

Decision No. 35724

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application  
of PARK WATER COMPANY for a certi-  
ficate of public convenience and  
necessity to furnish and supply  
water to Tract Number 12339 in the  
County of Los Angeles, State of  
California.

ORIGINAL

Application No. 25057

Hugh Gordon, for Applicant  
Paul Overton, for Southern California  
Water Company, Protestant

CRAEMER, COMMISSIONER:

O P I N I O N

Park Water Company operates a number of public utility domestic water systems in Los Angeles County. It requests authority to serve a newly subdivided area recorded as Tract No. 12339. This tract of 340 lots is separated from other areas served by applicant, and is within the area covered by a certificate heretofore issued to Southern California Water Company. A number of dwellings therein have been completed. Federal Housing Authority commitments for the balance of the construction program, as well as bank loans therefor, await clarification of the question of water service. A complete distribution system has been installed, and the need for water service is conceded. However, protestant Southern California Water Company takes the position that it should be the one to construct a distribution system and render service within this area.

Park Water Company is controlled by the same interests that have undertaken the development of this tract. Mr. H. H. Wheeler is the president of the applicant company and also of other nonutility corporations engaged in both real estate and construction enterprises. As has been the practice of these interests in similar developments (Park Water Company <sup>4/3</sup> ~~42~~ CRC 627), the corporation owning the unsubdivided real estate first set aside rights of way or easements upon which a system of water mains might be laid, and the street dedication was then made with easements for the water system reserved.

It appears that a contract had previously been entered into between protestant Southern California Water Company and Wheeler whereby it was agreed that this subdivided area and others would be served by the protestant rather than the Park Water Company, but the protestant agreed to pay for the use of the reserved easements. However, protestant later declined to extend its mains into this contemplated subdivision, it expressing the opinion that the extension would be economically unwarranted. Thereupon a system of mains was installed by one of Mr. Wheeler's nonutility corporations and arrangement made for Park Water Company to seek authority to serve the tract.

It would serve no useful purpose for us to here enlarge upon the above-mentioned contract or the arguments presented on behalf of the protestant water company. It had an opportunity to extend its service to this subdivision, but offered as justification for its refusal the claimed illegality or at least the hardship resulting from the contract of its own making. Although the Commission need not and should not recognize the validity of such an agreement, we are compelled to conclude that under the circumstances here presented, the Southern California Water Company may not in equity demand that a certificate be denied the applicant utility. Water service is immediately needed, and it is essential that the strategic materials already installed should be utilized to the fullest extent. It is our opinion that the application should be granted.

O R D E R

A public hearing having been had on the above application, the matter submitted, and based upon the record and upon the factual findings contained in the above opinion, and the Commission hereby finding that public convenience and necessity so require,

IT IS ORDERED that a certificate be and hereby is granted to Park Water Company, a corporation, for the operation of a public utility water system in Tract Number 12339, as more particularly shown on the recorded subdivision tract map thereof.

IT IS FURTHER ORDERED that Park Water Company shall file appropriate amendments to its tariff schedules to provide for the service of water to said tract at the rates applicable within its existing service areas and under the rules and regulations relating thereto.

This Order shall become effective immediately.

Dated at San Francisco, California, this 1<sup>st</sup> day  
of September, 1942.

Justus J. Casseus

H. S. [unclear]  
Francis K. Havens

Commissioners