

ORIGINAL

Decision No. 40991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PHILIP RUVALCAVA,
LEE HERNANDEZ,
ATANACIO CHAVEZ,
Complainants,

vs

CRESPIN MENDOSA,
JESUS GUSMAN, ALEGO
LUNA, ENCARNACION
NIEVES,
Defendants.

Case No. 4903

George Ferris, for complainants.
Meyer and Dreizen, by N. D. Meyer,
for defendants.

O P I N I O N

Complainants allege that defendants are the owners of a water system situated in the residential community known as Colonia Juarez, in the County of Orange, State of California; that about July, 1945, defendants acquired said water system and immediately raised the rates for water from \$1.00 to \$1.50 per month per home, for domestic use, and from \$3.00 per year per lot to \$1.00 per hour for irrigation use; that defendants are now again endeavoring to raise rates; that the pipes are in very poor condition and that the water pressure is not adequate. They pray that said water system be placed under the jurisdiction of the Public Utilities Commission and that this Commission establish reasonable rates.

Defendants admit ownership of the water system and admit that they raised the rates for domestic and irrigation use as alleged, but deny that they are again endeavoring to raise said rates and, further, deny that the pipes are in very poor condition and deny that water pressure is inadequate. Further, defendants allege that the water plant is not of sufficient size and capacity to properly and adequately furnish and maintain both home and irrigation service and for that reason

it is the intention of the defendants to discontinue service for irrigation use forthwith, and to continue and maintain only domestic water service. Defendants also allege:

"that the former owner of said water system put in and developed the Colonia Juarez subdivision and sold the property in lots and maintained a water service at cost or below cost in order to encourage and promote the sale of the subdivision, during which promotion the expense of furnishing said service was low and especially so in connection with irrigation water, since very few, if any, of the inhabitants used water for irrigation purposes before the said former owner completely developed and sold out the subdivision. Defendants further allege that at times the water pressure is low because the plaintiffs and the water users involved, or at least many of them, permit the water to run freely and at random for long periods at a time and for the further reason that the filling of the tank which is 25,000 gallon capacity is controlled automatically for the domestic service but that when it is used for irrigation purposes, the tank must be filled up and the automatic control turned off because of which fact the water in the tank cannot be maintained at high level nor the automatic control turned on again until the irrigation is completed or the tank emptied."

Defendants pray that, in the event that they are held to be operating a water system as a public utility, water service be limited to the furnishing of water for domestic purposes only and that the rate be fixed at \$2.00 per month.⁽¹⁾

The matter being at issue, a public hearing was held at Santa Ana, California, on October 27, 1947, before Commissioner Potter and Examiner Chiesa.

Several complaining witnesses and two of the defendants testified at the hearing. Other than a map (Exhibit No. 1) of Tract No. 569 (Colonia Juarez) being a subdivision of a portion of the N.W. 1/4 Sec. 29, T. 5 S., R.10 W., S.B.B. & M., no documentary evidence was offered.

Upon the evidence of record we find that complainants and defendants are residents or owners of lots in Tract No. 569, also known as the residential community of Colonia Juarez, situated approximately three miles southwesterly of the City of Santa Ana; that said subdivision or tract consists of approximately 40 acres, subdivided into 148 lots, bounded, generally, by Winterburg Avenue on the north, Calle Independencia on the south, Calle Zaragoza on the west, and Ward Street on the east; that Tract No. 569 was subdivided in 1923 by Ashby Turner and Josephine M.

Turner, husband and wife; that the original subdividers drilled a water well on
Note: (1) No evidence was offered to justify this proposed rate.

one of said lots and that for some time thereafter the few families then living in the subdivision went to the well for water; that the water system as it now exists was developed in part by the Turners⁽²⁾ and in part by one Joseph L. Marshall who acquired the system in 1933; that said Marshall continued to operate and improve said water system until August of 1945 when it was purchased by the defendants herein; that the present water system consists of a 10-inch cased well of a depth of approximately 200 feet, a pump powered with a directly connected, automatically controlled electric motor, a 25,000-gallon covered, wood stave tank, resting on a platform and elevated 11 feet above grade, and approximately 4,400 feet of mains, one to four inches in diameter; that Joseph C. Marshall, prior to August, 1945, owned and operated said water system for compensation, serving some 30 to 40 homes in said tract; that on or about August 4, 1945, defendants Crespín Mendoza, Jesus Gusman, Alejo Luna, and Encarnación Nieves, as partners, purchased said water system and have at all times since owned and operated said water system for compensation; that said defendants now furnish water for domestic or irrigation purposes to approximately 55 families residing in Tract No. 569, charging therefor \$1.50 per month per home for domestic use and \$1.00 per hour for irrigation use; that said defendants have been, and now are, engaged in supplying water for domestic and irrigation purposes, as a public utility.

The evidence of record also shows that, although the well produces an adequate supply of water, the present condition of the distribution system is such that homes in the outlying areas can be furnished water only for minimum domestic requirements, provided the use of water for irrigation purposes is entirely discontinued. Both the complainants and defendants are aware of this condition and are willing to discontinue the use of water for irrigating purposes. The evidence indicates that some of the residents of the community may undertake the formation of a mutual water company for the purpose of purchasing and improving said water system. As the evidence discloses that several thousands of dollars will be

Note: (2) The record is not clear as to the extent of the water system improvements made by the Turners or whether or not, prior to 1933, residents were charged for water.

required to rehabilitate the water system, and that adequate financing for such purpose is not available, it appears to this Commission that the operation of said water system on a mutual basis might be a desirable solution. In the meantime, the defendants are expected to continue to operate and make such improvements and repairs to said water system as will provide all the consumers with sufficient water for domestic needs.

Having found that defendants are operating a public utility water system and it appearing that the distribution system is in such condition that it is not feasible to furnish water for irrigation purposes, the remaining question to determine in this proceeding is the reasonableness of the rates for water used for domestic purposes. Satisfactory evidence upon which to base a proper rate in this case is lacking; nevertheless, the record indicates that defendants have been realizing a small profit upon the sale of domestic water at the rate of \$1.50 per month per home.⁽³⁾ Until such time as it is shown that the present rate is unreasonable, it will be prescribed as the rate to be charged for domestic water service.

As the evidence does not indicate that defendants are financially able to materially improve the water system, the matter of adequate service cannot be satisfactorily determined in the present order.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission having fully considered the matter, and having found that Crespin Mendosa, Jesus Gusman, Alogo Luna, and Encarnacion Nieves, defendants herein, have been, and now are, engaged in supplying water for domestic and irrigation purposes, as a public utility, in the subdivision known as Colonia Juarez, in the County of Orange, and basing its order upon the findings and conclusions hereinabove set forth,

Note: (3) Defendants' attorney stated that between August 4, 1945, and October 7, 1947, revenue from the sale of water for domestic use was \$2,834, and from irrigation use \$267.50; expenses during the period were \$1,325.50, resulting in a profit of \$1,776. During this period, however, no salary or wages were paid to any of the partners for attending to the operation of the system.

IT IS ORDERED:

1. That Crespín Mendoza, Jesús Guzman, Alejo Luna, and Encarnación Nieves shall continue to supply water as a public utility, for domestic uses only, within that certain area known as Colonia Juárez, in the County of Orange, as shown on the map introduced as Exhibit No. 1 in these proceedings, subject to the following condition and limitation:

Water shall not be used by consumers for the irrigation of gardens or land upon which produce is raised for sale, nor shall water be furnished by any consumer to any user who is not paying the rates hereinafter prescribed.

2. Crespín Mendoza, Jesús Guzman, Alejo Luna, and Encarnación Nieves shall file and apply a flat rate of \$18 per year or \$1.50 per month, applicable to each water user, and, within thirty (30) days from the effective date of this order, shall submit for approval rules and regulations applying to the sale and delivery of water.

The effective date of this order shall be twenty (20) days from the date

hereof.

Dated at San Francisco, California, this 1st day
of December, 1947.

Harold J. Hale
Justus F. Brewer
Paul H. Wallace
A. J. Dunning
Commissioners.