

Decision No. 9891

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Commission's)
investigation on its own motion,)
into the rates, rules, regulations)
and practices of LAKE HEMET WATER)
COMPANY with relation to the oper-)
ation of its public utility water)
system, the service rendered by)
said company, the supply of water)
available and the territory served)
or to be served.)

ORIGINAL

Case No. 1576.

Henry Goodcell and W. G. Irving for the consumers,

Oliver P. Ensley, for the City of Hemet and
William F. and Kate Riesland.

Hunsaker, Britt & Cosgrove by T. B. Cosgrove and
John M. Clayton, for Lake Hemet Water Company.

BY THE COMMISSION.

O P I N I O N

This is a matter involving numerous informal complaints which have been filed with the Commission in regard to rates, rules, regulations, practices and service of the Lake Hemet Water Company, which company distributes water for irrigation purposes in the vicinity of Hemet, Riverside County.

It appearing to the Commission that the relief sought by complainants could not be obtained through informal proceedings, a formal investigation was instituted as above indicated, and a public hearing was held before Examiner Satterwhite at Hemet.

Briefs have been filed and the matter is now ready for decision.

For a detailed description of the Lake Hemet Water Company's plant, its history and other data relating to its operation, reference is here made to Decision No. 3804, dated October 21, 1916, in Application No. 1842, entitled, In the Matter of the Application of Lake Hemet Water Company for an order establishing the rates to be charged and collected by it for water sold in the County of Riverside, State of California, page 617, Vol. 11 of Opinions and Orders of the Railroad Commission of California; also to Decision No. 7441, dated April 19, 1920, in Application No. 4306, entitled, In the Matter of the Application of Lake Hemet Water Company, a corporation, for an order increasing rates to be charged and collected by it, and for service rendered and to be rendered by it in furnishing water, in the County of Riverside, State of California, page 88, Vol. 18 of Opinions and Orders of the Railroad Commission of California.

In the latter decision (No. 7441) the Commission fixed the following irrigation rates:

Minimum annually for 1/50 second foot (miner's inch) or part thereof in the same proportion	\$48.00
For each 1/50 second foot per day (miner's inch day) or 1728 cu.ft.	0.40

On February 8, 1921, the Lake Hemet Water Company filed with the Commission a revision of its Rule No. 16, which bases the minimum payment on the actual acreage to be irrigated, at the rate of one eighth miner's inch per acre, cumulated for thirty-day periods. The evidence shows that since then the company has required the consumers to pay an annual minimum computed upon this basis. This practice works a hardship on any consumer who does not desire to use, or cannot use, the amount of water represented by one eighth miner's inch per acre continuous flow. It frequently requires the consumer to pay for something he cannot use, and is obviously unfair. Further than this, it requires the company to

hold in reserve enough water to supply these consumers, and results, at least at times, in certain other consumers being denied water which they can use to advantage and which is not available because other persons have been required to order more water than they desire to use. It appears that this rule should be revised so that the consumers can order water at the rate of one sixteenth miner's inch per acre.

The evidence shows that the company has held that it had the entire calendar year in which to deliver the amount of water ordered by the consumers. In certain instances it has happened that the company has been unable to deliver the water during the irrigation season and then later in the season, when the flow in the streams had increased, was able to deliver all the water the consumers desired. Naturally at the end of the season the water is not of much value to the consumers as the crops are matured and any damage resulting from earlier lack of water is irreparable.

It appears that the amount of water ordered by any consumer should be delivered monthly, and if the company is unable to furnish it at the scheduled time it should make a proper adjustment in the bill. If the consumer does not desire the water at the scheduled time, it is then his loss and the company should not be held responsible.

Charlotte Allen, V. T. Allen, Astrid Calvert and W. A. Calvert complained that the Lake Hemet Water Company had refused to deliver public utility water to them for the reason that they took what is known as "Fairview Appurtenant Water." This is water obtained through the ownership of stock in the now defunct Florida Water Company.

The testimony of Mr. C. Knight, Secretary and Treasurer of the Lake Hemet Water Company, was to the effect that it is the

custom of the company to refuse to sell public utility water to those in the Fairview Tract who have first exercised their contract rights to "Fairview Appurtenant Water." The company did not take the stand that these consumers were not within its service area nor did it claim that it did not have a sufficient supply.

It appears that the company accepted payment for public utility water and then, upon the consumer using his portion of the "Fairview Appurtenant Water," it returned the money deposited and refused to deliver any public utility water. It is also apparent that this procedure was carried out in order to force water users to surrender their contracts and become public utility consumers.

It is obvious that the service of public utility water cannot be made conditional upon the transfer by a consumer of his private water rights to the utility, and this practice should be discontinued.

After a careful consideration of all the evidence it is plain that in fairness to the consumers the company should make certain changes in its rules and regulations.

O R D E R

The Railroad Commission having instituted an investigation as entitled above, a public hearing having been held, and the matter having been submitted,

It Is Hereby Found as a Fact that certain of the rules, regulations and practices of Lake Hemet Water Company result in injustices to its consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion,

IT IS HEREBY ORDERED that the Lake Hemet Water Company be and it is hereby directed to deliver, subject to reasonable and

non-discriminatory rules and regulations, public utility water to Charlotte Allen, V. T. Allen, Astrid Calvert and W. A. Calvert for use on their lands within the Fairview Tract, regardless of whether or not they have exercised their contract rights to "Fairview Appurtenant Water."

IT IS HEREBY FURTHER ORDERED that Lake Hemet Water Company file with this Commission within thirty (30) days of the date of this order, an amendment to its Rule No. 16, now on file with this Commission, the amended rule to read as follows:

RULE 16. No delivery of water, including temporary water, will be made in any year until the minimum rates provided in these rules have been paid. The minimum payment will be based upon the actual acreage to be irrigated, at the rate of one sixteenth miner's inch per acre, cumulated for thirty day periods. The amount of minimum establishes the allowable "head" cumulated in thirty days. The amount of minimum payment shall be determined by application to be made each year. If any person shall apply for a quantity of water and pay therefor the minimum upon a basis of a less acreage than an entire tract, and shall actually apply the water to more land than covered in the application, an additional minimum payment shall become immediately due and payable to the company covering such increased use of water, in addition to any other penalty provided in these rules.

The minimum payment, as in these rules provided, establishes the applicants' maximum deliverable quantity of water during each irrigation season. Water delivered between January 1 and March 15, and between October 11 and December 31 of each year shall be ordered by the "run" and paid for at the rate of forty cents per miner's inch day, and such payments shall not apply on the minimum payment.

Temporary service of water may be applied for by consumers, subject to the aggregate requirements of the company, as established under these rules, and if water be then available, service shall be made at the same rate as herein provided, but such service shall be regarded as temporary and not determinative of any continuing right.

As long as available in each season, temporary water will be delivered to those applying in the order of application and payment of the minimum, and in case of shortage apportioned equitably, subject to rulings of the Commission.

RULE 16 (Cont'd)

Non-use of amount scheduled for delivery in one thirty-day period and covered by minimum payment, will not entitle consumer to an increased head in succeeding months.

In case the company is unable to deliver the water as scheduled, a proper adjustment shall be made in the consumer's bill.

Dated at San Francisco, California, this 20th day of
December, 1921.

H. C. Boudice

A. D. Loveland

J. W. Masten

Clara A. Howell

Commissioners.