

Decision No. 43864

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the
 Commission's own motion into the classifi-
 cations, contracts, deposits, operations,
 practices, refunds, rules and regulations,
 services and status, or any of them, of
 PARK WATER COMPANY, a corporation, and of
 H. H. WHEELER, either or both in the opera-
 tion of a water system, or water systems,
 for the distribution and sale of water for
 domestic and other purposes in various areas,
 subdivisions and tracts in and in the vicinity
 of Baldwin Park, Compton, Downey, El Monte,
 Montebello, South Gate, and elsewhere in
 Los Angeles County.

Case No. 5175

Mrs. Harold Brown in propria persona;
H. H. Wheeler for Park Water Company;
W. E. Moltke for Public Utilities Commission.

O P I N I O N

This proceeding was brought for the purpose of investiga-
 ting the complaint of Mrs. Harold Brown, 8631 East Gardendale Street,
 near the community of Downey, California, who claims that the Park
 Water Company owes her a refund in the sum of \$236 on an alleged
 refundable deposit made by said Mrs. Harold Brown to said water com-
 pany and/or to H. H. Wheeler, president of said water company, for
 a water main extension to provide water service to her property
 situated on Sandy Lane immediately north of the intersection of
 Gardendale Street and Sandy Lane in said community of Downey⁽¹⁾.

(1) Rates, Rules and Regulations of Park Water Company on file with
 the Public Utilities Commission; see Rule No. 19 filed Decem-
 ber 28, 1942.

A public hearing was held in Los Angeles on February 10, 1950.

The evidence of record shows that, some time in April of 1947, Mrs. Harold Brown discussed with H. H. Wheeler, president of the Park Water Company, a public utility water corporation, a water main extension to provide water service to a house proposed to be built on Sandy Lane, approximately 300 feet northerly of the intersection of Gardendale Street and Sandy Lane. Upon being informed by H. H. Wheeler that, under the water company's Rules and Regulations pertaining to such extension, her pro rata share of the cost would probably exceed \$500, Mrs. Brown stated that she could not pay that amount; whereupon, H. H. Wheeler suggested to Mrs. Harold Brown that the Los Angeles Decomposed Granite Co., a corporation of which H. H. Wheeler is also president, could install the pipe line to her property for less, and a figure of \$230 was agreed upon. On October 10, 1947, Mrs. Harold Brown paid to H. H. Wheeler, by check, the sum of \$236⁽²⁾.

There is no substantial evidence to show that Mrs. Harold Brown entered into a contract with the Los Angeles Decomposed Granite Co. for construction of the water main extension, for her account. In view of the 6-inch main that was installed, which is obviously far in excess of the size of main which would be necessary to serve Mrs. Brown's property, it appears that the installation was made by, or for, the Park Water Company.

(2) The record is not clear whether this was the original payment. H. H. Wheeler testified that a promissory note in the sum of \$230 had been given to him by Mrs. Harold Brown in April, 1947, and that the \$236 check was in payment of said note, plus interest. Mrs. Brown did not remember any loan transaction.

Although the record is not clear concerning the refund of the payment made by Mrs. Harold Brown to H. H. Wheeler, we are of the opinion and find, upon all the evidence of record, that the water main extension was constructed by the Park Water Company or for the Park Water Company by the Los Angeles Decomposed Granite Co. and that, therefore, the payment of \$236 is refundable to Mrs. Harold Brown pursuant to the Rules and Regulations of said Park Water Company, on file with this Commission. The amount advanced by the consumer in this instance is immaterial as it was the responsibility of the water company to require that the proper amount be deposited before a water main is extended.

The evidence in this proceeding indicates that Park Water Company, a corporation, through its president, H. H. Wheeler, attempted to circumvent the provisions of its Rates, Rules and Regulations, particularly its Rule No. 19, by having the water main extension constructed by an affiliated and mutually controlled company, the Los Angeles Decomposed Granite Co., of which H. H. Wheeler is also the president. The complainant cannot be deprived of her refund benefits by such means.

The Park Water Company and its president, H. H. Wheeler, and each of them, are admonished not to negotiate or deal with, directly or indirectly, any prospective new consumers for the extension of its water mains, except as provided in its effective Rates, Rules and Regulations.

Having fully considered the evidence of record, we find that the water main extension, which was installed to applicant's property, was installed by the Park Water Company, or for said company, by the Los Angeles Decomposed Granite Co.; and that the sum

of \$236, paid by Mrs. Harold Brown to H. H. Wheeler, is refundable in accordance with the established and effective Rules and Regulations of said Park Water Company.

O R D E R

Hearing in the above-entitled matter having been held, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Park Water Company be, and it hereby is, ordered to refund the sum of \$236 to Mrs. Harold Brown, of 8631 East Gardendale Street, Los Angeles County, in accordance with Park Water Company's Rule and Regulation No. 19, pertaining to Water Main Extensions.

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

Dated at San Francisco, California, this 28th day of February, 1950.

R. B. Anderson
Justice J. C. Cramer
John A. ...
Harold P. ...
Kenneth H. Potter
COMMISSIONERS