

ORIGINAL

Decision No. 47235

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

A. L. BOHMER,)	
Complainant)	
vs.)	Case No. 5344
CALIFORNIA WATER AND TELEPHONE)	
COMPANY,)	
Defendant)	

Crittenden, Holley and Gibbs, attorneys, by Philip Crittenden, for complainant; Miller, Higgs, Fletcher & Mack, attorneys, by Dewitt A. Higgs, for defendant; Reginald H. Knaggs, for the Commission staff.

O P I N I O N

A. L. Bohmer, an individual, filed the above-entitled complaint against California Water and Telephone Company on December 14, 1951, asking that the company be ordered to accept an application for water service from him and to extend water service to his property, the western portion of Lot No. 23 of Winn's Sierra Vista Ranch, San Diego County, either in accordance with the company's Rule and Regulation No. 18, or in accordance with its Rule and Regulation No. 19-A, and to furnish water service to him after such extension of water service in accordance with the company's filed rules and regulations.

A public hearing in this matter was held before Examiner Warner on April 22, 1952, at San Diego. The complainant, A. L. Bohmer, was not present at the hearing due to a sudden death in his family in Illinois, and Philip Crittenden, his attorney, testified in his stead.

Substantial evidence was taken from both parties at the hearing. The matter was taken under submission for the Commission's decision upon the basis, of record, that continuance of the matter might be requested by letter by April 28, 1952, by either party and that if such a request for continuance were duly filed, the Commission would then act upon it. Accordingly, and in his letter dated April 25, 1952, defendant's attorney requested that the matter be continued for defendant to examine complainant under oath. The Commission has considered such request. It appears that inasmuch as complainant elected to base his complaint on the allegations therein as originally filed, together with testimony by his attorney in support thereof, and that inasmuch as the stated purpose for which defendant's attorney desired to examine complainant under oath, i. e., to question him regarding the circumstances relating to prospective water service, or lack of it, surrounding the purchase by complainant of the westerly portion of Lot 23, is and would be irrelevant to the issue in this proceeding, defendant's request for continuance will be denied. The Commission is of the opinion that the record contains sufficient evidence for a final determination of the question of whether or not complainant is entitled to water service to his property as he applied for it to defendant.

The record shows that A. L. Bohmer, complainant, is the owner of the west 137 feet of Lot 23 in Tract No. 1718, of Winn's Sierra Vista Ranch, San Diego County. This property, which is shown on the map filed at the hearing as Exhibit No. 1, and upon which complainant has constructed a home, is within the authorized service area boundaries of defendant's Sweetwater District. It is located about 375 feet south of Bonita Mesa Road on the east side of Avenida Pala Verde.

On November 6, 1951, complainant and his attorney went to the division office of defendant in National City and requested water service to complainant's property. Defendant refused to accept an application for such water service, claiming that the portion of Lot 23 owned by complainant and purchased from George P. Winn and Beatrice Winn, represented a portion of a resubdivision of Tract No. 1718 as originally subdivided by the said Winns. Defendant claimed, therefore, that the Winns should advance the cost of installation of water mains to serve such resubdivision through a new subdivider's agreement in accordance with defendant's Rule and Regulation No. 19-B, Extensions to Serve Tracts or Subdivisions.

The installation of a water system to serve Tract No. 1718 as originally subdivided was effected in accordance with the terms of a subdivider's agreement dated August 3, 1948, a copy of which was filed at the hearing as Exhibit No. 5. Such installation included a 4-inch main in Rio Vista Place at the east property line of Lot 23.

The record shows that subsequent to the completion of the installation of water mains in Tract No. 1718, the Winns cut up Lots 22, 23, 24 and 25 into easterly and westerly portions. Each of the east portions fronts on Rio Vista Place; the west portions on Avenida Pala Verde. The west portion of Lot 23 was sold to complainant.

Defendant has attempted unsuccessfully to negotiate with the Winns a new subdivider's agreement. The new agreement would provide that the Winns advance the cost, estimated to be \$2,730, of installing a 6-inch main from Bonita Mesa Road in Avenida Pala Verde to connect with an existing 6-inch main in Rio Vista Drive just west of the intersection of Rio Vista Drive and Rio Vista Place.

This Commission does not determine what constitutes or does not constitute a subdivision or resubdivision, and no determination of that issue between defendant and the Winns can or will be made in this proceeding.

Complainant is willing to receive water service either from the east or the west end of his property.

If defendant furnishes water service from the east, complainant can and will obtain an easement for a pipe line, to be installed by him and at his expense; such pipe line to run from a meter located in Rio Vista Place at the east property line of Lot 23 to the east line of complainant's property. The record shows that there is precedent elsewhere in defendant's Sweetwater District for this type of water service installation.

The record further shows that water service from defendant's 6-inch main in Bonita Mesa Road could be furnished by defendant to the west end of complainant's property by the installation in private easements, or in Avenida Pala Verde, of a main, at least 2 inches in diameter, running about 425 feet southerly from Bonita Mesa Road to the westerly portion of Lot 23 fronting on Avenida Pala Verde.

It is evident to the Commission that complainant is entitled to water service to his property as an individual property owner, and that defendant should furnish such water service to complainant either through installation of a meter in Rio Vista Place at the east property line of Lot No. 23, in accordance with defendant's Rule and Regulation No. 18, Extension of Water Service, Cost and Ownership on Private Property, or should extend a main at least 2 inches in diameter from its present 6-inch main in Bonita Mesa Road to serve complainant's property; the cost of installation of the first 100 feet of a 2-inch main

extension to be borne by defendant, the balance of the cost of such extension to be borne by complainant in accordance with defendant's Rule and Regulation No. 19-A, General Extensions.

O R D E R

A. L. Bohmer, an individual, owner of the west 137 feet of Lot No. 23 in Winn's Sierra Vista Ranch, Tract No. 1718, San Diego County, having filed a complaint against California Water and Telephone Company, defendant, for its refusal to accept an application for water service to his property, a public hearing having been held, the matter having been submitted on the basis that a request for continuance might be made by either party by April 28, 1952, and that if such request were made the Commission would then act upon it, defendant having made such request, and this case now being ready for decision;

IT IS HEREBY ORDERED that the request of California Water and Telephone Company, defendant, for further hearing for the purpose of examination of the complainant under oath, be, and it is, denied.

IT IS HEREBY FOUND AS A FACT that A. L. Bohmer, complainant, is entitled to water service by defendant to his property as an individual property owner in accordance with defendant's Rule and Regulation No. 18, Extensions of Water Service, Cost and Ownership on Private Property, or in accordance with defendant's Rule and Regulation No. 19-A, General Extensions; therefore,

IT IS HEREBY ORDERED that California Water and Telephone Company, defendant, shall furnish water service to A. L. Bohmer, complainant, at his property in the west 137 feet of Lot No. 23 in Winn's Sierra Vista Ranch, Tract No. 1718, San Diego County,

either by placing a meter at the east boundary of Lot No. 23 in accordance with its Rule and Regulation No. 18, or by extending a main at least 2 inches in diameter from Bonita Mesa Road southerly to complainant's property; the cost of installation of the first 100 feet of a 2-inch main extension to be borne by defendant, the balance of the cost of such extension to be borne by complainant in accordance with defendant's Rule and Regulation No. 19-A.

IT IS HEREBY FURTHER ORDERED that California Water and Telephone Company, defendant, shall file with the Commission, in writing, within thirty (30) days after the effective date of this order, a statement showing its compliance therewith.

The Secretary is directed to cause a copy of this decision to be served upon California Water and Telephone Company. The effective date of this order shall be twenty (20) days after the date of such service.

Dated at Los Angeles, California, this 5th day of

June, 1952.

[Signature]
President.

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners.