

Decision No. 5979

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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DELLA W. JONES, F. T. GEARHART,
CONSTANCE M. WOOD, ALBERT W. EARNEST,
J. D. SLYDER, MRS. EMILY FULLER,
MRS. G. D. EASTMAN, D. J. SLYDER,
J. W. DAVIS, W. C. BROOKS, W. H. TURNER,
R. S. ROCKETT, T. H. WHITING, M. KEANS,
MRS. A. C. FILES, GEO. R. TREBBS,

Complainants,

-vs-

JONATHAN S. DODGE AND T. L. DUDLEY,
Trustees,

Defendants.

Case No. 1259.

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Della W. Jones and W. A. Earnest
for Complainants,

Victor T. Watkins for Defendants.

BY THE COMMISSION:

O P I N I O N

The above entitled proceeding was brought by seventeen users of water from the water system operated by defendants, supplying water to the so-called Richland Farms Tract, Los Angeles County.

The complaint herein alleges in effect that defendants own and operate a public utility water system and deliver water for compensation to residents of Richland Farms Tract Number 1473 near Compton, Los Angeles County; that water service is inadequate in that an insufficient quantity is delivered and service is intermittent. Complainants ask that defendants be directed to supply an adequate quantity of water and exercise proper supervision over its distribution.

Defendants, in their answer, deny all the material allegations of the complaint and allege that they have held and operated the

water plant in question as trustees for complainants and other owners of lots in the Richland Farms Tract. It is further alleged that the rates charged are for the maintenance and operation of the system and that the plant is owned by the owners of lots of the Richland Farms Tract, among whom are all the users of water, and is, therefore, a mutual water company.

A public hearing was held before Examiner Encell in Los Angeles.

The so-called Richland Farms Tract Number 1473 was placed on the market by Jonathan S. Dodge and Charles O. Middleton, as trustees for the owners of the tract. A water system was constructed as a part of the campaign for the sale of real estate. In 1914 the interest of Charles O. Middleton was acquired by T. L. Dudley and the business has since been carried on by Messrs. Dodge and Dudley as trustees.

The form of contract of sale provides in part as follows:

"Also as an appurtenance to said land, the beneficial use thereon of an undivided interest in all the water which has been or may be developed and distributed by the wells, pumping plant and pipe lines upon the tract of 165 acres owned by the sellers, of which said tract above described forms a part, said interest to be in the proportion which the amount of land hereby contracted to be sold bears to said entire tract of 165 acres; - - - - -"

The contract also provides:

"The sellers shall have and hold as trustees, the title, management and regulation of rates of said wells, pumping plant and pipe lines and the necessary rights of way therefor until the owners of three-fourths in interest of said 165 acres shall form a committee of trustees or other organization to take over the title, regulation and management of said water system and which may be consummated by said owners of three-fourths in interest when they shall so determine."

The deed conveying the property to the various purchasers also provided for the transfer of an undivided interest in the pumping plant and water system to each of the lot purchasers, and contained a clause similar to that quoted above from the contract of sale.

The evidence shows that water has been sold only to purchasers of lots within the tract and that defendants are not operating or managing a water system delivering water for compensation as provided in the

Public Utilities Act.

It further appears that the water plant in question was organized and has been and is operated for the purpose solely of delivering water to its stockholders or members at cost, and is, therefore, not subject to the jurisdiction of this Commission.

O R D E R

A public hearing having been held in the above entitled proceeding, and the matter having been submitted and being now ready for decision,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that the complaint be and it is hereby 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 5th day of December, 1918.

Edwin O. Edgerton
H. H. Loveland
Alfred Gordon
Samuel R. DeWitt

Commissioners.