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Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application  
of the Magalia Water Company for  
a Certificate of Convenience and  
Necessity.

Application No. 23609

Ben H. Steffen, for B. R. Steffen.

John Dennis, for Magalia Heights Home  
Owners' Association.

H. W. Hoobler, for Magalia residents.

BY THE COMMISSION:

O P I N I O N

In this proceeding B. R. Steffen seeks a certificate to operate a domestic water system in the unincorporated community of Magalia in the County of Butte.

Public hearings were held at Chico before Examiner Stava.

The proposed service area embraces the townsite of Magalia Heights, a real estate development as a summer or vacation resort. The Magalia Heights Home Owners' Association, a mutual organization, has heretofore owned and operated a small distribution system in this area. Steffen has purportedly acquired title to such water system and proposes now to operate it as a public utility service.

Most of the water users in Magalia Heights are residents of the community during the summer season only. There were about thirty connections to the mutual association's system. It appears

that the difficulties experienced by the members of this association in the administration of their water system prompted them to enter into an agreement in June, 1939, for a conveyance of the system to one B. H. Steffen, the father of the applicant herein. A deed was actually executed on June 23, 1939. At the same time said Steffen signed a collateral agreement, undertaking to make certain improvements and extensions at his own expense and to secure authorization of the Railroad Commission to operate a public utility water system. In September of the same year, B. H. Steffen conveyed the water system to B. R. Steffen. The latter did not make application to this Commission for a certificate until July 31, 1940. However, the Steffens had immediately assumed control of the system and undoubtedly at all times operated it for profit as a private utility property.

At the time of the hearings upon this application, there was revealed an almost unanimous dissatisfaction upon the part of the water users toward the alleged arbitrary action of the two Steffens manifested at once upon their obtaining possession of the water system. It was charged that the cost of certain extensions had been assessed against the consumers, contrary to their agreement with B. H. Steffen, and that unreasonable increases had been made in monthly water charges.

It is clear that either B. R. Steffen, the applicant herein, or his father, B. H. Steffen, has undertaken to operate a utility service illegally. They also undertook to convey the properties without consent of the Commission. It is clear also that the unreasonableness of their charges for water and their billing of consumers for service connections manifested a disregard for the

promises made at the time the system was given to them. As the older Steffen has been the operator of other utility properties in the northern part of the state, he can not well plead ignorance of the obligations imposed by law upon one seeking to enter upon such an enterprise.

With these facts in view, we feel compelled to deny applicant's request for a certificate. Continued water service of some kind in this community is, of course, a necessity. But the mere fact that the applicant Steffen has come into actual possession of the existing distribution facilities under some color of legal right does not of itself justify our finding that public convenience and necessity require future operation of the system as a utility function. A denial of Steffen's application means that he must immediately cease to operate the water system for compensation or incur the penalties attached to his continued illegal acts. It is not believed that this action will result in any hardship to those who may be dependent upon this system for their water supply. The members of the mutual association should be given the opportunity, as many of them suggest, to repossess the water system and to operate it as before for their mutual benefit. If this be not accomplished, the matter may again be presented to the Commission for further consideration.

#### O R D E R

The application of B. R. Steffen for a certificate to operate a public utility water service under the name of Magalia Water Company having been heard, the matter considered and good cause appearing,

IT IS ORDERED that the said application be and it is hereby denied, the Commission retaining jurisdiction, however, to reopen the proceeding for the making of such further order or orders as may appear to be appropriate in the public interest.

Dated at San Francisco, California,  
this 10th day of September, 1941.

[Signature]  
Ray L. Ricey  
Justice F. C. Cramer  
[Signature]  
Commissioners.