

Decision No. 27971

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
GREAT WESTERN POWER COMPANY OF )  
CALIFORNIA and WESTERN CANAL COMPANY, )  
for an order rescinding opinion and )  
order No. 24321 in cases Nos. 2847 )  
and 2858 and for other relief. )

) Application No. 19790

ORIGINAL

BY THE COMMISSION:

OPINION AND ORDER OF DISMISSAL

This application concerns an opinion and order rendered by the Commission on December 21, 1931, in a proceeding arising upon a complaint filed against these petitioners by Sarah E. Ludy alleging that as public utilities they were under the duty of supplying water to complainant for irrigation purposes, and in which the Commission found that the water service rendered by petitioners was public utility in character. Petitioners now pray either that the Commission rescind and set aside that decision, or, as an alternative, exercise jurisdiction to define their rights and duties in relation to those persons who had previously purchased the stock of the Western Canal Company, a purported mutual water company, and with whom contracts had been made for the furnishing of water.

It is apparent that the Commission should not now enter upon any hearing for the purpose of reconsidering the issues determined in its Decision No. 24321. The questions presented in that proceeding were fully presented and considered. The Commission's finding was affirmed by the Supreme Court of the State of California (216 Cal. 639), and a review of that judgment by the state court was later denied by the Supreme Court of the United States. The public utility character of the water service being rendered by petitioners herein must, therefore, be taken as definitely established.

It is evident, also, that the Commission lacks authority to entertain the alternative prayer of the petitioners. The Commission is without jurisdiction to pass upon the respective rights of a public utility corporation and the holders of its capital stock, and in so far as the Commission's authority extends over matters relating to rates charged and service rendered by the petitioners in the conduct of their public utility water service, such issues have been raised and may be disposed of in the course of the separate proceeding in Case 3712 now pending before the Commission.

The Commission is of the opinion, therefore, that this application should be dismissed without hearing.

O R D E R

The Great Western Power Company of California, and the Western Canal Company having filed their application as above entitled and the Commission being of the opinion that the application should be dismissed without hearing; therefore, good cause appearing,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby dismissed.

Dated at San Francisco, California, this 20th day of May 1935.

Leon A. White  
W. B. Harris  
Frank B. White  
Commissioners

