

Decision No. 41037

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HARRY ASLIN, et al.,

Complainants,

vs

HARRIET O. CASE and DOROTHY H. WOLF,

Defendants.

Case No. 4827

In the Matter of the Application of
HARRIET O. CASE and DOROTHY H. WOLF
to discontinue water service.

Application No. 27463

Investigation on the Commission's own
motion into the operations of
WILLIAM J. ROBERTSON and JESSE J.
ROBERTSON in supplying water service
at Wright's Beach, Sonoma County,
California.

Case No. 4880

Geary & Tauzer, by Carlton Spridgen, for certain complainants
in Case No. 4827; R. M. Quackenbush, for defendants
in Case No. 4827 and applicants in Application No. 27463;
Edward T. Koford for certain complainants in Case No. 4827
and in propria persona; Lambert & McMullin, by
S. K. McMullin, for Mrs. T. F. McMullin and S. K. McMullin,
as their interests appear; William J. Robertson and
Jesse J. Robertson, in propria persona. (For other
appearances see Decisions Nos. 40126 and 40402.)

MITTELSTAEDT, Commissioner:

OPINION ON REHEARING

By petition seasonably filed, Harriet O. Case and Dorothy H. Wolf asked,
and were granted, rehearing of the issues determined by Decision No. 40402, and an
opportunity to present new evidence. Following a hearing September 24, 1947, at

Santa Rosa, the matters were submitted on briefs, since received and considered. The pertinent facts are set forth in Decision No. 40402 and in a prior interim order (Dec. No. 40126, April 1, 1947), and hence will not be restated here. Nothing was developed at the hearing, however, or in the briefs, to indicate error in the finding of public utility status of the water system while owned by the Robertsons prior to 1942. That finding should be reaffirmed. The holding with respect to the obligation of Case and Wolf to continue water service should likewise be reaffirmed. That portion of the opinion reads as follows:

"Hence, the Commission must hold that defendants Case and Wolf remain responsible for the continuance of the service until such time as their legal interest therein may be altered, or the Commission should give its consent to the abandonment of the service." (Dec. No. 40402, Sheet 3.)

Aside from a few changes in ownership of some of the lots in the tract, and some evidence of construction on one plot, the situation with respect to the number of patrons connected to the system, and the capacity of the springs was not shown to differ materially from that which obtained earlier this year.⁽¹⁾ There was substantial evidence, however, that since the rendition of the Commission's decision on June 10, 1947, there had been a marked improvement in the availability of the water supply due, it was stated, to conservation methods practiced by the patrons. In fact, Miss Case testified that she had received no complaints since that time.

Although the supply of water is admittedly small for this system there appears to be enough to take care of the ordinary domestic needs of present patrons, provided that all parties continue to cooperate in a spirit of good neighborliness. Under the circumstances, the patrons may be in a position to secure a more adequate supply of water by the installation, at small expense, of individual redwood storage tanks of from 300 to 500-gallon capacity. The tanks could be equipped with float valves, and a device could be installed in the intake pipes to restrict the flow of water so that no undue drain on the system would result from several tanks

(1) - A test of the springs, made September 24, 1947, pursuant to stipulation of the parties, indicated a flow of approximately 26 gallons per hour, or about 624 gallons for a 24-hour period.

filling at one time. As most of the patrons use their premises only on weekends or vacations, it would seem that such an arrangement for storage might be of considerable benefit.

It is clear from this record that Miss Case and Mrs. Wolf cannot long be expected to continue operation of the system without at least being assured of a return of operating costs plus something, in addition, on their investment in the water properties. There is evidence that some of the consumers would be willing to pay more than the one dollar per month charge previously in effect, if they were able to secure a reasonably adequate supply. It is recognized, of course, that the returns from an operation of such limited scope would not be sufficient in themselves to maintain the system solely as a means of livelihood. But it is also true that those who bought lots in the tract did so in the belief that water would be furnished, and have at all times been willing to pay for it. Both Miss Case and Mrs. Wolf have attempted to the best of their ability to supply water under extremely unfavorable operating conditions and with limited means. They were compelled to abandon their poultry business because there was not sufficient water to raise green feed and supply the consumers at the same time. It is therefore evident that whatever disposition is made of these proceedings, on the record thus far developed, will perforce be somewhat tentative in nature and will not offer a permanent solution to the problems of either the operators or the consumers.

A member of the Commission's engineering staff estimated the historical cost of the water properties at \$1,694, and was of the opinion that an annual rate of \$24 per consumer would pay for operating expenses and bring in a reasonable return on the investment in the water system. The pertinent figures may be represented as follows, based on 13 and 15 consumer attachments to the system:

Number of consumers	13	15
Estimated annual revenue	\$312.00	\$360.00
Estimated annual operating costs	214.50	247.50
Estimated net revenue	97.50	112.50
Rate base	1,694.00	1,694.00
Estimated rate of return	5.7%	6.6%

If individual storage tanks are installed, as above suggested, there may be occasions, especially during the wet months, when more water is available than required to supply the consumers for domestic use. In that event, it would appear reasonable to permit Miss Case and Mrs. Wolf to use any surplus water for irrigation, and thus provide them, in some measure at least, with the means for utilizing their property to a greater extent than is now possible.

As the number of consumers is extremely limited, and as there does not appear to be any present possibility of expanding the facilities, there seems to be no justification for the expenditure of any considerable sums of money to enlarge or improve the system. The elevated 5,000-gallon storage tank, however, should be cleaned, as the water odor complained of by some of the consumers may have proceeded from this source. The tank is in poor condition, and will probably have to be replaced in four or five years.

It is believed that the best interests of all parties concerned in these proceedings will be furthered by putting the conclusions herein reached in effect on an experimental or temporary basis, for a period of not more than one year, say from January 1 to December 31, 1948. During that period the operation of the water system will be conducted under conditions of both maximum and minimum supply, and if the suggested individual storage arrangements are made it should be possible during that period to determine the optimum use of the system, as well as the experience of the operators and the consumers under the rate here proposed. Should a situation develop where such action is necessary, the Commission will reconsider the application of Miss Case and Mrs. Wolf to discontinue or abandon water service. In the meantime, however, that application will be held in abeyance.

Final disposition of the investigation into the activities of the Robertson brothers must also for the time being be held in abeyance. Though charged with utility status as a result of their development and dedication of the water system for public use, they have disclaimed any interest in the properties, and, unless present legal relationships are altered, they are without means of access to the facilities while in the hands of their vendees. Should those

relationships change, however, so as to permit operation by the Robertsons or any one else claiming under them, the Commission, in the interests of the consumers, should be left free to deal with the situation as it develops. The investigation in Case No. 4880, therefore, will be temporarily discontinued, and will be reinstated should future events warrant such action.

It is concluded that defendants Case and Wolf should not be authorized to discontinue water service to those who are presently receiving service from this system and who are dependent thereon for their water supply. As it is evident that the addition of new consumers would injuriously affect those now receiving service, the present owners should be directed not to furnish water to any additional consumers unless otherwise ordered by further order of the Commission. This would require the continuance of service by Miss Case and Mrs. Wolf to the best of their ability by means of existing facilities to those only who heretofore have received and paid for water service, and to their successors in interest. Those who have developed their own supply of water must be deemed to have waived their rights to service. It must also be recognized that these defendants are entitled to share rateably in all water produced, as well as to the further extent above indicated should there be a surplus.

Miss Case and Mrs. Wolf will be directed to file and apply a flat rate of \$24.00 per year applicable to each water user, which rate is hereby found to be reasonable for the experimental period herein proposed, and to submit appropriate rules and regulations covering water service. Members of the Commission's staff might well cooperate with these defendants in the preparation of such rules and regulations.

O R D E R

Rehearing having been held in the above entitled proceedings, briefs having been filed and considered, and it having been found by the Public Utilities Commission of the State of California that Harriet O. Case and Dorothy H. Wolf, the defendants in Case No. 4827 and applicants in Application No. 27463, have been

and now are engaged in supplying water for domestic purposes, as a public utility, at Wright's Beach, Sonoma County, and basing its order upon all the findings and conclusions set forth in the foregoing opinion and in the opinion heretofore rendered in these matters in Decision No. 40402:

IT IS ORDERED:

(1) Harriet O. Case and Dorothy H. Wolf are hereby directed to continue to supply water as a public utility for domestic uses within that certain area at Wright's Beach, Sonoma County, as shown on the map introduced as Exhibit No. 3 in these proceedings, subject to the following conditions and limitations:

- a. No water services shall be connected or permitted for the purpose of supplying water to premises not now being served by said defendants unless the approval of this Commission first be obtained.
- b. Water shall not be used by customers for the irrigation of lawns or gardens, or for any uses other than household purposes, during the months of May to October, inclusive.

(2) Harriet O. Case and Dorothy H. Wolf shall file and apply a flat rate of \$24.00 per year applicable to each water user, and, within thirty days from the effective date of this order, shall submit for approval appropriate rules and regulations applying to the sale and delivery of water.

(3) The application of Harriet O. Case and Dorothy H. Wolf, Application No. 27463, for authority to discontinue water service, is hereby denied without prejudice, except to the extent herein authorized.

(4) The investigation on the Commission's motion into the operations of William J. Robertson and Jesse J. Robertson is hereby discontinued, subject to reopening should such action be appropriate.

(5) This order shall be effective twenty days from the date hereof, and shall continue in effect until December 31, 1948, unless otherwise modified by further order of the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Public Utilities Commission of the State of California.

Dated at San Francisco, this 17th day of December, 1947.

Harold S. Galt
Justice J. C. McQuinn
Justice J. C. McQuinn
R. F. McQuinn

Commissioners.