

Decision No. 40422

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALDERCROFT HEIGHTS IMPROVEMENT ASS'N,
a non-profit organization,

Complainant,

vs

ALDERCROFT HEIGHTS COMPANY, a corporation,
G. W. Cooper and James A. Harris,

Defendants.

ORIGINAL

Case No. 4853

In the Matter of the Application of
ALDERCROFT HEIGHTS COMPANY, a corporation,
for authority to adjust and simplify
its rate structure.

Application No. 28018

Investigation on the Commission's own motion
into the service, rates, contracts, rules,
regulations, operations, practices, or any of
them, of ALDERCROFT HEIGHTS COMPANY,
a corporation operating a public utility
water system in a subdivided area known as
Aldercroft Heights in Santa Clara County,
California.

Case No. 4856

Rankin, Oneal, Luckhardt, Center and Hall
By M. J. Rankin and C. E. Luckhardt
for Complainant.

Bert B. Snyder, for Applicant.

O P I N I O N

In Case No. 4853, Aldercroft Heights Improvement Association, a non-profit organization, composed of approximately 100 residents of a subdivision known as Aldercroft Heights, located about seven miles south of the Town of Los Gatos in Santa Clara County, asks the Commission to investigate the operations of the

Aldercroft Heights Company, a corporation, and order it to provide adequate and proper water service to its customers. Complainant alleges that the company has failed to furnish them with an adequate water supply during the summer months of 1945 and 1946 and has made no honest or sincere effort toward providing or maintaining a sufficient supply of water to meet the customers' demands or equitably to distribute the available water among the customers, all of which has caused great inconvenience and discomfort to the members of the Association as well as causing a hazard to the health of the community because of the unsanitary conditions brought about from the lack of water at the customers' premises.

The company in its answer admits that there was a shortage of water and that it had notified all customers of the condition and asked their cooperation in curtailing its use, but that certain customers have repeatedly tampered with the valves and manipulated them in their own interest which has been the main cause of inequitable distribution of the available supply among the customers. The answer alleges that this area is known to be generally lacking in dependable sources of water supply and that this condition has been aggravated by shortage in the 1945-46 rainfall and particularly in its distribution during the season. The answer also alleges that the existing rates do not produce sufficient revenue to return the cost of operation of the system and that the stockholders of the company are compelled to make up the deficiency from their own private funds.

Separate answers were filed by G. W. Cooper and James A. Harris, Jr., in which they allege that each own fifty per cent of the outstanding stock of Aldercroft Heights Company and that as the corporation is the true party defendant, as to each individually as defendants the complaint should, therefore, be dismissed and their names should be deleted from the complaint as defendants.

In Application No. 28018 Aldercroft Heights Company alleges that its existing rates do not produce sufficient revenue to meet the operating costs and requests the Commission to adjust the rates for the service rendered.

In Case No. 4856 the Commission instituted an investigation on its own motion into the service, rates, contracts, rules, regulations, operations and

practices, or any of them, of the Aldercroft Heights Company, a corporation, for the purpose of remedying and improving service conditions existing on this system.

Public hearings in these matters were held in Los Gatos and by stipulation were combined for hearing and decision.

Aldercroft Heights tract is located along the steep wooded southerly slope of Los Gatos Creek Canyon. It has an area of approximately 65 acres, of which 40 acres have been subdivided into 310 lots, the remainder being still in acreage. The elevations on the tract vary from 800 to 1,200 feet. The canyon wall, which composes the major portion of the property, has an average slope of 45 degrees, presenting a most difficult service and construction problem. The water system was installed during 1925 to aid in the sale of lots.

The source of supply is four groups of springs located on the steep hillside. During the winter these springs produce ample water to meet all requirements; however, during summer months the demand increases but the yield of the springs continuously diminishes. During July and August, and during the fall, only two groups of springs produce water, but their total capacity does not exceed 10 gallons per minute. Three groups of the springs are located at an elevation which provides gravity flow into storage for distribution. One spring is located at a lower elevation, requiring booster plant operation. During the summer of 1946 a 12-foot well was dug in the ravine at the end of Road No. 5, but failed to produce more than 5 gallons of water per minute. Storage is provided by three redwood tanks and three concrete reservoirs having a combined capacity of 155,500 gallons. Water is distributed through 23,280 feet of galvanized pipe ranging from 2 to 3/4 of an inch in diameter. There are 117 cabins and cottages all served on a measured basis.

The rates at present in effect were established by the Commission in its Decision No. 24453, issued February 8, 1932. The flat rates provide for an annual charge of \$16.00 per year. The measured rates for permanent or full-time residents provide for a monthly charge of \$1.25 with an allowance of 500 cubic feet. Excess water charges are reduced through two blocks to 22 cents per 100 cubic feet for all use over 2,000 cubic feet. The summer or vacation residential rate provides for an

annual charge of \$12.00 with an allowance of 500 cubic feet of water per month for any eight consecutive months during the calendar year. Excess use is charged at the monthly quantity rates for permanent customers. In the same decision the Commission granted the company a certificate of public convenience and necessity to operate a public utility water system in the tract.

Aldercroft Heights originally was developed for summer homes and weekend-cabin occupancy. In recent years war conditions and the general housing shortage has changed the character of the community, until at present the use is practically permanent and continuous throughout the entire year.

Aldercroft Heights originally was subdivided by Arthur and Effie Walton and certain associates who also constructed the water system to supply the tract. These subdividers later incorporated and transferred all water properties to Aldercroft Heights Company. The entire capital of said company was sold to Mr. George W. Cooper and Mr. J. A. Harris, Jr., copartners, in 1945. During the operation of the water system by the Waltons and under the corporation, until the stock therein was sold, additional water was supplied to the subdivision during the dry season from a spring source used to supply the Walton home and ranch. This spring was claimed to be the private water supply of the Waltons and was retained and not sold as part of the water system properties with the sale of the stock of the Aldercroft Heights Company. Since that time the water supply has been wholly inadequate during the summer and fall months.

The record shows that complaints of serious interruptions in service became general commencing with the summer of 1945, after the new stockholders took over operations. These complaints included periods when no water was available at all, lasting from several hours to three weeks. The service conditions have been particularly desperate during weekends and holidays. The testimony presented by consumer witnesses indicated that during the summer and fall months the service conditions have been intolerable. Most consumers were compelled to haul in water for drinking and cooking purposes, and for flushing toilets. It was a universal practice to leave faucets open to drip into buckets, bathtubs and other receptacles

to catch some water if and when water service would be resumed. For long periods of time no water whatsoever could be spared even for baths. During cases of illness and accident the lack of water presented a most serious menace to health.

The copartners, Harris and Cooper, who own the outstanding stock in the Aldercroft Heights Company, likewise own and control Monterey Bay Water Company, a public utility, operating several water systems in Santa Cruz County with offices in the town of Soquel. No employee or company agent is maintained locally at Aldercroft Heights in general responsible charge, authorized to act in cases of emergency, the result being that complaints must be made by mail or telephone to the Soquel office, where, according to the testimony, such complaints were generally ignored by the company officials.

The consumers testified that the springs were unclean and unsanitary, pipe lines and storage tanks continuously leaked and wasted water with no attempt made to make repairs, that the pumps were inadequate in capacity and generally in a poor state of maintenance, and, that in many cases, several consumers were supplied through individual, or the same service line, secretly connected to a water main, by-passing the company's meters and creating a very considerable drain on water deliveries. Most serious of the complaints, however, resulted from the fact that although Mr. Cooper frequently promised to improve conditions, yet he studiously avoided actually doing anything at all to afford relief.

Mr. Cooper, testifying in behalf of the water company, frankly admitted the generally unsatisfactory service conditions but stated that the reason no serious efforts had been made to rehabilitate the system was because the revenues derived were so much less than the expenses incurred that the system was a continuous drain on the private finances of the operators to make up the continuously mounting deficits. However, in spite of the fact that the consumers had frequently stated to the owners of this utility that they were willing to pay increased rates for better service, no effort was made by defendant company, until the present proceeding, to apply to this Commission for a readjustment of rates.

After continuous efforts on the part of the Commission's staff, extending over more than a year, the owners of this company were finally prevailed upon to attempt to obtain additional water from local underground sources at certain locations which gave indications of favorable conditions. In the summer of 1946 a shallow pit, 8 x 10 feet, and about 12 feet deep, was dug in a ravine near the end of Road No. 5. A pump was installed in the shallow sump, producing an average flow of five gallons per minute. In spite of the fact that this small amount of water afforded substantial relief at a critical period of the year, Mr. Cooper, for reasons best known to himself, discontinued the operation of the pump during and after the month of September.

Many consumers claimed that several ample sources of additional water were economically available in or near the service area. However, such contentions are not borne out by the record. Los Gatos Creek waters in this area are owned and beneficially used by the San Jose Water Works. All attempts, both on the part of members of the Commission's staff as well as officers of the water company, to arrange for purchase or lease of springs and mine tunnel waters owned or used by private individuals have met with flat rejection. This small community cannot support the present prohibitive cost of bringing in water from available outside sources. The only practical solution now open is to completely develop all local sources and take immediate measures for conservation of all water in tight storage and strictly regulate distribution of water to reduce waste to a minimum.

It should be pointed out at this time that although provocation may have been great through desperation and exasperation engendered by prolonged and continuous failure of water service, yet the misguided efforts of certain consumers who have tampered with gate valves to provide water for their own premises, and who have changed gate valve settings and then sawed off the valve stems, and who have maliciously wrecked pumps, have unfortunately been highly successful only to the extent of depriving large sections of the community of the share of the available water to which they were equally entitled. Such acts of vandalism are punishable under the provisions of the Penal Code of the State of California.

The offer made in behalf of the company to sell this water system to any responsible group of the consumers for \$2,500, payable out of revenues at the rate of \$500 per year, was refused. Mr. Cooper thereupon agreed to repair and develop the springs, fix all leaking tanks and pipe lines and obtain additional water through wells or otherwise as far as reasonably possible through limited financial returns, provided, however, that the rates be fairly increased. The consumers agreed to pay increased water charges, conditional, however, upon the improvements first being made satisfactorily; a condition imposed by reason of past failure on the part of the utility's officials to live up to former similar promises.

In behalf of the company, Mr. Cooper presented a report in which the historical cost of the operative water properties was estimated to be \$19,000 as of December 31, 1946; operating revenues \$1,926; expenses, including depreciation \$2,384, leaving an operating loss of \$258 for the year 1946.

Mr. D. L. Duncan, one of the Commission's engineers, presented a report in which the capital investment was estimated to be \$19,246 as of December 31, 1946; revenues \$1,961 for 1946, but estimated the reasonably necessary and proper operating expenses for such a system under good and efficient management to be \$1,875, including depreciation by 5% sinking fund method, instead of \$2,941, the adjusted operating expenses, set out in the utility's books. Using the above estimate of the Commission's engineer, the operations for 1946 would indicate a net revenue of \$86, or a return of 0.45 per cent upon the invested capital of \$19,246.

From the testimony of Mr. Duncan it appears that with an expected and assumed increase in yield which could be gained by deepening the partially explored new shallow sump, the total water production during the dry season from all present sources would amount to 20 gallons per minute or 28,800 gallons per day. This quantity of water, disregarding distribution losses, would permit an average consumption of but 31 gallons per capita daily, or an average monthly consumer use of 510 cubic feet. During the summer and fall critical period of 1946, 17 per cent of the consumers used in excess of this amount, which indicates the necessity of restrictive conservation measures in use of water, either through limitation of water to strictly household and sanitary requirements and prohibition against lawn and garden watering,

or by installation of orifice flow reducers, or through a penalty form of rate structure, or possibly by a combination of all or part thereof.

The evidence clearly shows that the revenues derived from this system, in fairness, should be increased if satisfactory service is to be provided. The rate structure set up in the following order is designed to yield a net revenue of \$975 or a net return of approximately 5 per cent under efficient and proper management. The charges for water are fixed to increase in proportion to the volume of use, a method justified only in extreme cases of serious limitation of water supply. Garden and flower watering use will not be prohibited; however, it is recommended that some type of flowage control device be installed on all services to prevent certain favorably located sections of the service area from draining the system during periods of heavy draught which, under present operating conditions and faulty design, leaves other areas without water.

The new schedule of rates authorized in the following order, as indicated above, will be made effective only when this utility demonstrates its good faith and its belated recognition of the obligations and responsibilities it owes the public by sincerely endeavoring, without undue delay, to install the improvements and adopt immediately the measures and practices as directed by this Commission.

O R D E R

Complaint having been filed as entitled above, the Commission on its own motion having instituted an investigation into the various phases of operations and practices of Aldercroft Heights Company, a corporation, application having been filed as above entitled, public hearings having been held thereon, the matters having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY FOUND AS A FACT that the rates now charged by Aldercroft Heights Company, a corporation, for water supplied to its customers in a subdivided tract known as Aldercroft Heights, Santa Clara County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service, and basing its order upon the foregoing findings of fact and upon the statements of fact

contained in the preceding opinion,

IT IS HEREBY ORDERED that Aldercroft Heights Company be and it is hereby authorized and directed to file with the Public Utilities Commission of the State of California, within twenty (20) days from the date of this Order the following schedule of rates for all water delivered to its customers in Aldercroft Heights, in Santa Clara County, said schedule to become effective as hereinafter provided:

Schedule No. 1
PERMANENT CONSUMERS
MONTHLY METER RATES

Applicability:

Applicable to all water service rendered on a metered basis to bona fide permanent residents.

Territory:

In a tract of land comprising 65 acres, more or less, situate on southerly slope of Los Gatos Creek and known as Aldercroft Heights.

Rates:

<u>Monthly Quantity Charges</u>	<u>Per Meter</u> <u>Per Month</u>
<u>FOR PERIOD FROM MAY 1 TO JANUARY 1</u>	
First 400 cubic feet or less.....	\$2.00
Next 200 cubic feet; per 100 cubic feet.....	.60
Next 200 cubic feet; per 100 cubic feet.....	.75
Over 800 cubic feet, per 100 cubic feet.....	1.00
<u>FOR PERIOD FROM JANUARY 1 TO MAY 1</u>	
First 800 cubic feet or less.....	\$2.00
Over 800 cubic feet, per 100 cubic feet.....	.25

The minimum annual charge will entitle the customer to the quantity of water which that monthly minimum charge will purchase at the quantity rates.

Schedule No. 2
SUMMER AND VACATION CONSUMERS
METER RATES
ANNUAL CHARGE FOR CALENDAR YEAR

Applicability:

Applicable to all water service rendered on a meter basis to non-permanent or summer residents.

Territory:

In a tract of land comprising 65 acres, more or less, situate on southerly slope of Los Gatos Creek and known as Aldercroft Heights.

Minimum Annual Charge, entitling the customer to 400 cubic feet of water each month during calendar year..... \$24.00

For all water used in excess of 400 cubic feet per month, charges shall be the same as provided for under above Schedule No. 1 during the respective periods of use.

IT IS HEREBY FURTHER ORDERED that the schedule of rates authorized herein shall become effective only upon the issuance of a supplemental order, to be granted upon completion in a manner acceptable to this Commission, of the following improvements by the Aldercroft Heights Company:

1. Develop and thoroughly clean out all existing springs and install and construct adequate covering, drainage and screens to prevent surface contamination and protection against pollution from birds and rodents.
2. Develop additional sources of water supply from stream flow, wells, springs or otherwise, in or in the vicinity of the service area.
3. Repair and stop all leaks in storage tanks.
4. Install booster pump having more capacity than existing pump at Tank No. 4.
5. Develop and utilize spring and concrete tank located along Road 2 and connect this source of supply to the distribution system.
6. Deepen the dug well at top of Road No. 5 and construct a cutoff wall across the ravine, to conserve the underground water supply at this point.
7. Provide locks, and lock and otherwise protect against tampering all control valves on the distribution system.
8. File a rule and regulation providing for the installation of an orifice plate in customers' service connection, in order to equitably distribute the available water among the customers during periods of water shortages.
9. Maintain a representative on the tract with delegated authority to make and/or order repairs, receive and handle consumer complaints except of a major nature, and operate the system in the interest of the public.
10. Install new service connections to all premises now served through secret, concealed, or by-pass pipe lines.

IT IS HEREBY FURTHER ORDERED that the complaint in Case No. 4853, in so far as it concerns George W. Cooper and James A. Harris, Jr., as individuals, be and it is hereby dismissed.

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 17th day of June
1947.

Harold P. Hyde
Justin F. Gallivan
W. H. Lowell
A. J. Morrison
Harold P. Totten

Commissioners.