

Decision No. 44197**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Commission's investigation)
 upon its own motion into the public utility)
 operations of MATTIE E. HANEY, doing business as)
 Topanga Canyon Public Utility Water System, to)
 determine whether her certificate of public con-)
 venience and necessity to operate as a water) Case No. 5161
 public utility should be revoked and whether)
 R. W. SPARLING, INC., should be ordered and)
 directed to furnish public utility water service)
 in the territory now served by the said Mattie E.)
 Haney.)

Ben Van Tress for Mattie E. Haney; Bernard Hiemenz
 for R. W. Sparling, Inc.; Harold J. McCarthy for The Public
 Utilities Commission.

O P I N I O N

Under date of November 29, 1949, this Commission issued an Order to Show Cause why the certificate of public convenience and necessity of Mattie E. Haney, doing business as Topanga Canyon Public Utility Water System, should not be revoked, and also an Order to Show Cause why R. W. Sparling, Inc. should not be ordered and directed to furnish public utility water service in the territory now served by the said Mattie E. Haney.

Public hearings were held in this matter at Los Angeles, California, before Examiner Syphers, on various dates commencing December 19, 1949, and ending May 5, 1950. During this period, evidence was adduced and on the last-named date the matter was submitted. It is now ready for decision.

According to the record in this case, the Commission, by Decision No. 39291, dated July 30, 1946, in Case No. 4822, directed Albert E. Haney, doing business as Topanga Canyon Public Utility Water System, the predecessor of Mattie E. Haney, to discontinue all public utility water service to consumers outside of the boundaries of Tracts 7806, 8910, and 6915, Los Angeles County, on and after December 31, 1946, unless and until Albert E. Haney should be granted a certificate of public convenience and necessity authorizing such service. Likewise, there was an added restriction placed on service to Tract 6915, contingent upon said Albert E. Haney's making a proper showing before this Commission that he had obtained an additional water supply sufficient to justify the continuation of water service in that tract.

Under Decision No. 39747, dated December 16, 1946, in Case No. 4822, Mattie E. Haney was substituted for Albert E. Haney as the operator of the Topanga Canyon Public Utility Water System. Under Decision No. 40636, dated August 26, 1947, in Application No. 28325, Mattie E. Haney was granted a certificate of public convenience and necessity to operate a public utility water system in Tract No. 6915.

Subsequently, under date of November 3, 1948, by Decision No. 42198, in Case No. 4966, the said Mattie E. Haney was ordered, on and after January 15, 1949, to discontinue all public utility water service to consumers outside the boundaries of Tracts Nos. 7806, 8910, and 6915, Los Angeles County. Likewise, she was ordered to reconnect Wells 7 and 8 to her public utility water system and, on and after January 15, 1949, to operate, continuously, said wells in connection with Wells 5, 9, and 10, in supplying water

to consumers residing in the aforementioned tracts. It later having come to the attention of the Commission that said Mattie E. Haney had not complied with the terms of the order in Decision No. 42198, supra, an order of fine and imprisonment was issued under Decision No. 43233, dated August 23, 1949, in Case No. 4966, under the terms of which said Mattie E. Haney was fined in the sum of Five Hundred Dollars and, further, was ordered imprisoned forthwith until she performed certain specified acts which were the same as those required of her under Decision No. 42198, supra. In this same decision, No. 43233, the Commission found that a purported transfer by Mattie E. Haney to the Topanga Park Mutual Water Company, of the property on which Wells 7 and 8 are located, was void under the terms of Section 51 of the Public Utilities Act.

Under Decision No. 43577, dated November 29, 1949, in Case No. 4966, the Topanga Park Mutual Water Company and its officers and agents were directed to cease and desist from any interference with the operation of Wells 7 and 8, and one Dale Lippincott, an employee of said Mattie E. Haney, whose duties involved the operation of the utilities system, was directed to operate, continuously, Wells 7 and 8 in connection with the public utility water system.

At the hearings in this matter it was developed that Mattie E. Haney had paid the fine imposed by Decision No. 43233, supra, and the affidavit of the accounting officer of the Public Utilities Commission of the State of California was received in evidence showing that this fine had been paid. Likewise, testimony was presented showing that R. W. Sparling, the president and sole owner of R. W. Sparling, Inc., a public utility water system

operating in territory adjacent to the Topanga Canyon Public Utility Water System, entered into an agreement on December 16, 1949, to purchase from Mattie E. Haney the certificates of public convenience and necessity, and most of the property connected with the Topanga Canyon Public Utility Water System.

Under Decision No. 43698, dated January 17, 1950, on Application No. 30906, the sale from Haney to Sparling was authorized subject to certain specified conditions requiring that a certified copy of the final instrument of conveyance be filed with this Commission and, likewise, an affidavit from Mattie E. Haney indicating the date upon which she relinquished control and possession of the public utility water system. Both of these filings have now been made and all of the requirements of Decision No. 43698 have been met.

While R. W. Sparling, Inc. did not acquire all of the property of the Topanga Canyon Public Utility Water System, and, specifically, did not acquire Wells 7 and 8, it was developed from the testimony in this record that these wells are not necessary to the operation of the utility water system, by R. W. Sparling, Inc., inasmuch as that company has another source of supply.

In view of this record, and considering all of the matters herein, we are of the opinion that the Order to Show Cause should now be dismissed. Inasmuch as the property on which Wells 7 and 8 are located is not now necessary to the operation of the public utility system by R. W. Sparling, Inc., and inasmuch as this Commission has approved the transfer to R. W. Sparling, Inc. of all the certificates of public convenience and necessity formerly held by Mattie E. Haney, we hereby find that the property on which

Wells 7 and 8 are located is no longer subject to the terms of Section 51 of the Public Utilities Act and, therefore, that part of Decision No. 43233, supra, which declared the transfer of that property void, is no longer of any force or effect.

O R D E R

The above-entitled case having been instituted on the Commission's own motion, public hearing having been held therein, and the Commission being fully advised in the premises,

IT IS ORDERED that the Order to Show Cause, dated November 29, 1949, in Case No. 5161, be, and it hereby is, dismissed.

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

Dated at San Francisco, California, this 23rd day of May, 1950.

R. E. Zimmerman
James F. Cullen
Frank J. Sullivan
Harold H. Hill

COMMISSIONERS

Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.