

Decision No. 28572

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Edgar P. Hooton, Bella Wiser, Louis Max,
M. Martino, Louis Santoro, George Wommer,
Miriam C. Smith, Frank Basile, Frank
Ernerich, Chas. Plummer, Joe Augier,
Sylvian LeDeit, Sewell K. Hatcher, Louis
J. Urzi, Frank C. Boles, Mrs. Violet McFee,
Mrs. Betty McNeil, Mrs. Florence Brown,
Anna E. Bell, Lloyd L. Berry, Jack Clarke,
Ross D. Watson, Geo. N. Skoegard, Burton
Alexander, M.A. Stull, Arsina Curry, Bert
Marquart,

Complainants,

vs.

Ada Lou Hawes, Ben Merrill Hawes, Alice
Mildred Ward and Dorothy Mildred Hawes,

Defendants.

ORIGINAL

Case No. 4043.

R.M. Wright, for Complainants.

Harry J. Bias and W.A. Deans,
by W.A. Deans, for Defendants.

BY THE COMMISSION:

O P I N I O N

Complainants allege that G.W. Hawes, now deceased, father of defendants, about 1920 subdivided a small tract of land on the ocean shore two miles south of the City of Santa Cruz, known as "The Breakers," that he drilled a well called the "Waukesha Well" on Lot 30, Block 9 of the subdivision, and installed a water system to serve the property.

It is further alleged that water was furnished throughout the tract from said well for a period of about ten years but was discontinued on May 30, 1935, since which time water was supplied from the adjoining system operated by Charles L. Beltz. Upon the ground that the Waukesha water is the finest in the county, has health-giving mineral properties and is far superior to the water now received from said Beltz system, request is made that defendants, as heirs of G.W. Hawes, be declared to have been operating as a public utility and be directed to resume service through the Waukesha Well.

A general denial was entered by defendants.

A public hearing in this proceeding was held before Examiner MacKall in Santa Cruz.

The evidence is as follows. As an inducement to purchase lots, the water in Waukesha Well was advertised as the "celebrated mineral water" known as "The Golden Waukesha Mineral Water of California" and was to be "piped free to all lot purchasers." Water was served free for several years but for some time immediately prior to the death of G.W. Hawes, his wife, Mrs. Dell Hawes, collected for water from a few consumers at the rate of one dollar and twenty-five cents (\$1.25) per month and from certain summer residents at six dollars (\$6.00) per year. Difficulties arose over the promise of free water and but few residents paid. Since the death of Mrs. Hawes in 1933, some collections were made for the heirs by J.R. Price, the owner of a grocery store on the tract and also the operator of the pump. From August 1933 to June 1935 the total collections received by the present heirs, according to the testimony of Mr. Ben M. Hawes, amounted to fifty-

five dollars (\$55.00). When the gears in the pump wore out in May 1935, the heirs sold the pipe lines to Charles Beltz and discontinued service. The well was retained. The pressure tank has a capacity of 900 gallons. The pump is operated by a 3-horsepower motor and the mains consist of 1-inch and smaller pipe, as a result of which service has frequently been inadequate and unsatisfactory as to pressure and quantity.

There is no doubt but that this system had been dedicated to the public use prior to its discontinuance and sale to Beltz. However, no certificate of public convenience and necessity was ever granted for its operation nor was it ever formally held to be a public utility by this Commission prior to the discontinuance and the sale of the distribution lines. While there is no doubt but that "The Golden Waukesha Mineral Water of California" is considered by complainants to be far superior in quality to the water now supplied by C.L. Beltz, nevertheless under the facts set out above it would be a miscarriage of justice to require the present heirs to expend the money necessary to install new pumping equipment and replace the existing distribution system with adequate sized mains when good service can be given through the Beltz plant at a reasonable rate. Mr. Beltz already supplies water to approximately 200 consumers in a territory surrounding "The Breakers" tract on three sides and has an ample water supply under good pressure. No complaints have been made by any of these consumers about the quality of the water served by him in this territory and analysis of the water from his wells shows that it is free from contamination.

It is clear that it is in the best interest of the public generally to permit the service to "The Breakers" tract to be supplied by a system which can provide a good quality of water

at a reasonable price under adequate and satisfactory service conditions rather than to unreasonably coerce the defendants into the expensive rehabilitation of their entire plant with the resulting necessity of the fixing of an increased and very probably a prohibitive rate for the water furnished.

O R D E R

Complaint as entitled above having been filed with this Commission, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 17th day of February, 1936.

M B Harris
Leon Caldwell
W H Cunn
W H Cunn
FRANK R. KELLY
Commissioners.