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In the Matter of the Application of
the ENCANTO MUTUAL WATER COMPANY to
increase rates for service to its
patrons at Encanto, San Diego County,
California.

Application No. 461.

Harry R. Atwood, for applicant.
S. A. Sackett, for consumers.

ESHLEMAN, Commissioner.

O P I N I O N

The applicant herein owns a water system supplying about 250 consumers in a suburban territory near the city of San Diego. It purchases the water which is distributed to its consumers from the San Diego City system heretofore owned by the Southern California Mountain Water Company. The system was originally constructed by the Richland Realty Company, a corporation which owned the land in this tract which has been sold out to the present consumers of the Encanto Mutual Water Company. With the purchaser of each lot sold by the Richland Realty Company, the said Encanto Water Company, being an adjunct of the Richland Realty Company, entered into an agreement to deliver water as follows:

"Encanto Heights Mutual Water Company hereby agrees to supply water for domestic purposes and irrigation to _____, or his assigns, for use upon lot _____ in block _____ of Encanto Heights in the county of San Diego, State of California, and will deliver a sufficient supply thereof so long as it can obtain said water from its present source of supply in supply pipes of the system of said corporation, in the street in front of said lot, at the usual rates fixed by said corporation for the delivery of water in said vicinity, which said rates shall in no event be in excess of the sum of 10 cents per thousand gallons."

On the 12th day of September, 1911, the Board of Supervisors of San Diego County passed Ordinance No. 193, wherein the rate at which the Southern California Mountain Water Company should

deliver water was fixed at 20 cents per thousand gallons, and thereafter said Southern California Mountain Water Company began charging a rate to the Encanto Mutual Water Company of 20 cents per thousand gallons, but the rate charged to the consumers remained at 10 cents per thousand gallons until September, 1912, at which time the Encanto Mutual Water Company, notwithstanding the language of the contract heretofore referred to wherein it agreed that in no event should the water rate be raised beyond 10 cents per thousand gallons, sought to raise such rate to 25 cents a thousand gallons with a minimum monthly charge of \$1.50, but soon thereafter, and while such rate was supposed to be in effect, disposed of the system to the present owner, Harry R. Atwood, for approximately \$1500.

It is perfectly evident that the owner of this system cannot afford to pay 20 cents a thousand gallons for water and distribute it to consumers at the rate of 10 cents per thousand gallons; yet this condition of fact leads me to comment upon the viciousness of the contract of the Richland Realty Company heretofore referred to. This custom is entirely too prevalent and constitutes what I consider a fraud on its face. The usual plan is for the land company to secure a tract of land for comparatively a small amount and thereafter, for the purpose of selling such land, to acquire a supply of water, (in this case from a public service water company), and agree to insure the perpetual delivery of such water to the purchasers of lots at a very low cost. Such an arrangement, of course, gives a strong argument to the agent selling the lots, and the fact that the unsuspecting purchaser thinks that he will be insured a continuous supply of water at the very cheap rate enables the land company to sell its lots at a greater profit than would otherwise be the case. The usual outcome of this scheme is that the land company sells off its land and either abandons or unloads its system upon someone-too-suspicious buyer, who finds himself with contracts for the delivery of water, as in this case, which cannot under any circumstances be fulfilled and the inevitable ap-

plication is made to this Commission, as here, to raise the rates. I consider that every cent of additional payment which the Richland Realty Company secured from the lots sold in Encanto which was secured by reason of its promise to deliver water at the rate of 10 cents per 1000 gallons, such delivery to be perpetual, was obtained practically through false representations and fraud, and the only way in my mind those profiting by this arrangement could clear themselves of this imputation is by attempting to carry out the provisions of their contracts, at least until they had dissipated all of the profits which they had made from their land operations. A solemn obligation of even a land company, which usually seems to be a little bit more soulless than the ordinary corporation which is supposed to have no soul, under which such land company receives a consideration as was undoubtedly the case here, should not by honest men be treated as lightly as it seems to have been treated in this case. It is no defense to say that the purchasers of its lots have profited in that ^{such lots} ~~they~~ have increased in value. This land company made a promise, as a result of which it reaped a benefit. It should not retain the benefit and repudiate the promise, even when such repudiation is secured by unloading the property upon a purchaser unable financially to endure the loss which necessarily follows from carrying out its contracts for water independent of the land venture.

It is admitted by the consumers that as long as the city of San Diego charges the owner of this system 20 cents per thousand gallons ~~they~~ they cannot expect the present rate of 10 cents per thousand gallons to be maintained. The city of San Diego has intimated its intention to file an application to have all of its rates to outlying consumers fixed by this Commission, at which time a determination of the propriety of the 20-cent rate to the Encanto Mutual Water Company may be determined. Pending such determination a rate should be fixed which will at least give the proprietor of this system enough to care for the actual operation of the system. It is hard to determine what such rate shall be, but from all the evidence

in the case I believe that a rate of 25 cents per thousand gallons with a minimum charge of \$1.30 per month should pay the cost of securing the water from the city of San Diego, together with the actual cost of distributing the same, and the salary for half his time for Mr. Atwood, the proprietor of this system, which I will place at \$60.00 per month.

I, therefore, submit the following order:

O R D E R .

ENCANTO MUTUAL WATER COMPANY having applied to this Commission for an order fixing the rates which shall be charged to its consumers of water within the county of San Diego, and a hearing having been held, and being fully advised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that under all the present circumstances of the case a rate of 25 cents per thousand gallons with a minimum charge of \$1.30 per month to each consumer is a just and reasonable rate, and

IT IS HEREBY ORDERED that the rate of 25 cents per thousand gallons, with a minimum charge of \$1.30 per month per consumer, is fixed and established as a just and reasonable rate to be charged by the said Encanto Mutual Water Company to its consumers within the county of San Diego, State of California.

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 19th day of April, 1913.

John W. Eastleman
H. H. H. H. H.
Max Thelen
Edwin O. Edgerton
Commissioners.