

Decision No. 8866.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

GEORGE H. COMPSTON, ET AL.,
Complainants,
vs.
RICHFIELD LAND COMPANY AND
RICHFIELD WATER COMPANY,
Defendants.

ORIGINAL

Case No. 995.

W. A. Fish, for Complainants.

F. Delmore Lederman, for Defendants.

BY THE COMMISSION.

OPINION ON REHEARING

In this proceeding defendants petitioned for a rehearing and asked that this Commission set aside its order and dismiss the complaint herein on the ground that defendants have been operating the system as a mutual water company, over which this Commission has no jurisdiction.

The Commission in its decision No. 5025 in the above entitled proceeding held, in brief, that the facts as shown by the evidence established the status of the Richfield Land Company as a public utility under the provisions of Section 2 of the Public Utilities Act and Chapter 80 of the Statutes of 1915, and that the purported conveyance of its water plant and system to said Richfield Water Company dated August 3, 1916, is void under Section 51 of the Public Utilities Act: The Richfield Land Company was directed to make certain improvements and repairs to its system and to do cer-

tain other things which would enable it to render sufficient and adequate service to the consumers.

Thereupon the defendant, Richfield Land Company, petitioned for a rehearing and asked for a reversal of the order in the aforementioned decision, alleging that said company is not a public utility and that the Commission is therefore without jurisdiction in the premises.

Public hearings in said petition for rehearing were held at Tehama and San Francisco, and the case was submitted on briefs. The testimony of the complainants and their evidence submitted was of similar purport to that of the former hearings in this proceeding, which was in effect that, while the evident intention of the defendants was to form a mutual water company by the form of the articles of incorporation of the Richfield Water Company, they had by certain acts and deeds failed to operate strictly as a mutual water company; therefore complainants claim that Richfield Land Company, in conjunction with its land business, actually constructed and owned and managed the water system, delivered water for compensation and collected water rates in "Richfield Lands" prior to the said date of conveyance of the water properties to Richfield Water Company.

It was shown and is an admitted fact that the officers and management of the Richfield Water Company were practically the same as the Richfield Land Company, and that the business and accounts were handled in the same office.

Defendants submitted evidence to show that it was their intention and that they had in fact been operating the system as a mutual water company under a contractual arrangement whereby the land company would convey the system to the water company, and that

each water user was a party to these contracts.

After carefully reviewing and considering all the evidence introduced in this proceeding, including the Articles of Incorporation and By-Laws of each of said defendants as evidencing their corporate functions and purposes, and the sale contract subscribed to and accepted by all of said complainants, it appears that there have been no flagrant and intentional violations of defendant's avowed status as a mutual water company such as would technically bring it under the jurisdiction of this Commission.

The fact remains that due to the operations of said Richfield Land Company, a wholly inadequate water supply and service has been provided the complainants for the irrigation of their lands. Said Company, in subdividing and marketing these lands at high prices, held out as an inducement and virtually agreed with purchasers by its sales contracts, including the issue of water stock appurtenant to the lands, that proper and adequate irrigation service would be supplied. In this connection the operations of said land company and its subsidiary water company as disclosed by the evidence, cannot be too severely criticised; however, it appears that the relief asked for in above entitled proceeding cannot be obtained through the powers of this Commission.

ORDER ON REHEARING

Richfield Land Company having filed a petition for a rehearing in above entitled proceeding, and due consideration having been given thereto, and the case having been heard and submitted on briefs and the Commission fully apprised in the premises,

IT IS HEREBY ORDERED that Decision No. 5025 heretofore rendered in this proceeding be and it is hereby rescinded and set

aside.

IT IS HEREBY FURTHER ORDERED that the complaint in the above entitled proceeding be and it is hereby dismissed for lack of jurisdiction.

Dated at San Francisco, California, this 16th day of April, 1921.

Frank R. Owen

H. S. Lovland

H. A. Brundage

James Martin

Charles H. Howell

Commissioners