

Decision No. 22864

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
HELEN MEEKER, substituted for LAMBERT )  
FARMS, INC., doing business under the )  
fictitious firm name and style of )  
SUNKIST WATER COMPANY, for a )  
certificate of public convenience and )  
necessity authorizing the sale and )  
distribution of water. )

**ORIGINAL**

Application No. 22864.

L. H. Phillips and M. J. Church, for Petitioners.  
Hugh Gordon and Alvin W. Hahn, for Sunkist Water Company.  
James C. Bone, for Helen H. Meeker and Lambert Farms, Inc.

BY THE COMMISSION:

O P I N I O N

On March 3, 1942, the Commission issued its Decision No. 35082, granting Helen H. Meeker a certificate of public convenience and necessity to operate a public utility water system in a 160-acre subdivision lying wholly within the corporate limits of the City of West Covina in Los Angeles County. A schedule of flat and meter rates was also established.

On February 15, 1945, a petition was filed with the Commission by some 39 customers of the water system alleging that the application for a certificate asked only for the establishment of flat rates, and that it specifically set forth that applicant did not propose to install meters. However, it is further alleged that nevertheless the application was amended at the hearing to include a prayer for the establishment of meter rates. The petition also alleges that the customers were not notified of the hearing of the proceeding, and therefore had no opportunity to appear and protest the fixing of the measured rates or the provisions covering the installations of meters on customers' services. The Commission is asked to reopen the proceeding for further hearing and modify its Order in said

Decision No. 35082 by dispensing with the use of meters, unless authorized and requested by each water user. The Commission after considering the petition, issued its Order on February 27, 1945, reopening the matter for further hearing for the purpose of determining whether Decision No. 35082 should be altered or amended in so far as the order therein provided for the metering of service connections.

Public hearings in the reopened proceeding were held in Baldwin Park and West Covina before Examiner Stava.

The area served by this utility consists of 160 acres of land, lying within the city limits of West Covina, subdivided into one-half acre lots or less. Water is obtained by pumping from a well and it is distributed through 12,900 feet of 4 and 6-inch mains through pressure tank control. A booster pumping plant and a connection to La Puente Cooperative Irrigation Company is maintained for standby purposes. At present there are 130 customers being served, all except one on a measured basis.

The record shows that the original application as entitled above was filed with the Commission, asking that a certificate of public convenience and necessity be granted Lambert Farms Incorporated, doing business as Sunkist Water Company, and that a flat rate be established of "\$2.00 per month per one-half acre or fraction thereof." In said original petition it was further alleged that: "The applicant does not propose to install any meters for such service." The matter was set down for hearing and applicant was instructed by the Secretary of the Commission to notify all customers of the time and place of hearing of the matter and to publish said notice in a paper of general circulation in the area to be served. The record of the original hearing shows that the Commission's instructions concerning the notice of hearing had been duly complied with. At the original hearing, the application was amended by verbal request asking that the Commission also fix a schedule of meter rates, and, further, that Helen H. Meeker, doing business as Sunkist Water Company, be granted the certificate in place of Lambert Farms Incorporated. The said amendment was subsequently filed in writing at the request of the presiding Commissioner. The matter was heard and submitted

and said Decision No. 35082 granted to Helen H. Meeker a certificate and established a schedule of both flat and measured rates. The metered schedule provided for a minimum charge of \$1.25 per month with an allowance of 1,000 cubic feet of water, the next 4,000 cubic feet at 10¢ per 100 cubic feet, and all use over 5,000 cubic feet at 8¢ per 100 cubic feet.

This system thereafter was sold by Helen H. Meeker to Ruskin T. Gardner, the present owner, by authority granted by this Commission in its Decision No. 36205, dated March 9, 1943.

At the hearings held upon the reopening of this proceeding, the petitioners testified in general that they had not received a notice of the original hearing, and that the few who had received a notice had not received it in time to attend the hearing. The petitioners all objected to the installation of meters and to the payment for water under a measured rate. Their testimony was unanimous to the effect that the agents selling property within the tract had informed them that the charges for water were to be \$2.00 per month on a flat rate basis for each lot, and that this rate would never be increased. Certain customers testified that Mr. Leo M. Meeker, President of Lambert Farms, Inc., and at the time also manager of the water system, had assured them of a permanent \$2.00 flat rate. Under the circumstances they felt that the promised flat rate represented by the real estate salesmen and officials of the land development project and of the water system should be maintained because this rate and its assured permanence had been the primary inducement to buy property in the tract. The consumers contended that for this reason the original flat rate should be maintained, regardless of any losses which might occur in operation of the system.

No sales contracts, deeds or other written documents submitted contained any provisions for a water supply on a permanent flat rate charge or on any other basis. Petitioners did, however, present copies of advertisements and circulars prepared by Lambert Farms, Inc., relating to the sale of lots on the tract, setting forth, among other things, that water was available at a flat rate of \$2.00 per month. While alluring and misleading statements may have been made to purchasers

and prospective buyers of lots in this tract regarding the water supply and the rate to be charged for water service. Such promises and relating transactions are wholly beyond the jurisdiction and control of this Commission. We are, however, directly faced with a practical problem and that is the continuation of water service to the people residing in this subdivision. This can be assured only if the owner of the utility can avoid continued operation at a loss.

Mr. Ruskin T. Gardner acquired control of this water system in March, 1943, and immediately inaugurated a program of complete metering thereof. Because of war conditions only a few meters were obtainable with the result that the system was not fully metered until the year 1945. According to Mr. Gardner, he was forced to install meters to control the general practice existing throughout the system of wasteful and extravagant use of water and in order to improve the service to customers located in the outlying sections of the distribution system. It would have been necessary otherwise to lay larger mains and increase water production and distribution facilities to meet the ever increasing demand under the unrestricted flat rate usage. Mr. Gardner presented a table showing that the average monthly water use of the fifty-one 5/8-inch metered services was 1,235 cubic feet, in 1944, the average monthly bill therefor being \$1.67 $\frac{1}{2}$ . Thirty-two of the above group supplied fully developed premises. In this class on an averaged annual basis four bills were over \$2.50 per month, and twenty-four were less than \$2.00. The class average of all the thirty-two was \$1.89 per month. There were five premises, from one to three acres, served with larger meters, where the monthly bills ranged from \$2.00 to \$4.46, the average being \$2.65.

From the above bills it is evident that the majority of the consumers pay less for water under the meter rates than the flat. From the record, therefore, it is very evident that the actual charges under the meter rates now in effect are neither excessive nor unfair; as a matter of fact, the meter rates on the Sunkist System are actually lower than those charged on the adjoining water systems serving Baldwin Park and West Covina.

Mr. Gardner and Mr. James F. Wilson, one of the Commission's engineers, presented statements showing the results of operation of the system for a ten-month period of 1943 and for the full year of 1944. The information furnished is summarized in the following table:

	Gardner		Wilson
	1943*	1944	1944
Fixed Capital	\$15,895	\$16,708	\$16,302
Depreciation Reserve	2,121	2,907	2,907
Depreciated Fixed Capital	\$13,774	\$13,801	\$13,395
Operating Revenue	\$ 2,300	\$ 2,980	\$ 2,980
Maintenance and Operating Expenses	\$ 2,278	\$ 2,179	\$ 2,229
Depreciation, Straight Line	640	786	786
Total Operating Expenses	\$ 2,918	\$ 2,965	\$ 3,015
Net Operating Revenue	\$ 618**	\$ 15	\$ 35**
Average Number of Consumers	115	123	123
Water Pumped - 10 Months (Gals.)	25,078,450	20,276,900	20,276,900
Water Pumped - 12 Months (Gals.)	—	21,741,850	21,741,850

(\* ) - Ten-month period only.  
 (\*\* ) - Red Figure.

From the evidence set forth above, it is clear that the operations of this utility have resulted in a net revenue of but \$15 for 1944 in one case and a deficit of \$35 in the other and also a deficit of \$618 for 1943.

This case was reopened by the Commission to avoid any possibility of unfairness which may have developed over the alleged failure of due and proper notice. However the evidence presented in this reopened hearing shows the futility of the attempted flat rate operation in avoiding carelessness and wasteful use of water and resulting heavy pumping expenses. It is equally apparent that the existing schedule of metered rates heretofore established by the Commission is neither excessive nor unreasonable. Under the circumstances the Commission's Order in its Decision No. 35082, establishing measured rates to be charged for the service rendered to the consumers of this system, will be reaffirmed.

ORDER

A petition having been filed by thirty-nine customers of the water system involved in the above entitled proceeding, asking the Commission to reopen the matter for further hearing, the Commission having considered said petition issued its Order reopening the proceeding for further hearing, public hearings having been held thereon, the reopened matter having been duly submitted and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that the Order in Decision No. 35082, dated March 3, 1942, establishing both flat and measured rates to be charged for the service rendered to the consumers of the Sunkist Water Company, now owned and operated by Ruskin T. Gardner, and furnishing water in a subdivided area in the City of West Covina, Los Angeles County, be and it is hereby approved and reaffirmed.

IT IS HEREBY FURTHER ORDERED that the petition requesting a modification of said Decision No. 35082 to prohibit and eliminate the installation and use of meters by the utility, be and it is hereby denied.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of January, 1946.

Harold Anderson  
Justice F. Quinn  
James B. ...  
Joseph L. ...  
Harold P. ...  
Commissioners.