

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

Frances R. Schmitt, et al.,
Complainants,

v.

Emil Firth and Dr. Edgar Smith,
Defendants.

Case No. 1292.

Elias V. Rosenkrans for Complainants and
Defendant Firth.
G. P. Adams for Dr. Edgar Smith, Defendant.

BY THE COMMISSION:

O P I N I O N

This complaint is brought by twenty-eight users of water from the water system supplying the residents of Sunny-side Garden Acres Tract No. 3002 in Los Angeles county, alleging that the water plant supplying complainants with water is inadequate and in such condition that so large a quantity of water is wasted that consumers do not receive a sufficient quantity for domestic and other uses.

The complaint alleges in effect that defendants Emil Firth and Dr. Edgar Smith own and operate a public utility water system for the purpose of supplying water to complainants and others residing in Sunny Side Garden Acres Tract No. 3002; that water service is inadequate; that the quantity of water delivered is not sufficient for their needs, and that there is a lack of proper supervision of the distribution of the water, and asks that defendants be directed to exercise proper supervision over

the distribution of the water and deliver to the complainants an adequate and sufficient quantity for their needs.

Defendant Firth in his answer denies that he owns and operates a water distributing system for supplying water to complainants herein or to Sunnyside Garden Acres Tract No. 3002 in Los Angeles county; denies that he has any interest whatever in said water system, and admits that the service rendered to complainants is inadequate and that the quantity of water furnished is not sufficient for their use. He further alleges that Dr. Edgar Smith, whose true name is Charles Edger Smith, is the owner of the water system supplying the aforementioned tract, also Tract No. 2752, Sunny Side Garden Acres Addition, located in Los Angeles county; that defendant Smith entirely controls, operates and manages the aforementioned water system and has been delivering water for domestic and irrigation uses for compensation to complainants and others residing on said tracts; that said defendant Smith has failed to supply wholesome water to complainants; that he has neglected the water pipes of said system so that the streets under which the pipes are laid become full of water; that he has failed to repair the pipe system so that adequate and sufficient supply of water can be delivered to his consumers.

Defendant Firth asks that the complaint be dismissed as to him.

Defendant Smith in his answer, alleges in effect that he is the owner of the tract of land described in the complaint herein; that he entered into an agreement with Defendant Firth to subdivide said tract and install a water system; that Defendant Firth installed pipes of inferior quality and thickness and that said pipes are now leaking so badly that it is impos-

sible to supply the residents of said tract with sufficient water; that said pipes can not be repaired and must be entirely replaced with new pipe in order to furnish a sufficient quantity of water for said residents; that the present income derived is unremunerative and does not produce a sufficient revenue to meet necessary costs of maintenance and operation; that tract No. 3002 embraces 80 acres and tract No. 2752 has an area of 40 acres, requiring approximately four miles of water mains to supply water to forty consumers who pay only \$60.00 to \$70.00 per month, and that the maintenance and operation expense equals at least \$90.00 per month.

Defendant Smith amended his answer at the hearing and alleged that he does not conduct a public utility water business. The prayer asks that he be permitted either to discontinue water service or permitted to charge remunerative rates.

A public hearing was held in this proceeding in Los Angeles on February 17, 1919, by Examiner Encell.

In 1915, Dr. Edgar Smith, hereinafter referred to by his true name, Charles Edgar Smith, as owner of the land which is now known as Tract No. 3002, Sunnyside Garden Acres, entered into a contract with Defendant Emil Firth, under the terms of which Emil Firth acted as agent in the sale of said tract and in the installation of a water system, roads and other improvements in said tract. The contract provided in part as follows:

" * * * * * and said party of the first part (Charles Edgar Smith) agrees to supply wholesome water in sufficient quantities for irrigation and domestic use to the water users in said tract at the ruling rate authorized by the State Railroad Commission."

In 1917 a similar agreement was entered into, providing for the subdivision and sale of Tract No. 2752, Sunnyside Garden Acres Addition, which tract adjoins Tract No. 3002. Under this agreement a water system was installed and water has since been delivered to the purchasers of lots in that tract.

The water supply for this system is obtained from a well from which water is pumped by a deep well single acting pump into a twenty-thousand gallon redwood tank on a 28-foot tower. From this tank water flows by gravity through the pipe system to the consumers. Another tank of similar capacity is installed but is not used at present.

At the hearing it was admitted by Defendant Smith that he owns the water system in question and receives compensation for delivering water to complainants and others, which clearly establishes the fact that Defendant Smith owns and operates a public utility water system, and is therefore responsible for the service rendered to complainants herein and other residents of the district served.

It is admitted by all parties to this proceeding that service to the consumers is poor and that the pipe system is in such condition that an insufficient quantity of water is being delivered to complainants, and that in order to render adequate service it will be necessary to replace practically the entire distributing system. It further appears that the gasoline engine which drives the pump is not in good repair. Service has been so poor that there has been an insufficient quantity of water delivered for even the necessary domestic uses and the situation is so acute that steps must be taken to immediately remedy the causes of complaint, installing

such pipes immediately as will enable the utility to deliver sufficient water for the essential uses.

In designing and planning for the reconstruction and rehabilitation of this plant, the program of construction should be such that those portions of the pipe system which are in such condition that it is impossible to transmit water without a large percentage of it wasting, be replaced immediately in order to restore adequate service to complainants and other consumers in the very near future.

It is the practice of some real estate dealers to subdivide tracts and install water systems of very light or second hand pipe, which serves well only until the dealer is able to dispose of his holdings and withdraw, legally, from any further responsibility. Then the responsibility falls upon the original owner of the tract, if he proves to be the owner of the water system; or the consumers, with or without organization, for their own protection must practically completely reconstruct the water plant.

Poor service has almost inevitably been the result of this practice and most of the complaints brought to the attention of this Commission have been because of this method of procedure. It is unfortunate that the Railroad Commission cannot hold the promoters of such projects responsible and require that a satisfactory and durable system be constructed at the expense of those morally responsible.

O R D E R

Complaint having been made by Frances R. Schmitt and others in the proceeding entitled as above, a public hear-

ing having been held and the matter having been submitted and being now ready for decision;

IT IS HEREBY FOUND AS A FACT that Charles Edgar Smith is operating a public utility water system and is supplying water to residents of Tracts Nos. 3002 and 2752, Sunnyside Garden Acres Addition, Los Angeles County, and basing its order upon the foregoing finding of fact and the further statements of fact set out in the opinion preceding this order,

IT IS HEREBY ORDERED that the complaint in the above entitled proceeding be and the same is hereby dismissed, in so far as it relates to defendant Emil Firth.

IT IS FURTHER ORDERED that defendant Charles Edgar Smith be and he is hereby directed to file with the Railroad Commission of the State of California for its approval, plans and specifications for the reconstruction of the water distributing system supplying water to residents of Tracts Nos. 3002 and 2752, Sunnyside Garden Acres Addition, Los Angeles County, within ten (10) days from the date of this order.

IT IS FURTHER ORDERED that upon the approval of said plans and specifications Charles Edgar Smith shall proceed without delay to reconstruct and repair the aforementioned water system as provided in the approved plans and specifications and shall complete said reconstruction and improvements on or before May 15, 1919.

IT IS FURTHER ORDERED that Charles Edgar Smith file for approval by the Railroad Commission, rules and regulations

governing the distribution of water to his consumers,
which he is directed to put into effect as corrected and
amended by the Commission within twenty (20) days from the
date of this order.

Dated at San Francisco, California, this 24th
day of March, 1919.

Erwin O. Edgerton

H. S. Loveland

Erving Mattson

Commissioners.