

Decision No. 43351

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of
HARRIET O. CASE and DOROTHY H. WOLF
to Discontinue Water Service.

Application No. 30017

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
(Further Hearing)

R. M. Quackenbush, for Harriet O. Case
and for John M. Dickinson, Administrator
of the Estate of Dorothy H. Wolf, deceased;
Edward T. Koford, for himself and for
certain consumers; John Delaney and Louis
Rubbattino, property owners, by John
Delaney; and S. K. Mc Mullin, a property
owner, for himself.

O P I N I O N

These proceedings, heard on a joint record at Santa Rosa before Examiner Gregory on June 6, 1949, are the most recent in a series of formal cases, extending over a period of more than two years, involving a small public utility water system located adjacent to the Valley Ford-Jenner Highway near Bodega Bay, serving about 15 permanent and week end residents of West Beach Subdivision. The early facts (to the end of 1947) have been detailed in prior decisions and will not be repeated here except to clarify current issues.^{1/}

^{1/} Decision No. 40126 (interim order), 4-1-47, Case No. 4827, Appl. No. 27463; Decision No. 40402, 6-10-47, Cases Nos. 4827, 4880, Appl. No. 27463; and Decision No. 41037, 12-17-47 (re-hearing), Cases Nos. 4827, 4880, Appl. No. 27463. The former proceedings, generally, involved a consumers' complaint (Case No. 4827) to determine status of the system; an application (No. 27463) by Miss Case and Mrs. Wolf to discontinue service; and a Commission investigation (Case No. 4880 - here reopened) to determine the status of the Robertsons, who sold the property to the present owners.

In Decision No. 41037 certain recommendations were made for improving storage facilities in order to assure adequate supply during peak use of water, chiefly on week ends. Also, rates were increased to \$24 for an experimental period ending December 31, 1948. The application (No 27463) of Miss Case and Mrs. Wolf to discontinue service was denied without prejudice, and the investigation (Case No. 4880) into the activities of the Robertson brothers was temporarily discontinued.

On February 1, 1949, Miss Case and John M. Dickinson, the latter as Administrator of the Estate of Dorothy H. Wolf, deceased, filed the present application to discontinue service, alleging non-compensatory operations and deterioration of the gathering and storage facilities to the point of needing major repairs and replacements. Revenue for 1948 was \$312 and expenses amounted to approximately \$500, chiefly for labor by Miss Case at \$1 per hour.

The application was opposed by the consumers. The Robertson brothers appeared in response to the notice of reopening Case No. 4880 and disclaimed any interest in the properties. William J. Robertson testified that no unsold lots remained of those he had originally owned in the subdivision. J. D. Reader, an engineer of the Commission's Hydraulic Division, submitted a report on the system, with recommendations designed to conserve the available supply of water. Miss Case testified concerning her experience with the operation of the system during 1948 and the first part of 1949. Testimony was also given by Paul A. Ritter, formerly in command of a service squadron in Africa and Italy engaged in supplying water to troops. Ritter stated he believed additional water could be developed from springs or seepage along the bluff and that the present supply could be conserved and augmented by using an automatic shutoff on the pump, by replacement of the redwood storage tank and by increasing the size of the reservoir.

He believed that the property owners would be inclined to cooperate with Miss Case in repairing the system.

The maximum flow of the springs occurs about May and drops off sharply during the dry summer months.^{2/} The pump produces about 400 gallons per hour and has to be turned on every other day or oftener. The reservoir occasionally overflows in winter and once in a while in summer. The evidence indicates that the reservoir is settling and has cracked, and that the redwood storage tank (about 6,000 gallons capacity) is so badly decayed that it will not hold more than 18 inches of water. The estimated cost of replacing the tank and repairing the reservoir is about \$700. Under present conditions of operation and use, the system barely supplies the domestic needs of approximately 15 consumers, including three permanent residents beside Miss Case, who has her own small pressure system connected directly to the reservoir. It is apparent that it has been possible to divide the scant supply only because of intermittent use by most of the residents. Incidentally, Miss Case has not charged or collected anything for water service since the end of 1948, presumably because of the temporary nature of the rates authorized by Decision No. 41037.

It was pointed out in earlier decisions in these proceedings that the burden falling upon the owners of the system to furnish water as a public utility to all persons within the scope of the original dedication could not long be imposed upon them. Doubling of the earlier rate of \$12 per year and limitation of service to existing premises have not brought relief, and it is extremely doubtful if any increase in rates would have a beneficial effect, since without assurance of additional water the limited number of users would naturally feel reluctant to pay more for the service.

^{2/} Miss Case recorded a flow of 1,000 gallons for a 24-hour period May 23-24, 1949. During the summer the flow decreases to 600-800 gallons per day.

Though it appears that the consumers are aware of the necessity for conserving water and of working out a plan for apportionment of the available supply, none of the recommendations suggested in earlier decisions for individual storage and automatic controls has been adopted. The Commission's engineer, Reader, after a personal inspection, came to substantially the same conclusions as his predecessor on the case (David L. Duncan, since deceased) respecting the amounts of water available and the necessity for improvements in the gathering and storage facilities, as well as the installation of individual storage tanks by the consumers. It was Reader's judgment that water service in the subdivision could probably be provided at less cost than that incurred by Miss Case if operated by a non-profit organization of the present consumers. Miss Case, however, appears to be unwilling to sell the system at the present time. She testified, however, that she would be willing to dispose of two of the seven springs (producing two-thirds of the supply), but would not be willing to join a mutual association of water users. The record does not indicate whether the consumers are willing to meet her price or to form a mutual organization.^{3/}

We conclude that unless prompt steps are taken by the consumers to cooperate in rehabilitating the system and to provide for conserving the existing supply, they can no longer expect Miss Case to provide water at the substantial financial loss she has been experiencing. Unless the users are prepared to pay considerably increased rates, or to advance the sums necessary to pay the cost of needed replacements and repairs, we are unable to perceive how

^{3/} Though not of record, it may be appropriate to mention here that at the end of the hearing on June 6th counsel for Miss Case and for the consumers indicated a willingness to explore the possibility of helping Miss Case improve the system on a cooperative basis. Nothing definite has since transpired along this line.

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Miss Case may rightfully be required to continue to operate as a public utility. On the other hand, if an association were to be formed which was willing to take over and operate the system for the mutual benefit of the consumers, it would seem that Miss Case should be willing to lend a sympathetic ear to any reasonable proposal such an association might agree upon, to the end that all residents of this small community, including Miss Case herself, might share equitably in the available supply of water.

We will not now authorize Miss Case and the Estate of Dorothy H. Wolf, deceased, to discontinue public utility water service, but, if within 90 days from the effective date of this order there shall be a mutual association of consumers formed which is willing to take over and operate the water system, and the present owners are willing to transfer to such association the necessary properties and facilities for supply, storage and distribution of water, the interested parties may join in a supplemental application to the Commission for authority to carry out such transfer. If no such association or other group be formed within the 90-day period the owners of the water system are directed to advise the Commission of that fact, whereupon the Commission will consider issuing a final order herein authorizing discontinuance of water service as a public utility. In the meantime, the owners or operators of the water system should bill all consumers at the rate of \$24 per year for service during 1949. As stated, this rate was established on a temporary basis by Decision No. 41037. At the hearing on June 6th all parties, through their counsel, stipulated that Decision No. 41037 might be considered as being before the Commission in the present proceeding for the purpose of determining whether said decision should be continued in effect for a further limited period, or should otherwise be altered or amended. The experimental period provided therein for the \$24 rate will accordingly

be extended to and including December 31, 1949, or until such time as may be directed by further order of the Commission.

There appears to be no reason for continuing further with the investigation case relating to the Robertson brothers, and that proceeding will accordingly be terminated.

O R D E R

Public hearing having been had in the above-entitled proceedings, evidence having been received and considered, the matters having been submitted for decision and the Commission now being fully advised,

IT IS HEREBY ORDERED:

1. That Decision No. 41037, issued December 17, 1947, be and it is hereby altered to the extent only that the rates for water service provided therein shall be continued in effect for a further temporary period expiring December 31, 1949, unless sooner cancelled or modified by further order of the Commission.
2. That Case No. 4880 be and it is hereby discontinued.
3. That, if within ninety (90) days from the effective date of this order there shall be in existence a mutual association of water users, or other entity, ready, able and willing to accept title to and operate the water system hereinabove referred to, and should Harriet O. Case and the Estate of Dorothy H. Wolf, deceased, or its successors, be willing to transfer said water system, or such portions thereof as may be mutually agreed to by the parties, to said association or other entity, then and in that event said Harriet O. Case, the Estate of Dorothy H. Wolf, deceased, or its successors, and said association shall join in an appropriate application to the Commission for authority to transfer said water system; or, should there be no such association or other

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entity in existence by the expiration of said period of ninety (90) days, or should the parties have failed within said period to reach a mutually satisfactory agreement, Harriet O. Case is directed to file with the Commission a verified statement to that effect.

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

Dated at San Francisco, California, this 4th day of October, 1949.

R. J. [Signature]
Justice J. Cassen
Just. Lowell
Harriet O. Case
Herbert P. [Signature]
Commissioners.