

Decision No. 37386

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
LANDON WATER CO., A Corporation, for
a certificate of public convenience
and necessity; to issue securities;
and to establish rates for water
service.

Application No. 26008

Marcus, Rabwin and Nash, by Harry Rabwin
for Landon Water Co.
Mary Erwing, for certain consumers.
Ed. D. Joiner, for certain consumers.

BY THE COMMISSION:

ORDER OF DISMISSAL

Landon Water Co., a corporation, asks the Railroad Commission to grant it a Certificate of Public Convenience and Necessity to furnish water service for domestic and irrigation purposes in the following described area, situate about four miles north of Fontana, San Bernardino County.

The North half of Section 36, the East half of Section 25, and the East half of the West half of Section 25, Township 1, North range 6 West, including Tracts Nos. 2066, 2177 and 2178, of Maloof Highland Avenue Tract No. 1, as recorded in Book 51, Page 53 of Maps, San Bernardino County Records.

The Commission is also asked to establish rates for such service and for authority to issue 200 shares of common stock at a par value of \$100.00 per share to acquire a water system serving Tract No. 2177.

A public hearing in this matter was held in Fontana before Examiner Stava.

Tract No. 2177 consists of 160 acres, and it was subdivided by Mr. T. S. N. Maloof, in 1926, into 160 one-acre lots. During 1929 and 1930, he installed a water system to serve this particular property. Ownership of the unsold portion of Tract No. 2177, and other properties, together with the water system, was acquired by Mr. N. E. McKenney, through foreclosure

proceedings in 1936. At that time only five consumers were being furnished water. Mr. McKenney testified that he had agreed with the property owners to form a mutual water company and transfer the system when there were a sufficient number of consumers on the tract. He thereafter caused the formation of the Landon Water Co., a corporation, which was originally organized as a mutual water company, but at the request of the property owners the company on December 27, 1943, amended its articles of incorporation to enable it to operate as a public utility. The instant application was filed to carry out his part of the agreement.

Water for this system is obtained from a 900-foot well and discharged through the transmission main into two steel tanks of 15,000-gallon capacity each, located on the ground. From the tanks water is distributed to the consumers by gravity through 11,250 feet of four-inch pipe. At present there are 32 consumers served by the system, and since 1936 the cost of operations has been distributed on a mutual basis among the water users. The historical cost of the system as of April 1, 1944, is estimated to be \$23,200.00.

The evidence shows that fourteen property owners in the Tract No. 2177, were granted a perpetual easement to use, maintain and repair the water system to supply their premises with water, by a judgment entered on June 2, 1943, in the Superior Court of the State of California, in and for the County of San Bernardino, in an action entitled "N. E. McKenney vs. Jim Erwing, et al." An attempt was made by Mr. McKenney to have these property owners deed the easement back to him on the condition that applicant obtain a certificate of public convenience and necessity and operate the system as a public utility, subject to a reservation that the easement reverts to the property owners, if and when the system ceases to operate as a utility. However, at the hearing a majority of the easement holders refused to give up the service rights granted by the judgment, and as it appeared that it would be difficult to operate the property as a utility with the easement obligation, applicant asked to have the matter dismissed.

The request for dismissal having been considered, and it appearing that, under the circumstances, it should be granted, and good cause appearing, now, therefore,

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

Dated at San Francisco, California, this 3rd day of October, 1944.

Justice F. Quenneville
Francis R. Havenner

James D. Donnell
Commissioners