

Decision No. 40636

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 Mattie E. Haney, dba TOPANGA CANYON  
 PUBLIC UTILITY WATER SYSTEM, for a  
 certificate of public convenience and  
 necessity to extend operations into  
 adjoining territory, and for permission  
 to transfer her right, title and  
 interest in said system to James L.  
 Miller and Sylvia M. Miller, his wife;  
 and to extend the Commission's Order  
 to May 31, 1947, heretofore made  
 ordering service to certain territory  
 to cease, and that a certificate be  
 issued to said Millers.

ORIGINAL

Application No. 28325

Lucas F. Smith, for Applicants.

Edison E. Lee, for Topanga Citizens Committee  
for School and Community Improvement.

O P I N I O N

Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, owns and operates a domestic water system in Tracts No. 7806 and 8910, Topanga Canyon, Los Angeles County. She asks the Commission to grant her a certificate of public convenience and necessity to serve Tract No. 6915, an adjoining subdivided area, known as Topanga Woods, and Tract No. 7320, a subdivision located in Old Canyon. The Commission is also asked to authorize the sale and transfer of the water system serving all of these tracts to James L. Miller and Sylvia M. Miller, his wife. A further request is made for an extension of the date heretofore fixed by the Commission, in Decision 39291, issued July 30, 1946, ordering the discontinuance of water service to customers in the Old Canyon territory to May 31, 1948.

Applicants allege there is sufficient water now being developed from new wells to supply the customers in the territory for which a certificate is asked,

and that such service can be supplied without injuriously affecting the water supply of consumers in Tracts No. 7806 and No. 8910. Applicant, Mattie E. Haney, alleges that the operation of the water properties requires too much time and energy for her mature years, and she desires to sell the system to the Millers who are capable and willing to operate the property.

A public hearing in this proceeding was held in Los Angeles before Examiner Stava.

At the hearing, the application was amended to include for certification Tract No. 6131, adjoining Tract No. 7320, and to include also Tract No. 3944, known as Veteran Springs Tract. The application was further amended by withdrawing the proposed contract of sale which, among other things, provided for monthly payments of the unpaid balance of the sale price, and in lieu thereof asking the Commission to authorize James L. Miller and Sylvia Miller, his wife, to execute a promissory note for \$20,000, bearing interest at 5 $\frac{1}{2}$  per cent. The payment of the note will be secured by a deed of trust and by a mortgage of chattels.

The Commission by its Decision 27503, issued November 5, 1934, granted B. J. Lewis a certificate of public convenience and necessity to operate a public utility water system in Tracts No. 7806 and No. 8910, also known as Post Office Tract. These two tracts consist of 140 acres of land which were subdivided into 194 lots and originally were sold as cabin sites for weekend occupancy and vacation purposes; however, at present these cabins and other houses are occupied permanently. There are 69 consumers now being served, 54 supplied through meters and the balance at flat rates.

Tract No. 6915, called Topanga Woods, for which a certificate is requested herein, has an area of 20 acres and is located approximately one-quarter of a mile from the two above mentioned tracts. Although Topanga Woods is not presently certificated, it is interconnected with the system supplying water to the original two tracts, No. 7806 and No. 8910, and is served as a part of that system. This Topanga Woods distribution system consists of approximately 5,000 feet of mains, ranging from  $\frac{3}{4}$  to 2 inches in diameter. There are 45 customers being furnished water, 12 having metered service, the remaining served at flat rates.

Tracts No. 7320 and No. 6131, for which the amended application requests certification, are located in Old Canyon, two miles up the main Topanga Canyon from the Post Office Tract. This area formerly was served by Topanga Park Mutual Water Company, but when its water supply failed arrangements were made with Mrs. Haney to serve the subdivisions. A contract was entered into providing for this service and Mrs. Haney thereupon installed a 1½-inch connecting pipe line from the Post Office Tract wells, pumping against a pressure of approximately 400 pounds. Authority to enter into this contract was never requested nor granted by this Commission. The distribution system in Tracts No. 7320 and No. 6131 consists of approximately 5,500 feet of mains, ranging from ¾ to 2 inches in diameter. Storage is provided by a 20,000-gallon tank. There are 43 consumers, 40 receiving water at meter rates.

The Commission in its Decision No. 39291, issued July 30, 1946, ordered Mattie Haney to discontinue service, on December 31, 1946, to the adjoining Topanga Woods Tract No. 6915 and also to Tract No. 7320 for the reason that the water supply was insufficient even to serve the originally certificated Post Office Tract.

In this proceeding Mrs. Haney testified that she now has three wells in operation and that a fourth is being drilled, and that the water production from the three wells has been sufficient to maintain adequate service to all of the consumers served in the originally certificated tracts and also in Tract No. 6915 and Tract No. 7320. She felt confident that these wells would continue to produce the 33 gallons per minute measured during the spring which she considered sufficient for all purposes.

The testimony indicates that there is a possibility of obtaining an independent source of water for Tracts No. 7320 and No. 6131 in the isolated Old Canyon. Mr. Miller testified that he would drill a well to supply that territory from a new and independent source, although Mrs. Haney stated that all past drilling attempts had failed to produce water in that territory. However, these two witnesses claimed that sufficient water now was being produced by the Post Office Tract wells to serve the entire area.

According to the evidence in this proceeding, as well as in Case No. 4822, which was a proceeding brought by the Commission to investigate all phases of the operation of this system, there has been a most serious shortage of water on all these systems every summer. Mattie E. Haney and her late husband, Albert E. Haney, drilled nine wells and Mrs. Haney is now drilling the tenth in and in the vicinity of the Post Office Tract. Four of these wells were abandoned through failure of yield, the fifth well abandoned because of pollution, and the sixth well is non-operative because of stuck drilling tools.

The past record of well production in this territory unfortunately does not confirm Mrs. Haney's testimony. The present operative wells are located at the bottom of Topanga Canyon. The underlying rock formation in this section is largely granite and water produced is from storage in pockets filled by drainage through fissures and shattered or faulted formations. These pockets may at first pumping produce a maximum of only 20 gallons per minute for a few months but soon become drained by continuous pumping. The short record of water production from the present wells does not therefore justify the granting of a certificate to serve all of the tracts requested. However, since Topanga Woods, or Tract No. 6915, has been served for so many years last past as a part of the original Post Office Tract, a certificate will be granted to authorize the continuance of service therein. In view of the obvious insufficiency of water supply the request for a certificate in the isolated Old Canyon Tracts No. 6131 and No. 7320 will be denied until such time as sufficient water therefor is made available.

James L. Miller and Sylvia M. Miller testified at the hearing held in this proceeding that they were ready and willing to purchase and operate Mrs. Haney's water properties. However, subsequent to submission of this proceeding, the three applicants filed a joint stipulation voiding the contract of sale asking that the portion of the application involving the sale and transfer be withdrawn.

Likewise, since submission a written request was filed by Mattie E. Haney asking that the application for a certificate to operate in Tract No. 3944, called

Veteran Springs Tract, be withdrawn since she has been unable to obtain title to the water system involved therein.

The certificate of public convenience and necessity granted herein is subject to the following provision of law:

"That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right."

O R D E R

Application as above entitled and as amended having been filed with the Public Utilities Commission of the State of California, a public hearing having been held thereon, the matter having been duly submitted and the Commission now being fully advised in the premises,

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require, and will require, Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, to construct, maintain and operate a public utility water system in Tract No. 6915, situate in Topanga Canyon, Los Angeles County, said tract containing approximately 20 acres and more particularly delineated upon the map attached to the application herein and which map is hereby made a part of this Order by reference.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, to operate a public utility water system for the distribution and sale of water within the territory hereinbefore described.
2. That Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, be and she is hereby authorized to serve with water the territory hereinabove described at the rates established by the Commission in its Decision No. 39291, issued July 30, 1946, and subject to the rules and regulations now in effect in Tracts No. 7806 and No. 6910, Los Angeles County.

IT IS HEREBY FURTHER ORDERED that those certain prayers in the instant portions of the application requesting a certificate of public convenience and necessity for Tracts No. 3944, No. 6131 and No. 7320, Los Angeles County, and for authority to sell and transfer the water properties to James L. Miller and Sylvia M. Miller, his wife, be and they are hereby dismissed.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of August, 1947.

Harold A. Kula  
Justice P. Calver  
Geo. H. Knull  
G. E. Johnson  
Herbert W. Patton  
Commissioners.