

ORIGINAL

Decision No. 9289

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Commission's)
Investigation into the sufficiency)
of the water supply, adequacy of)
service, rules, regulations and)
practices of the Ontario Investment)
Company and the territory served or)
to be served by said company in its)
operations as a public utility water)
system.)

Case No. 1584.

James S. Bennett and C. E. Sears, for defendant
John H. Klusman, for Cucamonga Water Company
W. S. Ballis, for Growers Fruit Company
Geo. L. Winter, in propria persona

BY THE COMMISSION:

O P I N I O N

Ontario Investment Company is primarily a real estate concern, and incidental to such business, conducts a small water distribution system in the vicinity of the town of Cucamonga, San Bernardino County, California. It obtains its water supply through its ownership of stock in the Cucamonga Water Company, a mutual water company.

This proceeding was brought about by an informal complaint to the Commission by the Cucamonga Water Company to the effect that the Ontario Investment Company had sold certain shares of such water stock. The consent of this Commission not having been secured to the transfer of the stock, and it appearing that the

water supply available to the consumers of the utility would be diminished by its disposal, the Commission instituted an action on its own initiative as indicated above.

A public hearing was held in this matter before Examiner Satterwhite at Ontario on June 30, 1921.

From the evidence it appears that the district which the Ontario Investment Company supplies with water service consists of a small realty subdivision situated in the town of Cucamonga. Water is delivered to defendant by the Cucamonga Water Company at a point on the tract whence it is distributed by the Ontario Investment Company to approximately twenty-eight consumers. The distribution system consists of about three fourths mile of 4-inch pipe. The Ontario Investment Company came into possession of this water system when it took over the subdivision from the Cucamonga Land and Town Company on May 12, 1904. At the time of taking over the property from the Cucamonga Land and Town Company it appears that 21.4 shares of stock in the Cucamonga Water Company were acquired. Each share of the stock of the Cucamonga Water Company entitles the holder to a maximum of one fourth of a miner's inch of water, continuous flow, equivalent to 1/200 of a cubic foot per second. The company held this stock until October 1, 1919, when 10 shares were sold to W. H. Stipe and 8 shares were sold to George L. Winter, the company retaining 3.4 shares.

In its informal negotiations with the Commission previous to the institution of this proceeding, the Ontario Investment Company denied that it was operating as a public utility water company, but the evidence clearly shows that the defendant for many years has been and at the present time is disposing of water for compensation and in so doing is a public utility as defined by the Public Utilities Act.

Defendant has taken the position that it does not own the distribution system described above. Just what defendant is at-

tempting to accomplish by this stand we do not know, but it was clearly shown that defendant has used the pipe system ever since it took over the property from the Cucamonga Land and Town Company in 1904 and it was also shown that defendant has repaired the pipe line at its own expense. Defendant should continue to maintain the pipe system and supply its consumers as heretofore. It developed during the proceedings that the pipe system is in a leaky condition, resulting in a considerable waste of water. It is the duty of the defendant utility to properly repair its system and deliver water as economically as possible. If, as indicated in the testimony, certain consumers resort to wasteful practices, this should be taken care of by establishing rules and regulations providing against such wasteful practices, and submitting same to the Commission for its acceptance. Further economies could be accomplished by the installation of meters. However, this would necessitate an application to the Commission for the establishment of metered rates, inasmuch as the company is operating solely under flat rates at present.

The evidence shows that the Ontario Investment Company has been serving at least 28 domestic and one industrial consumer during the past few years, but has collected from approximately 15 only, the remainder apparently obtaining water without cost. All these consumers unquestionably are within the district covered by the defendant's system and it is defendant's duty to continue to serve them, collecting from all at the duly established rates.

We now come to the question of whether this utility should or should not be permitted to complete the transfer of a portion of the stock held by it in the Cucamonga Water Company, for this Commission does not consider that the sale of stock to Messrs. Stipe and Winter has been legally consummated until the authority of this Commission has been given. In our opinion this stock

is useful public utility property as described in Section 51 of the Public Utilities Act. The evidence shows that the consumers on the system of the Ontario Investment Company have been supplied with water from the 21.4 shares owned by it in the Cucamonga Water Company, and there is no question but that such shares of stock have been dedicated to public use and are a part of the property of the Ontario Investment Company in its operations as a public utility water company.

Testimony was introduced showing that during certain periods of drought, this utility was unable to furnish sufficient water to supply all the needs of its consumers, though at the same time enjoying the allotment of water due it at the time by virtue of its ownership of 21.4 shares of stock of the Cucamonga Water Company. It is our understanding that, in the event of a shortage of supply, the amount distributed by the Cucamonga Water Company is prorated among its stockholders.

The assessments the Ontario Investment Company pays to the Cucamonga Water Company on the said 21.4 shares of stock amount to approximately \$230 annually. The gross income received from its consumers is in the neighborhood of \$180 annually. That the utility cannot continue to operate at the loss indicated by these figures is obvious, but we believe that its income could be considerably increased by collecting for all water delivered to consumers and by following other recommendations referred to above. Should this utility find its revenues insufficient to meet the cost of operation, etc., it always has the recourse of applying to this Commission for an increase in rates.

If defendant proceeds to place its public utility water business in an orderly condition and should decide later to come before the Commission with an application to dispose of a portion of the said 21.4 shares of stock, showing that the holding of the entire

block is unnecessary to supply its consumers, such application would be given due consideration. In the mean time, however, it will be necessary for the defendant to retain the said 21.4 shares of Cucamonga Water Company stock.

Pending the outcome of this proceeding the Commission has advised the Cucamonga Water Company and the Ontario Investment Company that water may temporarily be delivered to Messrs. Stipe and Winter on the stock transferred to them. Such temporary authority will be rescinded in the order.

O R D E R

The Commission having instituted an investigation on its own motion into the sufficiency of the water supply, adequacy of service, rules, regulations and practices, of the Ontario Investment Company in the territory served or to be served by said company in its operation of a public utility water system, in and in the vicinity of Cucamonga, San Bernardino County, a public hearing having been held and the Commission being fully advised in the premises,

It is Hereby Found as a Fact that the Ontario Investment Company in conducting a water distribution system for compensation in and in the vicinity of Cucamonga, San Bernardino County, is a public utility within the meaning of the Public Utilities Act.

It is Hereby Further Found as a Fact that those certain 21.4 shares of stock of the Cucamonga Water Company owned by the Ontario Investment Company, 10 of which shares were transferred to W. E. Stipe on or about October 1, 1919, and 8 of which shares were transferred to George L. Winter on or about October 1, 1919, are the legal useful property of the Ontario Investment Company and necessary to its operation as a public utility water company;

And basing its order on the foregoing findings of fact and on

the further statements of fact contained in the opinion which pre-
cedes this order.

IT IS HEREBY ORDERED AS FOLLOWS:

1. That within thirty (30) days of the date of this order the Ontario Investment Company shall secure the return of those certain blocks of 8 and 10 shares of Cucamonga Water Company stock referred to above which were transferred to Messrs. Stipe and Winter respectively, and shall file a certified statement with this Commission within ten (10) days thereafter, indicating to the Commission its compliance therewith;
2. That the Ontario Investment Company be and it is hereby directed to refrain from making further transfers from its holding of 21.4 shares of stock herein found to be owned by it in the Cucamonga Water Company unless authorized to do so by this Commission;
3. That the temporary permission heretofore given the Ontario Investment Company and the Cucamonga Water Company to deliver water to said Messrs. Stipe and Winter because of any transfer of stock made to them by the Ontario Investment Company, be and it is hereby rescinded and set aside;
4. That the Ontario Investment Company file with this Commission for its acceptance within thirty (30) days from the date of this order, rules and regulations governing its relations with its consumers, said rules and regulations to become effective as corrected and amended upon their acceptance for filing by this Commission.

Dated at San Francisco, California, this 30th day
of July, 1921.

W. P. Randall
H. J. Loveland
Waring Martin

Commissioners.