

Decision No. 41542

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Carl Magnasco, W. M. Walsh, J. A. Welscam,
E. E. Peters, Jane Bissell and E. F. Groth,

Complainants,

vs.

V. L. Suggs,

Defendant.

Case No. 4915

ORIGINAL

E. E. Peters, for himself; Walker & Walker,
by Leland H. Walker, for Defendant; John M.
Burnett, for Ernest M. Athenour, Leano H.
Athenour and Lenon H. Athenour, Jr.; and
Francis Arnerich, for Almaden Water Company.

O P I N I O N

Complainants reside along Kooser Road in Santa Clara County, approximately four miles east of the city of Los Gatos. Subsequent to the filing of this case, five of the original complainants filed written requests to have their names withdrawn as parties complainant and requested as to them that the matter be dismissed, leaving E. E. Peters as the sole and remaining complainant.

Complainants allege that V. L. Suggs is engaged in the business of supplying water to their premises; that he has failed to deliver adequate quantities of water; and, that without reason therefor, service has been restricted to a few hours a day. The Commission is asked to investigate defendant's operations and to take such action as may be necessary to require adequate service to be provided complainants.

In his answer, defendant Suggs denies that he is in the public utility business of furnishing water to complainants, but

admits that he supplies water to said complainants as an accommodation only. He denies that he can provide an adequate water supply. He alleges that water now is obtained from a well on his property but formerly was purchased from the surplus water of the Guadalupe Mines. Defendant alleges he delivers water to the complainants through a pipe line owned by Santa Clara County. Mr. Suggs further contends that none of the water supplies and pipe lines were ever dedicated to public use and that the system is not a public utility. He asks that the matter be dismissed.

A public hearing in this proceeding was held in San Jose before Examiner Stava.

The evidence shows that many years ago Mr. Suggs obtained permission from the Board of Supervisors in Santa Clara County to use a mile of two-inch main, formerly used by the County to fill tanks for road sprinkling purposes, to carry water purchased from the Guadalupe Mines to deliver to his own premises for domestic use. From time to time neighbors along the Kooser Road were allowed to tap on to this line and receive domestic water service; meters and service connections supplying their premises were paid for by these water users. Since defendant paid a minimum charge to Guadalupe Mines of \$7.50 per month for this water and paid therefor at the rate of 15 cents per 1,000 gallons, he made a minimum charge to these neighbors of \$1.25 per month for water service. There are some 18 consumers now served through this system. During the summer and fall of 1947 there was insufficient surplus water available from the mines and defendant did furnish some additional water during the remainder of the year from a shallow well and with the aid of a booster pump. However, the supply of water so furnished was insufficient for all consumer demand. The contract with the mining company being subject to revocation at the will of said company, the water from this source was discontinued on December 25, 1947, under the cancellation clause of said contract.

Mr. Norman E. Andrews, new-business agent for San Jose Water Works, testified that his company has installed a six-inch water main routed along Blossom Hill Road, Kooser Road, and Almaden Road for the purpose of increasing the water supply to the Willow Glen District supplied by San Jose Water Works. He stated that all of the consumers now receiving service from the Suggs system could be supplied immediately upon application to said company through this main and through direct connection with the two-inch main belonging to the County of Santa Clara. This witness further stated that his company could obtain permission from the Board of Supervisors to use this county pipe line at any time upon application therefor. All consumers now served by the Suggs system, including the remaining complainant, Mr. E. E. Peters, were satisfied with this method of obtaining water service and therefore agreed to release defendant from all further responsibility and liability for the continuation of the service which he has heretofore rendered. Mr. Suggs himself will receive water for his premises from the San Jose Water Works system.

Mr. Francis Arnerich, representing Almaden Water Company, was the only person protesting the arrangements agreed upon as above. Mr. Arnerich stated that his company would be willing to install mains and supply the consumers herein from his company's system. However, the evidence shows that Almaden Water Company supplies water for agricultural irrigation purposes only in adjacent territory and has no immediate ability to furnish the consumers now supplied by the Suggs system and furthermore has no certificate of public convenience and necessity so to do. In addition thereto, the quality of the water available on the irrigation system is by no means as satisfactory as that which will be obtainable from the domestic water system of San Jose Water Works. Under the circumstances, it appears

that service can be supplied by San Jose Water Works to all consumers on the system operated by defendant Suggs and will be made upon proper application therefor. New connections can be made by said water works, according to the testimony of its representative, Mr. Andrews, within a few hours. It appears therefore that this complaint may be dismissed.

O R D E R

Complaint as above entitled having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted and the Commission now being fully informed in the premises and basing its Order upon the foregoing findings of fact,

IT IS HEREBY ORDERED that the above-entitled complaint be and it is hereby dismissed.

Dated at Los Angeles, California, this 4th day of May, 1946.

E. J. Indurana
Justice F. Craven
Harry Lawrence
Harold P. Hills
Samuel Potter
Commissioners.