

Decision No. 44435

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAN GABRIEL VALLEY WATER COMPANY,

Complainant,

vs.

WHITTIER WATER COMPANY, and
SAMUEL I. BERG, doing business as
RIVERA WATER SYSTEM,

Defendants.

ORIGINAL

Case No. 5211

INTERIM ORDER

The above complaint, filed June 22, 1950, alleges in substance that a certificate issued to complainant in February of 1950 (Dec. No. 43857, App. No. 30617) included Tracts 16366 and 16320, and that on the petition of defendant Berg (Rivera Water System) the certificate proceeding was reopened to determine whether the decision therein should be modified to avoid conflict between the authority granted complainant and any operating rights of defendant Berg. The complaint alleges that said tracts are not served by defendant Berg.

Complainant alleges further that, in violation of Section 51 of the Public Utilities Act, the Rivera Water System has been transferred to and is being operated by defendant Whittier Water Company or its agent Garnier Construction Company, and that Whittier Water Company or Garnier Construction Company or their agents have contracted to install and are now installing mains in the two tracts and within the area covered by complainant's certificate.

The complaint alleges that, unless defendants or their agents are immediately restrained from encroaching with mains and water services into said tracts and other territory of complainant, serious

12.7.7 and irreparable injury will be caused complainant in that it will be deprived of its right to extend service in the ordinary course of business to points within the territory heretofore certificated to complainant.

Complainant seeks an immediate order restraining defendants, or their agent Garnier Construction Company, or any other agent or employee, from installing lines or facilities, or from distributing water in Tracts 16366 or 16320, or any territory in the area covered by complainant's certificate, and directing defendants to remove immediately all mains or services installed therein.

Certain of the relief sought by complainant is contemplated by the Public Utilities Act. ⁽¹⁾ However, as a condition to the granting of such temporary relief, we believe that complainant should also be required to refrain from making extensions into the two tracts.

As indicated in the complaint, the proceeding wherein a certificate was issued to complainant has been reopened to determine whether that certificate should be modified or amended. That reopened proceeding will be heard on June 27, 1950, together with defendant Berg's application for a certificate in an area including the two tracts mentioned in the present complaint. While the present order will be limited to Tracts 16366 and 16320, all parties will be expected to refrain from making substantial extensions in overlapping territory involved in those proceedings. The complaint herein should be set for hearing at the same time and place as the two application

(1) Section 50(c) provides in part as follows: "When a complaint has been filed with the commission alleging that a public utility of the class specified in subsection (a) of this section is engaged or is about to engage in construction work without having secured from the commission a certificate of public convenience and necessity as required by the provisions of this section, the commission shall have power, with or without notice, to make its order requiring the public utility complained of to cease and desist from such construction until the commission makes and files its decision on said complaint or until the further order of the commission."

proceedings, it being found that public necessity requires a hearing on less than ten days' notice.

Good cause appearing, IT IS ORDERED as follows:

1. Samuel I. Berg and Whittier Water Company, a corporation, and each of them, directly or through agents, affiliates, or employees, pending further Commission order herein, shall immediately cease and desist and shall refrain from extending water mains or facilities to, or from furnishing water service in, those certain tracts of land known as Tract No. 16366 and Tract No. 16320 in Los Angeles County, California.

2. Case No. 5211 is hereby set for public hearing before Examiner Rowe at 10 o'clock a.m. on Tuesday, June 27, 1950, in the Commission Court Room, The Mirror Building, 145 South Spring Street, Los Angeles, California.

3. The Secretary is directed to cause copies of this order, together with copies of the complaint herein, to be served by registered mail *and 1st* upon each of the following:

Whittier Water Company,
109 West Bailey Street,
Whittier, California,

Garnier Construction Company,
109 West Bailey Street,
Whittier, California,

Samuel I. Berg,
9113 East Slauson Avenue,
Rivera, California,

and each defendant is directed to answer the complaint herein on June 27, 1950, unless time be extended by the presiding officer at the hearing.

4. The Secretary is directed to mail copies of this order to each of the following:

Faries and McDowell,
417 South Hill Street,
Los Angeles 13, California,

Gordon and Knapp,
453 South Spring Street,
Los Angeles 13, California. *on 7/1/50 signed*

This order shall become effective on the date hereof.

Dated, San Francisco, California, this 23rd day of June,

1950.

A. Z. Indiguna

Harold Powell

Harold Kula

Commissioners