

Decision No. 9949

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Thomas Wilson,
Complainant,)

vs.)

J. L. Marshall,
Defendant.)

Case No. 1553.

Saran & Thompson, by H. L. Thompson, for complainant.
Thos. C. Yager, for Defendant.

By the Commission.

O P I N I O N

Thomas Wilson, complainant in the above entitled proceeding alleges in effect that in May, 1920, he subdivided a certain tract of land known as Wilson's First Addition to the city of Indio, Riverside County, California; that he entered into an agreement with defendant whereby the latter agreed to install certain pipes in this subdivision, the terms of which defendant has failed to fulfill, except as to a small portion of the tract; that in this portion of the tract it is believed defendant is charging a rate in excess of the authorized schedule for the City of Indio.

Defendant in his answer denies the principal allegations of complainant and alleges in effect that the agreement is no longer binding, due to the fact that complainant has failed to fulfill the terms thereof.

A hearing was held in the above entitled proceeding before Examiner Satterwhite at Indio, California, of which hearing all interested parties were notified and given an opportunity to appear and be heard.

At the hearing a stipulation as set out in Appendix A. was submitted by the parties hereto wherein it is agreed that the Railroad Commission make its order embodying the agreement.

It appears that the agreement satisfies the complaint and it is recommended that the agreement be made the order of this Commission, except that portion relating to the establishment by the Commission of rates to be charged on the subdivision. Attention is directed to the fact that defendant has a rate schedule now on file with this Commission and that these rates are the legal rates to be charged on the system.

O R D E R

Thomas Wilson having filed a complaint against J. L. Marshall as outlined above, a public hearing having been held and the matter having been submitted,

IT IS HEREBY FOUND AS A FACT that a satisfactory agreement has been reached between all interested parties, as set out in Appendix "A" attached hereto; and

IT IS HEREBY ORDERED that J. L. Marshall be, and he is hereby, directed to comply with the terms of the said agreement; provided, however, that in the event Thomas Wilson does not also fully comply with said terms, J. L. Marshall may then apply to this Commission for a modification of this order.

Dated at San Francisco, California, this 10th day of November, 1921.

H. B. ...
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...
...
Commissioners.

"APPENDIX A"

STIPULATION

It is hereby stipulated and agreed by and between Thomas Wilson, complainant in the above entitled cause, and J. L. Marshall, the Defendant therein, that the Honorable, the Railroad Commission of the State of California may make and render its order embodying the following stipulations:

That the Defendant herein shall within thirty days from the date of the herein above referred to order lay and install free of charge to the Complainant a four-inch main from its pumping plant or storage tanks to a point in the center line of Regua Avenue as per map of Wilson's first addition to Indio, immediately opposite the alley running north and south through Block 3 of said addition.

That the Defendant will within said time herein above mentioned purchase, lay and install four inch screw casing iron pipe mains and laterals in Wilson's first addition to Indio as per map accepted by the Board of Supervisors of Riverside County on the 21st day of April, 1920, and in what is commonly known as Wilson's second subdivision, and particularly described as follows, to wit:

A four inch main from the point on Regua Avenue aforesaid, running south through the alley in Block 3 to the north curb of Wilson Avenue;

A four inch main running east and parallel with the north curb of Wilson Avenue to the east curb of Fargo Avenue;

A four inch lateral running north along and parallel

to the east curb of Fargo Avenue to the middle of Lot 1, Block 1 of said Wilson's first addition to Indio;

A four inch main from the intersection of the center line of the alley in Block 3 and the north curb of Wilson Avenue, parallel and along said north curb of Wilson Avenue to the intersection of said north curb line with the center line of the alley in Block 7 of said Wilson's first addition to Indio;

A four inch lateral running north and perpendicular to the north curb line of Wilson Avenue through the alley in Block 5 of said map aforesaid to the center of Lot 1 in said Block 5;

A four inch lateral running south through the alley in Wilson's second addition to Indio to the rear of Lots facing on the County Highway.

Where the words "curb line" is used, it shall be so construed to mean approximately 10 feet from the lot boundaries.

The course and extent of the mains and laterals above referred to are marked in ink upon the map marked in the above entitled cause Complainant's Exhibit A, and hereto attached and made a part of this stipulation.

It is stipulated herein that the Complainant shall advance the cost of the installation of the above system, other than herein above specified, said cost to include the cost of the pipe and the laying and installing thereof. That the number of feet of pipe shall be computed by the engineer of the Commission and the total cost of installing said system other than herein above specified shall be divided by the number of hundred feet of pipe necessary for said installation. That the sum so found shall be the sum which the defendant shall, and hereby agrees, to rebate to the Complainant for and at the time of each permanent connection

made to said system.

The definition of a permanent connection to be left to the Commission and specified in its order.

The Complainant to agree to guarantee for one year the connections made in Wilson's second subdivision, each connection so guaranteed to be deemed a permanent connection.

It is stipulated also at the time of the installation of said system as aforesaid, and in said additions other than Block 7, that there is nine permanent connections, which said nine permanent connections, and each of them, are hereby guaranteed by the Complainant for a period of one year. The amount herein above guaranteed shall be such sum per month as the Railroad Commission of the State of California shall fix as a minimum charge.

That the rebates herein above provided to be made by the Defendant to the Complainant for each permanent connection shall cease at such time as the Complainant is fully reimbursed for the amounts advanced for the installation of said system.

It is stipulated that within ten days from the signing of the above order the Complainant will deposit in the First National Bank of Indio the sum of \$750, which said sum shall be subject to a draft signed by the Defendant, provided there is attached thereto a bill of lading or bill of sale for the four inch pipe to be installed in said tract. When the cost of installation is estimated, the Defendant shall deduct from said estimated cost the total rebate for the nine permanent connections hereinabove stipulated and the Complainant shall be credited therewith. Adjustments to be made between actual and estimated cost and actual and estimated amount of rebate when the system is installed. After the Complainant is credited with the

amount of the rebate for said nine permanent connections, Complainant shall pay the additional cost of installation at the time bills are rendered for the same.

In case of dispute between Complainant and Defendant over any items of cost, labor or otherwise with reference to the installation of said system, the same may be referred informally to the Commission and its decision shall be binding upon both parties.

No interest shall be charged upon any sums advanced by Complainant for the installation of said system. Defendant shall forthwith pay to Complainant the sum of \$110.53, heretofore advanced by Complainant for pipe installed in Block 7.

As to that portion of the property embraced in Exhibit A, hereto attached, not heretofore covered by this stipulation, and for which no provision for installation is made, it is hereby stipulated that at such time as the Complainant herein shall deem himself justified in demanding water for said portion not hereinabove provided for, he shall make written demand upon the Defendant and shall advance the cost of installation for said system in the same manner as hereinabove provided for, for which cost of installation the Defendant shall rebate to Complainant at the time of each permanent connection the actual cost per hundred feet of such installation; provided, however, that the Defendant shall at no time be required to install less than 300 feet of main. The grade and size of pipe in all instances to be the same as hereinabove provided for.

It is expressly stipulated by and between the parties hereto that the above stipulations are made for the purpose of adjusting the differences between the Complainant and the

Defendant with reference to the Defendant's furnishing water upon the said tract aforesaid, and that the Commission may, without objection, make such further order as it may deem advisable to the end that such differences may be adjusted, within the pleadings in this case.

It is further stipulated that there shall be added to the actual cost of installation the sum of ten per cent, which said sum of ten per cent shall cover the cost of supervision, but the Defendant herein shall not be entitled to any services or labor performed by him or for any other charge for supervision; said sum to be added to the actual cost of installation in obtaining the amount to be used as the basis for ascertaining the amount of rebate on each permanent connection.