

Decision No. 26349

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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EL CAJON COMPANY, a Corporation,  
 ALBERT A. ANDERSON, IRA ANDERSON,  
 DEWIT C. BYE, JOE BATES, J. C.  
 CORONADO, M. R. DOBBINS, S. W.  
 HOMAN, C. R. HERRICK, EDWARD J. R.  
 HENKEY, JR., WM. F. MOELLER, WM.  
 G. MARTIN, WM. J. NELLIGEN, F. A.  
 ORCUTT, JOE PIERCE, O. W. STOFER,  
 J. A. STUMBAUGH, H. W. SHEA, JOHN  
 SCHOENLEBER, W. H. WHITE, W. M.  
 WRIGET, ROY MILTON, C. F. KRAMM,  
 HARRY L. JONES, W. W. COLBY, D. W.  
 GRAVES, W. J. EVANS, MRS. J. GILSON,  
 NICK OLSON, MRS. ROSE MOELLER, and  
 GEORGE W. HOLT,

Plaintiffs,

vs.

LA MESA, LEMON GROVE AND SPRING VALLEY  
 IRRIGATION DISTRICT,

Defendant.

Case No. 3468

ORIGINAL

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D. L. Blood and Wright and McKee for  
 Complainants

Stearns, Luce & Forward by Albert J. Lee  
 for Defendant.

BY THE COMMISSION:

OPINION AND ORDER OF DISMISSAL

It appears that the complainants in this matter were former-ly consumers of the Cuyamaca Water Company, a public utility whose properties were acquired by the defendant La Mesa, Lemon Grove and Spring Valley Irrigation District. In the opinion and order of the Commission authorizing the disposition of the utility properties to the District, issued June 15, 1925 (Decision No. 15050, 26 C.R.C. 592), the facts were recited as follows:

"In answer to the objections of representatives of the city of San Diego and of representatives of various consumers now outside the district boundaries, the officials of the district testified that it was the intention and desire of the district to assume all the service obligations of the Cuyamaca Water Company, and said officials further agreed to provide service to all the present consumers located outside the present boundaries. The evidence indicates that the present boundaries of the district can be extended to include a large area now served by the Cuyamaca Water Company but at present outside of the district area, and no apparent reason exists, so far as the testimony is concerned, which would preclude the district from serving water to consumers located beyond its legally constituted boundaries."

In the order of the Commission following its opinion this condition was imposed:

"5. That the authority herein granted shall be contingent upon the La Mesa, Lemon Grove and Spring Valley Irrigation District filing with this Commission within thirty (30) days after the date of this order, a duly authorized resolution by its board of directors agreeing that said district will serve an adequate supply of water in the quantities to which they may be entitled, to all of the present consumers of the Cuyamaca Water Company outside the boundaries of said district, except such consumers as under the terms of said option as set out in Exhibit 'C' attached to the application herein, may be served by said Cuyamaca Water Company."

Subsequently the District passed and filed with the Commission a resolution in compliance with condition of the order above quoted, and has since continued to serve water to such consumers under rates and rules it itself has established.

The complaint herein alleges that such charges, rules and regulations are burdensome and unreasonable. The prayer is that the Commission require the defendant District to file its rates covering the water service rendered outside its territorial limits, and that the Commission take testimony thereon and establish reasonable rates, rules and regulations for such service.

In answer to the motion of the District to dismiss the proceeding on the ground that the Commission is without juris-

diction in the matter, the complainants have filed an extensive brief in support of their contention that the Commission still retains authority to fix the charges of the District for this class of service. Reference is made therein to the recent decisions of the Supreme Court of California in Henderson v. Oroville-Wyandotte Irrigation District, 207 Cal. 215, and 213 Cal. 514, and of the District Court of Appeals in San Diego v. La Mesa, Lemon Grove and Spring Valley Irrigation District, 109 Cal. App. 290.

It is unnecessary for us to review all the authorities cited by complainants upon the question here presented. It is sufficient to say that we cannot construe them as holding that the Commission possesses jurisdiction over the operations of a public utility irrigation district, even in respect to water service outside its boundaries rendered under an obligation assumed when it acquired the properties of a public utility. City of Pasadena v. Railroad Commission, 183 Cal. 526; Water Users Ass'n v. Railroad Commission, 188 Cal. 437; Glenn-Colusa Irrigation Dist. v. Paulson, 75 Cal. App. 57.

We believe that the defendant's motion to dismiss the complaint should be granted.

ORDER

Good cause appearing, IT IS HEREBY ORDERED that the complaint herein be dismissed for lack of jurisdiction.

Dated at San Francisco, California, this 18<sup>th</sup> day of September 1933.

Cl. A. [Signature]  
Leon [Signature]  
W. A. [Signature]  
W. B. [Signature]  
Wallace [Signature]  
Commissioners