

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

HOWARD TROCKMORTON, LILLIAN PALMER, EMILY E. WILLIAMS and EDNA F. ANDERSON and HARRY S. ANDERSON,

Complainants,)

vs.)

ROBERT P. CRISWELL and HELEN P. CRISWELL, Defendants.)

CASE NO. 1478.

M. E. Cerf, for Complainants.
E. A. Hardinge, for Defendants.

BY THE COMMISSION.

O P I N I O N

This is a complaint involving the question of water service to three dwellings of complainants herein situated in the Santa Cruz Mountains, about four miles from the City of Los Gatos, Santa Clara County, California. It is alleged, in effect, in the complaint that the defendants are and have been operating a public utility water system for a considerable time, supplying water to complainants for compensation; that due to the fact that defendants have used large quantities of water from the system for their own private interests the supply to complainants has become inadequate. It is further alleged that defendants have sold a part of their water system which is necessary and useful to the utility in the performance of its duties to its consumers.

Defendants in their answer deny that they are or have been

operating a public utility water system, and aver that the complainants, with the exception of Howard Throckmorton, who has a contract whereby the defendants are to supply him with 200 gallons of water per day from certain described springs, have been supplied with water as a matter of accommodation; that defendants have accepted a small sum of money for the same for the purpose of repairing pipes and to prevent complainants from acquiring an interest in the system; that the shortage in the water supply was due to the decrease in the output of the springs which have supplied these consumers in the past, and it is further alleged that the water has been furnished to the complainants at a loss to the defendants.

A public hearing was held in Los Altos on January 4, 1921, and in San Francisco on April 26, 1921, before Examiner Satterwhite.

The water for the system in question is supplied at present from a developed spring, which was designated as Spring No. 2 on complainant's Exhibit "O". From the spring the water is carried through pipes by gravity to the consumers. The storage consists of a 2000 gallon redwood tank, in addition to which each of the three premises have an independent tank on their own property.

The evidence shows that the complainants purchased their lands from the defendants, and subsequent to building their dwellings thereon have been supplied with water for domestic purposes by defendants. This service dates back a number of years. There was considerable testimony introduced to show that defendants had demanded and received compensation for this service. It was shown that the present rate in effect to all three consumers is \$18.00 per year.

It was testified that during the summer of 1920 the complainants suffered considerable loss and inconvenience due to lack

of an adequate supply of water to meet their needs for domestic use. It was also shown that during this time there were two other dwellings in which the defendants were interested that were supplied from the same system as were the complainants.

A report by Mr. J. G. Hunter, one of the Commission's hydraulic engineers, was introduced in evidence, showing the results of a field inspection made by him on March 29, 1921. On that date Mr. Hunter found that service had been discontinued to the two dwellings referred to above, the supply being devoted entirely to the premises of complainants. He also found that the pipe system supplying complainants' dwellings had recently been improved by replacing old pipe with new and at certain points by substituting pipe of larger diameter, the system appearing to be in good condition and the water supply ample on that date.

It was testified by Robert P. Criswell, one of the defendants, that it was the intention of Mrs. Criswell, as well as himself, to allow the complainants all the water from Spring No. 2 in the future, in so far as they could control it; that by not allowing any other services to be connected to this system, he felt certain good service could be maintained in the future to these consumers, as the minimum known flow, which occurred last summer after three years of extreme drought, was approximately 600 gallons per day.

The evidence shows that the defendants have a number of springs on their land in this district, in addition to Spring No. 2, some of which are still undeveloped. We understand these additional springs are so situated that by the installation of gravity lines their waters could be added to the supply of the system.

It was developed during the proceedings that the sale of land containing springs necessary to the water system referred to in the allegations of the complaint as land sold to one Wilson by

the defendants, has, subsequent to the filing of this complaint, been cancelled. The title to this property now stands in the name of the defendants, as originally.

From the evidence introduced in this case, it is quite clear that defendants have been operating a public utility water system; therefore, under the provisions of the Public Utilities Act they are required to serve water in sufficient quantities to meet the domestic needs of complainants as consumers.

Defendants have not heretofore filed their schedule of rates, rules and regulations with this Commission. They should immediately comply with the provisions of the Public Utilities Act in this regard.

It appears that except as recited above the matters covered by this complaint have been satisfied and that the same should be dismissed.

O R D E R

Complaint having been filed with the Railroad Commission by Howard Throckmorton, Lillian Palmer, Emily E. Williams, Edna F. Anderson and Harry S. Anderson against Robert P. Criswell and Helen P. Criswell, a public hearing having been held and the matter having been submitted,

IT IS HEREBY FOUND AS A FACT that Robert P. Criswell and Helen P. Criswell, in owning and operating a water system and serving certain consumers for compensation in Section 36, Township 8 South, Range 2 West, M.D.B. & M., are conducting a public utility within the meaning of the Public Utilities Act.

And basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion which precedes this order,

IT IS HEREBY ORDERED by the Railroad Commission of the State

of California that Robert P. Criswell and Helen P. Criswell file with this Commission within twenty (20) days of the date of this order the rates charged to consumers in Section 36, Township 8 South, Range 2 West, M.D.B. & M., for water service.

IT IS HEREBY FURTHER ORDERED that Robert P. Criswell and Helen P. Criswell be and they are hereby directed to file with the Railroad Commission for its approval, rules and regulations governing the furnishing of water to their consumers as above, said rules and regulations to be filed within thirty (30) days of the date of this order, and to become effective within five (5) days of the date of their acceptance.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this 24th day of June, 1921.

H. A. ...
A. D. ...

J. N. ...
Commissioners.