

Decision No. 44871**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PROPERTY OWNERS AND RESIDENTS OF
ROWARDENNAN REDWOOD PARK

VS.

EMERY THOMPSON

Case No. 5020

In the Matter of the Investigation on
the Commission's own motion into the
service, rates, contracts, rules, regu-
lations, operations, practices, or any
of them, of E. G. Thompson, doing busi-
ness as Ben Lomond Redwood Park Water
Co., operating a public utility water
system in a subdivided area located in
the vicinity of City of Ben Lomond,
Santa Cruz County, California.

Case No. 5041

Emery G. Thompson, in propria persona;
Jean E. Hoffman, Secretary of Redwood
Park-Lomond Terrace Improvement Club,
for complainants; Alice Earle Wilder,
for San Lorenzo Valley Chamber of
Commerce and for herself as part owner
of Mountain Springs Water Service.

FIRST SUPPLEMENTAL OPINION

In its Decision No. 43182, dated August 9, 1949, on the above-entitled proceedings, this Commission ordered Emery G. Thompson, doing business as Ben Lomond Redwood Park Water Company in the County of Santa Cruz, to institute certain practices in the operation of his water system and to install and complete on or before March 1, 1950, certain specified repairs, replacements, and improvements to the water system, and, furthermore, ordered said Emery G. Thompson to file a progress report monthly with this Commission, beginning October 1, 1949, and continuing until completion of the repairs, replacements, and improvements specified in

paragraph 3 of the Commission's order. In addition thereto, the Commission established schedules of increased rates for water service to be rendered by said Emery G. Thompson on and after the first day of October, 1949. Said rate schedules were subject to the condition that, in the event of failure by said Emery G. Thompson to comply with the terms and conditions of paragraph 3 of said order by not having said repairs, replacements, and improvements installed and constructed to the satisfaction of the Commission on or before March 1, 1950, then the established rate schedules, without further order of this Commission, would be in effect no longer and the effective rates for service rendered on and after that date would be the rates previously charged.

Thereafter, on the 28th day of February, 1950, said Emery G. Thompson was granted an extension of time, to and including April 1, 1950, within which to complete the repairs, replacements, and improvements in his water system, as ordered by Decision No. 43182. The order extending time for compliance with said decision also provided that the schedules of rates then on file for water service rendered by said Emery G. Thompson were to be continued in effect until further order of the Commission.

A field investigation made during April by an engineer of the Commission staff disclosed the fact that said Emery G. Thompson had failed to comply with the terms of the Commission's orders issued in these proceedings; that very little work had been completed by Emery G. Thompson in compliance with the terms of said order; and that practically none of the repairs, replacements, and improvements, as ordered in paragraph 3 of the Commission's order in said Decision No. 43182, had been constructed, installed, or completed. Furthermore, only one monthly progress report had been filed by Emery G. Thompson. However, he had filed the rate

schedules established by the order in said decision. Wherefore, on May 2, 1950, by Decision No. 44133, the Commission ordered that the submission theretofore entered in the above-entitled matters be set aside and that the matters be reopened for further hearing.

A further hearing in these matters was held before Examiner Foster at Ben Lomond on July 6, 1950, which matters were consolidated for taking of evidence and decision.

A supplemental complaint prepared by the Redwood Park - Lomond Terrace Improvement Club, representing the property owners and residents of Rowardennan Redwood Park, was presented and filed as Exhibit No. 5 in this proceeding. The complaint alleged that Emery G. Thompson had not completed the required work, had not used the most efficient and effective methods in prosecuting the work that has been started, and apparently would not have any of the major improvements ready for service to take care of the anticipated heavy summer water demand. The complaint asked that the Commission invoke any and all of its powers to enforce the provisions of the order in said Decision No. 43182 and, in fairness to the water users, that the rates be returned to their former level as provided in that order, until such time as reasonable rates can be established, based upon actual performance rather than hoped-for improvements, with the recognition that further adjustments may be necessary when conditions warrant.

Further testimony by an engineer of the Commission's Hydraulic Division, based on his field investigation made during the latter part of June, served to corroborate the allegations contained in the supplemental complaint; namely, that Emery G. Thompson for the most part had failed to comply with the provisions

of the Commission's order in Decision No. 43182. The meager extent to which he has made any effort to comply therewith is indicated by the following brief summary, the paragraph numbers corresponding to those in the order contained in Decision No. 43182:

1. The new rate schedules authorized to become effective for service rendered on and after October 1, 1949, were forwarded by said Thompson for filing, enclosed with his first progress report dated September 29, 1949.
- 2.a. A telephone was installed in Thompson's home, considered as the office of the utility and, in his absence, a neighbor is authorized to take messages. However, Thompson did not notify his consumers in writing of the establishment of such office, its location, its telephone number, and the name of the party in charge thereof.
- b. In lieu of employing a plant operator to operate the system in his absence, Thompson has maintained residence in the area himself, ever since the public hearing of June 3, 1949.
- c. Only a crude form of journal and an inadequate customer account ledger are kept, with no attempt made to maintain a full set of records and accounts, as prescribed by the Commission for water utilities.
- 3.a. Nothing has been done toward relieving the air-lock at various points in the distribution system.
- b. The $\frac{1}{2}$ -inch feeder to the Kingham tank has not been replaced by a larger line.
- c. The intake to the diversion facilities at the 730-foot level tanks has been cleaned, but no permanent improvement made.
- d. Property has been secured and the excavation nearly completed for an additional storage tank at the 850-foot level, but nothing more has been done. Not even a site has been obtained for the additional 730-foot level tank.
- e. Some of the tanks have been screened and one locking-type valve installed, but the Kingham tank is still open, and many valves and appliances are still unprotected from tampering by unauthorized persons.
- f. A small metered service connection from the water main of Citizens Utilities Company of California (formerly Public Utilities California Corporation) has been secured, but without a tank in which to

store the water, and with no pump to lift it to the central park area, this connection is practically useless. Some 400 feet of 3-inch pipe is distributed along the route of the proposed pump-discharge line, excavation for the tank is completed, forms for a concrete foundation have been built, and a chute has been constructed for pouring concrete down from an upper road; all of this work has been in its present incompleting state for several months.

- g. No additional meters have been installed, although some consumers have requested them. There are a few meters installed on consumers' services, but nobody has been billed at the quantity rates.
4. The first progress report, dated September 29, was received on October 3, 1949. An unsigned letter from Ben Lomond Redwood Park Water Company was received January 28, 1950, which could possibly be considered a progress report. In that letter, an additional report was promised "on or about the 10th of February," but was not received by the Commission.

To bring up to date the information contained in the report submitted in evidence as Exhibit No. 4, prepared by the Commission staff, Witness Catey presented some additional data subsequently secured. In May, 1950, a questionnaire was sent out by the Commission in order to determine which of the four optional rates was desired by each customer and also to serve as a check on the utility's records of charges to its consumers. From the data sent in by the customers supplemented by information from the utility's records, it appears that the following distribution of customers would prevail:

Year-round, flat rate.....	73
Year-round, meter rate.....	12
Seasonal, flat rate.....	5
Seasonal, meter rate.....	<u>19</u>

Total.....109

Based on the presently established rates, the estimated results of operation of the utility for the year 1950 indicates an annual gross operating revenue of \$3,050 and an annual net revenue of \$900, which results in a rate of return of 8.7% on a rate base of \$10,300.

In general, Emery G. Thompson did not dispute the fact that the improvements, already referred to, had not been made. He stated that since he had taken over the system a number of years ago, the income from it has never been enough to finance extensive improvements nor to warrant the borrowing of money. He claimed that he has spent considerable time and effort on the system, working toward permanent improvements; and that the majority of the customers are satisfied with present service conditions; and, barring accidents, freezes, and slides, can maintain an adequate supply of water at all times. He admitted that there are some dissatisfied customers and stated that the present rates are slightly severe on some consumers. When questioned as to the amounts of his collections and expenditures since the increase in rates was authorized, the following approximate figures were elicited from him:

Total amount of billings since January 1, 1950....	\$2,540
Total collections to July 5, 1950.....	1,368
Total utility expense.....	1,020

When it is pointed out that most of the utility revenue, under the presently filed rates, comes from annual charges payable by permanent residents on or before January 1, or by summer residents before service is rendered, it appears from the above table that Emery G. Thompson has been negligent in making collections from his customers which revenue, under the filed tariffs, would have enabled him better to finance the needed improvements. In the matter of bookkeeping, the record shows that the owner of this utility is not maintaining a proper set of books and accounts. Furthermore, it is evident that Thompson has not used even the limited funds that were available to him for the completion of any one of the major improvements ordered by the Commission, nor has he effected any material improvement in service to his consumers.

In short, the record in this proceeding serves to emphasize and confirm the fact that deficiencies of supply,

distribution, and management, long inherent in this system, still persist and that Emery G. Thompson has not shown willingness to make a sincere effort to overcome these deficiencies even under the favorable circumstances afforded him by this Commission.

The Commission established the present rates in an effort to put the utility on a sound financial basis and to provide the owner with every possible incentive and encouragement to adopt reasonable practices and procedures of operation and management and to install the recommended facilities, all of which are necessary for satisfactory operation of this water system as a public utility.

The consumers of this utility should not be required to continue to pay for the quality of service which was expected but which has not been realized and the Commission, under existing conditions, is committed to revoke the present rate schedules and to restore the approximate level of charges that existed prior to the time of rendering its Decision No. 43182. The order herein will establish new schedules of rates which will provide for the increased operating expenses resulting from the installation of telephone service, the standby water service connection, and the known increase in property taxes.

At the hearing a number of consumers, including certain permanent residents, requested that the utility be required to install meters on their services. The difficulty in this procedure appears to lie in the fact that the utility owner is unable to finance the cost of meter installation. In order that metered service may be available, the order will provide for a meter schedule of rates which will include a provision for the cost of the meter to be advanced by any consumer who exercises his option to be served through a meter, which cost will be refunded by the utility over a short period of years.

Certain consumers, whose premises are in that portion of the utility's service area lying below and west of the state highway and which are now served from the small spring at elevation 410 feet, complained of poor pressure conditions and asked if they could apply for service from Citizens Utilities Company of California, whose water mains already pass through this area. Since the Citizens Utilities Company was not a party to this proceeding, the record herein is insufficient upon which to issue a decision ordering or permitting such competition.

The rates now in effect were established on the premise that Emery G. Thompson would make additions and improvements to his system, with corresponding increases in annual expense. Since he has failed to make any material additions to his operative fixed capital, the charges to the consumers for future years should be adjusted. It is estimated that the rates herein authorized will produce a net revenue of approximately \$300 and will result in a return of slightly less than 3% on a rate base of \$10,300. These rates will result in an increase in the annual charge to permanent consumers from \$18 to \$20, and an increase to seasonal residents from \$16 for 12 months to \$16 for eight months, with a \$2 charge for each additional month.

FIRST SUPPLEMENTAL ORDER

A further public hearing having been held in the above-entitled and numbered proceedings, evidence having been received and considered, and the matters having been submitted again for decision; now, therefore,

IT IS HEREBY FOUND AS A FACT that the rates and charges authorized herein are justified; therefore,

IT IS HEREBY ORDERED that applicant is authorized and directed to file in quadruplicate after the effective date of this order, in conformity with General Order No. 96, the schedules of rates shown in Exhibit A attached hereto, and, after not less than

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service rendered to both permanent and summer residents.

TERRITORY

In and about the tracts known as Ben Lomond Redwood Park, Rowardennan Redwood Park, and Lomond Terrace, adjacent to and south of the town of Ben Lomond, Santa Cruz County.

RATES

Monthly Quantity Rates:

Per Meter

First 300 cu. ft. or less, included in annual minimum charge	
Next 500 cu. ft., per 100 cu. ft.	\$0.25
Next 1,200 cu. ft., per 100 cu. ft.20
Next 3,000 cu. ft., per 100 cu. ft.15
Over 5,000 cu. ft., per 100 cu. ft.10

Annual Minimum Charge:

Payable in advance on January 1 of each year 15.00

SPECIAL CONDITIONS

1. A meter will be installed and this rate schedule applied at the option of either the customer or the utility. If the meter is installed at the request of the customer, said customer will be required to deposit \$25 with the utility, after the meter is set. This deposit will be refunded as a \$5 annual credit on future water bills until refunded. If the meter is installed at the utility's option, no deposit will be required.

2. Charges for water used in excess of 300 cu. ft. per meter per month will be billed monthly.

Schedule No. 2

GENERAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate domestic water service.

TERRITORY

In and about the tracts known as Ben Lomond Redwood Park, Rowardennan Redwood Park, and Lomond Terrace, adjacent to and south of the town of Ben Lomond, Santa Cruz County.

RATES

Annual Charge:	<u>Per Service</u>
Permanent residents or summer residents who request year-round service, payable in advance on January 1 each year	\$20.00
Summer residents who request service for eight consecutive months only during the calendar year payable yearly in advance before service is rendered	16.00
For each additional month, over four ^{eight}	2.00 ^{2.2}

SPECIAL CONDITIONS

1. Summer residents who desire water service in addition to the four consecutive months' service that would be included in the summer-resident annual minimum charge, may pay the permanent resident annual minimum charge and thereby be entitled to water service during every month of the year.
2. Commercial establishments will all be metered.

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five (5) days' notice to this Commission and to the public, to make said rates effective for service rendered on and after the first day of January, 1951.

In all other respects, Decision No. 43182, dated August 9, 1949, remains in full force and effect.

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

Dated at San Francisco, California, this 30th day of October, 1950.

R. J. [Signature]
Justice F. [Signature]
L. J. [Signature]
Harold P. [Signature]
[Signature]
Commissioners.