

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Commission's)
 Investigation into the Rules, Regu-)
 lations and Practices of William S.) Case No. 1391.
 Van Hoosear, as owner of a water)
 system near Hayward, California.)

E. S. Craig for William S. Van Hoosear.

BY THE COMMISSION.

O P I N I O N

The above entitled matter is a proceeding brought by the Railroad Commission on its own motion, into the rules, regulations and practices of William S. Van Hoosear, who owns and operates a small public utility water system located in Castro Valley approximately two and one-half miles in a northeasterly direction from the town of Hayward. This system formerly supplied some seventeen consumers with water for domestic purposes. However, only five consumers have been receiving water during the past year, due in large measure to Van Hoosear's refusal to serve and to the unsatisfactory conditions prevailing.

A number of informal complaints have been filed with the Commission, alleging that defendant arbitrarily discontinued service and increased his rates without the authority of this Commission.

On November 28, 1919, a public hearing was held in the matter of the Commission's investigation, as entitled above, and the testimony conclusively showed that defendant has been operating the water system owned by him as a public utility; that he has increased

his monthly minimum charge for water from 75 cents per month to \$2.50 per month, without the authority of this Commission; that he has arbitrarily discontinued service to his consumers without authority; and further, that he has transferred his water system ~~without first having obtained the authority of this Commission.~~ without first having obtained the authority of this Commission. It appears that these violations of law have not been committed through ignorance on the part of William S. Van Hoosear, inasmuch as he admitted that he has on various occasions received notice from the Commission of such violations.

Heretofore, on August 30, 1917, Mr. Van Hoosear filed an application with this Commission (Application No. 3184), requesting authority to discontinue the operation of the water system in question, which application was denied by Decision No. 4845, issued November 14, 1917. In its Decision No. 5956, Anna Silva v. Wm. F. Van Hoosear, Case No. 1194, issued November 23, 1918, this Commission found as a fact that Mr. Van Hoosear was operating a public utility water system within the meaning of the Public Utilities Act and Chapter 80, Laws of 1913. The above mentioned orders became effective and Mr. Van Hoosear continued the operation of his system as a public utility until recently.

Subsequent to the issuance of these decisions, Mr. Van Hoosear obtained the signatures of his consumers to an agreement to release him from all obligations to deliver water to them, in the event he secured a buyer for his property, which includes not only the water system in question, but also a ranch. The decisions of the higher courts clearly establish the principle that contracts such as these, made between a public utility and its consumers, are subject to the police powers of the State, and therefore ineffective if they conflict with the provisions of the Public Utilities Act or the

orders of this Commission. These contracts are not binding upon the Commission and Mr. Van Hoosear cannot discontinue service unless he complies with the laws obtaining. He further attempted to increase the rate charged for service by securing a signed agreement on the part of his consumers. No application or request was made to this Commission for authority to charge the agreed rates, neither were these rates placed on file, as provided by the Public Utilities Act. The discontinuance of service worked a hardship upon those dependent upon this system for water for domestic uses, and such arbitrary and unwarranted actions are inexcusable. If the revenue derived from the operation of this plant is insufficient, Mr. Van Hoosear may apply for relief in the manner prescribed by law.

Under Section 51 of the Public Utilities Act, authority must be granted by this Commission before a public utility can transfer its operative property, and such authority must be obtained before the property in question can legally be transferred.

O R D E R

The Railroad Commission of the State of California having conducted an investigation into the rules, regulations and practices of William S. Van Hoosear as owner of a public utility water system, a public hearing having been held, and the Commission being fully apprised in the premises,

It is Hereby Found as a Fact that William S. Van Hoosear has illegally and arbitrarily increased the rates charged by him for water, and has illegally and arbitrarily discontinued service to consumers.

It is Further Found as a Fact that the legal rates to be

charged by William S. Van Hoosear for water delivered to consumers is 50 cents per 1000 gallons, with a minimum charge of 75 cents per month;

And basing its order upon the foregoing findings of fact and the statements of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED that William S. Van Hoosear be, and he is hereby directed to reestablish the public utility service of water to his consumers in Castro Valley, within five days of the date of this order, and to continue such public utility service at the rates herein found to be the legal rates in effect.

IT IS HEREBY FURTHER ORDERED that William S. Van Hoosear be, and he is hereby directed to file the above rate with this Commission within ten (10) days of the date of this order.

Dated at San Francisco, California, this 23rd
day of December, 1919.

Edwin O. Egbert

H. L. Loveland

Frank R. Weston

Deering Watson

Commissioners.