

DEC. NO. 29893

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA **ORIGINAL**

MARY ECHEVARRIA,
Complainant,
vs.
CHARLES TRENAY,
Defendant

Case No. 4190

ORIGINAL

Mary Echevarria, for complainant.
Horace L. Miller, for defendant.

OPINION AND ORDER

Mary Echevarria, complainant herein, is a resident of the small town of Amargo located in the extreme eastern section of Kern County, adjacent to the westerly boundary of San Bernardino County, in or near the Mojave Desert. She alleges that defendant Charles Trenay is operating a water system supplying subdivided Tract No. 1028 in Kern County which he had placed on the market for sale; that the defendant had agreed to furnish complainant and all persons who might purchase lots in said tract with water; that from July of 1936 to the third day of September of the same year water was furnished to the premises of complainant at a monthly charge of two dollars and fifty cents (\$2.50); that since the latter date defendant discontinued further water service to complainant's premises unless or until she would agree to become a member of the mutual water company which had been incorporated to take over and operate the system installed at the time the property was subdivided. Complainant demands that defendant be declared a public utility and be directed to furnish water to the plaintiff at rates to be established by the Railroad Commission.

Defendant by way of answer denies that he is operating as a public utility or that he has in any manner whatsoever dedicated all or any portion of his water works to the public use. He further alleges

that the original intention was to operate as a mutual water company and that service was furnished to a small number of consumers for the few months during which the mutual water company was being incorporated with the distinct understanding that such water was furnished only as a matter of accommodation pending the organization of the mutual concern.

A public hearing in this matter was held before Examiner W. R. Williams at Mojave, California.

The evidence shows that the water system installed by Charles Trenay delivered the first water to a few purchasers during June and July of 1936; that at this time Trenay decided to give temporary and accommodation service of water pending the formation of a mutual water company, free stock membership in which was to be given to all lot purchasers for a period of ninety days. The Amargo Mutual Water Company was incorporated on October 7, 1936, all but two property owners in the tract, one of which was complainant, having favored and agreed to such an organization.

It appears that all of the consumers knew of the proposed formation of the mutual water company and that all water furnished prior to the incorporation of the mutual water company was upon the basis of accommodation only during such period. Complainant was supplied water from the system for a period of three months, service being discontinued on or about the eighth day of October, 1936, because of her refusal to accept membership in the mutual concern. Bills rendered to her during the above period were marked "Temporary Rate for Surplus Water on Accommodation. Charles Trenay."

The evidence fails to disclose any intent whatsoever on the part of defendant Trenay to dedicate his water service to the public use. On the contrary the record clearly establishes the fact that all lot purchasers, with the exception perhaps of two, preferred and desired the

formation of a mutual water company and that with this understanding water was supplied temporarily as an accommodation or as surplus water pending the few months necessary to perfect the incorporation and organization of the Amargo Mutual Water Company.

It appears that under the present cooperative or mutual method of operation the cost of water to the twenty members now being served should be far less than under practically any other form of organization. Inasmuch as the record does not support a finding of dedication to public use, the complaint must be dismissed.

IT IS ORDERED that the above complaint is hereby dismissed.

Dated, San Francisco, California, June 28th, 1937.

Walter M. ...
Leon ...
Frank R. ...
Barbara ...
Ray L. ...
Commissioners