

Decision No. 32606.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IRENE M. GAIRAUD,
Complainant

vs.

PUBLIC UTILITIES CALIFORNIA
CORPORATION, a corporation,
Defendant

Case No. 4409

ORIGINAL

L. Louis Gairaud, Owen D. Richardson
and Donald B. Richardson, for Complainant.

Orrick, Dahlquist, Neff & Herrington,
by Justin M. Jacobs, for Defendant.

BY THE COMMISSION:

O P I N I O N

In this complaint Irene M. Gairaud, owner of a 90-acre tract of land located near the Town of Boulder Creek in Santa Cruz County, alleges that she made application to Public Utilities California Corporation, a corporation, for domestic water service to a portion of the tract and that the company refused to furnish water service. The complaint further alleges on information and belief that defendant has sufficient water resources from which to supply adequate water for domestic purposes to lands of complainant and that therefore its refusal to do so is unjust, unreasonable, discriminatory and arbitrary. The Railroad Commission is asked to order Public Utilities California Corporation* to extend its water service to the lands of complainant, for which application has been duly made.

Defendant's answer denies in general the allegations made in the complaint, asserts that the complainant's property is out-

Note: *Hereinafter referred to as the Corporation.

side its service area and asks for dismissal of the complaint.

A public hearing in this proceeding was held at Boulder Creek before Examiner M. R. MacKall.

The Corporation is the owner of the interconnected public utility water systems supplying the Towns of Boulder Creek, Brookdale, Ben Lomond, and contiguous territory in the San Lorenzo River Valley in Santa Cruz County. Water furnished to the Boulder Creek section of the utility's operating territory is obtained by diversions from Peavine and Cool Creeks, which are tributary to Boulder Creek, a stream flowing into San Lorenzo River at the Town of Boulder Creek. The property of complainant, Irene M. Gairaud, comprises a 90-acre tract in the northeast quarter of Section 18, Township 9 South, Range 2 West, M.D.B. & M., and is located along both banks of Two Bar Creek, a tributary of the San Lorenzo River, northerly and about two miles distant upstream from the Town of Boulder Creek and also upstream from the sources of water supply of Corporation.

The record shows that Mrs. Gairaud first approached the Corporation in 1932 concerning water service for a portion of her property which she intended to subdivide and sell for summer and permanent home sites; however, no formal application therefor was made until September of 1938, at which time defendant declined to furnish water on the grounds that the property was outside its service area. There are at present three dwellings on this property, including the Gairaud home, and according to her testimony there is practically no water available in Two Bar Creek except during the winter season and such water as might be used from this source is of questionable potability and subject to pollution. There is no other supply available save that afforded by the Corporation. Mrs. Gairaud is willing to advance the cost of the necessary distribution

system within her subdivision in accordance with the utility's extension rule.

Mr. F. J. Keys, General Manager of the Corporation, testified that service was refused to Mrs. Gairaud because of a fear that the source of supply would be overtaxed if additional consumers were taken on outside of the territory in which water is now being served. The water systems comprising the Corporation's present holdings were acquired in 1929 according to Mr. Keys and the number of consumers has increased fifty per cent until at the present time 1,300 consumers are served. The storage for this section totals 460,000 gallons, all service is by gravity, and many of the consumers are on flat rates. However, defendant Corporation was unable to submit any evidence at all showing its available water supply nor did it have any measurements of stream flow and yield of any of the streams upon which it claimed the rights to divert and to appropriate water. Mr. Keys furthermore admitted that storage could be increased and that the Corporation had not diverted to the full amount of its entitlement all the waters from the streams in which it owned or controlled water rights.

The evidence shows that the Corporation's supply mains are already within 2,000 feet of Mrs. Gairaud's property and that certain subdivided tracts adjoining her land are now being supplied water by defendant. It appears that the Corporation has no definitely established boundaries for its service area but in the past has extended its facilities beyond the ends of its existing mains when the new business thus obtained appeared to be compensatory. Although this is a year of severe drought in this section of the state no evidence was introduced showing any shortage of water to any extent whatsoever on the Boulder Creek Division of the Corporation. In view of the past practice of this Corporation in extending its mains especially in the vicinity of complainant's lands and to

adjoining subdivisions it appears to be an unfair and unwarranted discrimination against her to refuse her equal rights to water service for which she is ready and willing to pay as provided for under the utility's rules and regulations. Under the circumstances defendant Corporation will be directed to supply water to Mrs. Gairaud's tract as set forth in the following Order.

By reason of the Corporation's lack of adequate information on water supply and the vital necessity of having data compiled at an early date upon the capacity and yield of its existing undeveloped and available water resources including storage and distribution facilities, both for its present consumers and for the undeveloped lands which it may hereinafter become obligated to serve in and near the territory in which it operates, a comprehensive engineering study and investigation of such local water resources available to the Corporation should be made to indicate the extent of possible economic development thereof. Immediate steps should be taken to make the necessary studies to this end. With such information on hand the uncertainties of system performance, such as encountered in this proceeding, will be eliminated in any future proceedings of this nature involving the Corporation. Mr. Keys has stated his willingness to have such investigations made by competent and qualified engineers and to furnish this Commission with a final report or reports and conclusions thereon, and furthermore has agreed to commence these studies and surveys immediately and complete them without any unnecessary delays. No order in this connection will, therefore, be required.

O R D E R

Irene M. Gairaud, complainant herein, having filed complaint as entitled above against Public Utilities California Corporation, a corporation, a public hearing having been held, the matter

having been submitted, and basing its Order upon the findings of fact and the conclusions contained in the preceding Opinion;

IT IS HEREBY ORDERED that defendant, Public Utilities California Corporation, a corporation, be and it is hereby ordered to extend its water mains under its rules and regulations and supply water service under its existing rates to the property of Irene M. Gairaud, situate in Section 18, T. 9 S., R. 2 W., M.D.B. & M., in the County of Santa Cruz, construction to commence within sixty (60) days after said Irene M. Gairaud complies with the requirements of the Rules and Regulations of said Public Utilities California Corporation governing the piping of subdivisions.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 5th day of December, 1939.

Robert W. Anderson
Frank W. Miller
Ray H. Wiley
H. B. Allen
Justus D. Casner
COMMISSIONERS.