

ORIGINAL

Decision No. 46177

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SUNSHINE WATER COMPANY, a corporation,)
for a certificate of public convenience) Application No. 31947
and necessity to furnish water service) (Amended)
to certain unincorporated territory in)
the County of Los Angeles, California.)

Hill, Farrer, and Burrill by William S. Scully
for applicant, and Edmund F. Barker for Orchard
Dale Service Company, petitioner.

OPINION ON REHEARING

By its order dated April 3, 1951, the Commission granted a rehearing on Decision No. 45361 dated February 13, 1951, with respect to "Parcel No. 5", in the above-entitled application. A public hearing in this matter was held before Examiner Warner in Los Angeles, California, on August 8, 1951.

In its petition for rehearing, filed March 5, 1951, Orchard Dale Service Company, a public utility water corporation, argued that there was no justification for the finding by the Commission in Decision No. 45361:

1. That Orchard Dale Service Company was not able to furnish service from a water supply standpoint;
2. That Orchard Dale Service Company was not able to furnish service from a financial standpoint; and
3. That public convenience and necessity will require the operation by Sunshine Water Company of a water system in "Parcel No. 5".

"Parcel No. 5" is bounded on the west by Leland Avenue, on the north by Virginia Street, and on the south by Utica Street, in an area southeast of the City of Whittier between Anaheim-Telegraph Road and Imperial Highway, in unincorporated territory,

Los Angeles County. The area designated as the "Martin Ranch", also known as "Parcel No. 5", on the map attached to the order in Decision No. 45361 as Exhibit A thereof comprises approximately 60 acres, more or less, and is immediately adjacent and contiguous to the presently certificated service area of Sunshine Water Company to the east thereof, and to an area being served by Orchard Dale Service Company designated as Tract No. 15518 ~~immediately adjacent and contiguous to "Parcel No. 5" to the south thereof.~~ "Parcel No. 5" is described as follows:

Beginning at the Southwesterly corner of Tract No. 15518; thence South along the East line of Leland Avenue, to Utica Street; thence Easterly along the North line of Utica Street to a point which is the prolongation of the Easterly line of Tract No. 15518; thence North along said line to the Southeasterly corner of Tract No. 15518; thence West along the South line of Tract No. 15518, to the point of beginning.

The area is more particularly delineated on the map filed with the application in this proceeding as Exhibit A, and is also shown in Exhibits Nos. 43 and 55 filed at the original hearings and rehearing.

In its opinion in Decision No. 45361, the Commission found that Sunshine Water Company has ample facilities to serve the proposed additional areas applied for, including those under protest and including "Parcel No. 5". The Commission further found in February, 1951, that Orchard Dale Service Company was not able, at that time, from a water supply standpoint or from a financial standpoint, to serve the areas which it protested, and that the public interest would best be served by the granting of Sunshine's application to serve "Parcel No. 5" as well as certain other territory applied for but not in controversy herein.

The record shows that on August 30, 1948, Orchard Dale Service Company entered into an agreement (Exhibit No. 54) with Adrian R. Sweet and Frank L. White, a partnership known as "Sweet and White", owners, in 1948, of approximately 100 acres of unsubdivided land, a portion of which has been subdivided as Tract No. 15518. The balance comprises "Parcel 5", which is, as yet, unsubdivided.

The agreement between Orchard Dale and "Sweet and White" provided for the selling and delivering of water by Orchard Dale to a point at the boundary of its then present service area. It also provided that "Sweet and White" would install all pipe lines for the distribution of water to the subdivisions, lots, and premises in the 100 acres as they were developed, and would lend certain monies to Orchard Dale as required by Orchard Dale for making the installations necessary and required by the contract. Witnesses for each of the parties to the agreement testified at the hearing on August 8, 1951 that the agreement was still considered to be in effect. However, a witness for Orchard Dale testified that the agreement had never been submitted to the Commission for its attention, review, or approval. Tract No. 15518 was subsequently subdivided and now comprises 134 active domestic water service connections and is served by Orchard Dale.

The disputed "Parcel 5" comprises approximately 60 acres, of which a Mr. Frank M. Martin now owns 10 acres in the northeast corner and "Sweet and White" own the remaining 50 acres. If the 50 acres were subdivided, the record shows, approximately 320 lots would be created and approximately 320 homes could be constructed thereon. The record shows that Orchard Dale desires to serve such possible future development in "Parcel No. 5" under the terms of its afore-mentioned contract and in the course of

anticipated expansion of its present domestic water system to the south. Sunshine would like to serve the area in the course of anticipated expansion of its present water system to the east. The Commission, of course, is not bound by the contract between Orchard Dale and "Sweet and White" inasmuch as it has never had an opportunity to consider its reasonableness or to consider the degree of public convenience and necessity implied by its terms.

The record shows that Sunshine Water Company has an ample supply of water which may be obtained from some six wells (four wells, only, being operated; two others capable of production, but not used), with a total estimated production capacity of in excess of 2,500 gallons per minute. Sunshine is presently furnishing domestic water service to between 1,100 and 1,200 active consumers and the water system appears, from the record, to be well constructed, ably managed and operated, and financially sound.

With respect to Orchard Dale's source of water supply, the record shows that through a contract with La Habra Heights Mutual Water Company, a copy of which was filed at the August hearing as Exhibit No. 57, and approved by the Commission's Decision No. 39616 dated November 15, 1946, in Application No. 27924, Orchard Dale is entitled to 150 miner's inches of water from the Bartolo wells located on the so-called Judson properties about $4\frac{1}{2}$ miles southwest of Orchard Dale's presently certificated service area. The water from the Bartolo wells is obtained by Orchard Dale from La Habra Heights Mutual Water Company and transported and delivered by the latter to a 1,250,000-gallon reservoir which is used for the storage of both domestic and irrigation water and is located in the northerly portion of Orchard Dale's service area. Orchard Dale owns an interest in

said reservoir and shares the costs of production and transportation of the water with La Habra in accordance with the terms of its contract therewith.

At the present time Orchard Dale is furnishing domestic and irrigation water service to approximately 650 consumers. The record shows that an additional 100 homes are under construction within its service area. Orchard Dale's witness testified that he estimated that the maximum demand on Orchard Dale's domestic system was 10 miner's inches of water for each 100 consumers. However, he stated that at the present time the total domestic and irrigation demand on the system was approximately 120 miner's inches, and that if "Parcel No. 5" were developed and were served by Orchard Dale, the demand would be increased by an additional 33 miner's inches. This would leave Orchard Dale with an estimated future deficiency of 3 miner's inches. Orchard Dale's witness stated that this estimated deficiency could probably be made up from a well known as the Cline well located on Victoria Avenue. This well, although producing hard water, is believed to be potable and free of bacteriological contamination. No lease has been effected for the use of the well but negotiations between Orchard Dale and the present owner are in progress.

Orchard Dale's witness also testified that negotiations are in progress to dispose of about 70 consumers to Whittier Water Company in an area along Colima Road north of Hawes Avenue, as shown in Exhibit No. 52. Should this transfer of properties be effected, it would eliminate a bad pipe line on Colima Road and would release about 10 miner's inches of water for use elsewhere throughout Orchard Dale's system. If this plan were effected, and the record shows that it is still in preliminary stages of negotiation, and would be subject to future application to and

approval by the Commission, an over-all excess of 7 miner's inches would result. This, however, is not considered to be a safe margin of excess supply for expansion by Orchard Dale into additional territory in the degree outlined herein in the possible development of "Parcel No. 5".

Orchard Dale's witness further testified at the August hearing that attempts were now being made to borrow \$75,000 from an insurance company or a bank to be used for the purchase and construction of a steel storage tank, \$52,500; for a tank site, \$3,500; to replace a line on Hawes Avenue, \$4,000; to replace 600 feet of redwood stave pipe, \$2,500, and for a reserve for meters and services, \$12,500. The negotiations for this financing, also, are still in the preliminary stage, and it appears from the record that other capital expenditures on the present system would be necessary to recondition the water system adequately.

By its Decision No. 44165 dated May 16, 1950, in Application No. 30808, Orchard Dale was granted a rate increase which was intended to improve its financial position. At the hearings in that application Orchard Dale outlined a program of contemplated improvement of its water system which has not as yet been effected. The record shows that Orchard Dale's financial position was improved but it is not, as yet, as stable as that of Sunshine.

A comparison of the presently filed rates of Sunshine and Orchard Dale shows that the rates of Sunshine are lower than those of Orchard Dale.

After a careful review of the record of the proceedings in this matter, including the original hearings and the rehearing, it is concluded that it would not be in the public interest to leave "Parcel 5" open for expansion under the provisions of

Section 50(a) of the Public Utilities Act either by Sunshine or Orchard Dale. There appears to be no advantage, and it would not be in the public interest, to defer a decision on the question of which company is to serve "Parcel No. 5" in the future until a later date.

It may be noted that the record shows that "Sweet and White", are negotiating with other undisclosed parties to sell their properties for subdivision purposes.

The Commission finds that Sunshine Water Company has ample supplies of water for any foreseeable domestic development in "Parcel No. 5"; its service and maintenance offices and crew are conveniently located with respect to "Parcel No. 5"; its installed mains are large enough and in good enough condition to serve "Parcel No. 5"; and, its general financial and operating conditions are advantageous to the serving of "Parcel No. 5", all as contrasted to those of Orchard Dale, as shown in the record and as previously found by the Commission in its Decision No. 45361. It is further found that by granting Sunshine's application to serve "Parcel No. 5" which will enable Sunshine to operate a fully integrated water system, the public interest will best be served. Said decision, therefore, will be affirmed by the order herein.

ORDER ON REHEARING

Sunshine Water Company, a corporation, having on December 1, 1950, filed an application for a certificate of public convenience and necessity, the Commission after public hearing having issued its Decision No. 45361, dated February 13, 1951, granting said certificate, a petition for rehearing having been

filed by Orchard Dale Service Company and public hearing thereon having been held on August 8, 1951, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that the Commission's Decision No. 45361 dated February 13, 1951 is affirmed and shall remain 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 4th day of September, 1951.

R. T. [Signature]
President.
Justin J. Calmes
Harold P. Hule
Wm. W. Pittman
Robert L. Mitchell
Commissioners.