly paid to the company to enable it to make the necessary improvements.

ORDER

Public hearings having been held upon the issues raised by the pleadings herein, testimony having been submitted and the Commission being now fully advised,

IT IS HEREBY ORDERED that defendant Stanford Water Company within ten days file its ^{rates} rules and regulations governing the service of water through its system, and providing for keeping hydrants locked except when their use is authorized by the company.

IT IS FURTHER ORDERED that defendant within ten days file plans or program of improvements and proceed to lower its pump and the suction pipe to the bottom of the concrete pit, and provide means to determine the amount of water delivered at different points and now charged for by hydrant run.

Dated at San Francisco, California, this 1st
day of October, 1918.

Edwin O. Edgerton
H. H. Boardman
W. L. ...

Commissioners.