

ORIGINAL

Decision No. 47545

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on)
the Commission's own motion into the)
operations, practices, contracts, main)
extensions, service area, water supply)
and water service, and related matters,)
or any of them, of DEL ROSA HEIGHTS)
WATER COMPANY, a corporation, operating)
a public utility water system in the)
general area known as Del Rosa, in the)
County of San Bernardino.)

Case No. 5325

Cunningham, Parry and Holcomb by Thomas C. Parry, attorney, in propria persona, and for Del Rosa Estates Property Owners' Association; Rudolf Mosler, builder, and Irving Stern, subdivider of Tract No. 3757 (Obst Tract) in propria personae, Ford Brown, George H. Rau, Mrs. Albert Sanderson, Quincy Brown, Mrs. Shirley A. Roseland, Earl M. Baker, George Jacoby, Jack Paul Wittman, Mrs. S. Hochstein, Spencer Nordyke, Fred Steppan, O. B. Kerr, Mrs. C. D. Asmus, Mrs. C. L. McMillan, Mrs. Laura L. Askins, interested parties; L. R. Myers, president, for Del Rosa Heights Water Company; James F. Wilson, R. H. Knaggs, for the Commission's Staff.

SECOND INTERIM OPINION ON REOPENED PROCEEDING

A further hearing in the above-entitled matter was held before Examiner Warner on July 30, 1952, at San Bernardino for the purpose of ascertaining the status of the water supply and service of Del Rosa Heights Water Company as of that date.

After taking evidence from numerous consumer witnesses and from Dr. Floyd F. Graefe, owner and operator of Del Rosa Domestic Water System, an adjoining water company, and from L. R. Meyers, president of Del Rosa Heights Water Company, the matter was continued to a date to be set.

The record now shows that an emergency exists with respect to the source of water supply owned by Del Rosa Heights Water Company and, further, with respect to the financial condition and operation of the company.

Exhibit No. 1 is a copy of an agreement between the water

company and Elias Shahan, dated June 14, 1952. This agreement provides for the furnishing of surplus water from Shahan's well, adjacent to the company's well on the so-called "Reservoir Lot", for 30 days at the rate of \$1.50 per 1,000 cubic feet.

Exhibit No. 2 is a copy of an agreement dated July 25, 1952, between the company and Del Rosa Estates Property Owners' Association providing for the advance payment of water bills by consumers in order to pay for water obtained from Shahan under the terms of the agreement Exhibit No. 1. Exhibit No. 2 provides that the money collected by the Property Owners' Association be delivered to Cunningham, Parry and Holcomb, attorneys for Elias Shahan for deposit to the account of the water company when a check from the water company in the same amount of such deposit is held by said attorneys.

Exhibit No. 3 is a list of checks totaling \$586.00 received by Cunningham, Parry and Holcomb as of July 28, 1952.

Exhibits Nos. 4 and 5 are schedules of dates, times and hours of water service interruptions. They show, among other things that on July 23rd water service was interrupted for 15-1/4 hours; on July 25, for 13 hours; on July 26, for 6-3/4 hours. They also show many other interruptions of water service of several hours' duration each.

Exhibit No. 6 is a copy of a resolution signed by property owners in the Del Rosa Estates Subdivision petitioning the Commission to take immediate steps to protect the consumers through the use of powers granted the Commission by the State of California.

Public hearings in this matter have been held on November 7, 1951, and March 26, 1952, and the Commission has issued its orders, after each of such hearings, that the company secure an adequate source of water supply and improve its water distribution facilities

and water service. Several informal investigations and conferences have been conducted by the Commission staff since the March, 1952, hearing in attempts to assist the company in arranging for additional water supplies.

The record shows that a possible alternate source of supply from Dr. Graefe's Del Rosa Domestic Water System has not been realized and that the purchase by Dr. Graefe of a well, said by Dr. Graefe to be capable of providing 120 miners' inches on the so-called Watson acreage not far from the southernmost portion of the Del Rosa Heights Water Company's service area, has been in escrow for 60 days and may not be out of escrow for 8 or 10 days more, if then.

The record further shows that Myers has not kept proper accounting records and that, in fact, no balance sheet for Del Rosa Heights Water Company has been prepared since October 31, 1951, and there is no up-to-date income and profit and loss statement for the company. It also shows that Myers claimed in July not to have sufficient cash to pay the power bill of the Edison Company for the operation of the company's pump.

In conducting public hearings, in issuing orders, in authorizing its staff to make investigations, and in arranging conferences between consumers, their attorneys, L. R. Myers, Dr. Graefe, San Bernardino County health authorities, and others, the Commission has exhausted its powers under the law to effect a permanent remedy to this problem.

The utility's president, after proper proceedings, might be cited for contempt of the Commission and fined or placed in jail, but this would effect no solution to the problem of securing a reliable and adequate source of water supply and water service to the consumers.

The Commission might revoke, suspend, or cancel the company's certificate of public convenience and necessity to operate as a public utility but this, likewise, would effect no solution to the problem.

Several possibilities for further action are open to the consumers. However, the Commission has no jurisdiction over any of them. They are suggested as follows:

1. Creditors of the company might bring suit before a proper court and the company might be declared bankrupt. A receiver might then be appointed by the court. The Commission has no power to make such a declaration of bankruptcy, or appoint a receiver.
2. A mutual company or County Water District might be formed by the consumers to purchase the water system from the utility.
3. The Del Rosa Estates area might seek annexation to the City of San Bernardino. After such annexation, water service might be furnished by the City's Water Department.

The furnishing of water service to any additional customers should be prohibited at once, and the order which follows will so provide.

The company will be ordered to employ an accountant to put its books in shape in order that the Commission may be able to determine, to some degree, what the current financial condition of the company is, and from what sources revenues are received, and for what purposes they are disbursed.

INTERIM ORDER

A further hearing in the matter of the Commission's Investigation on its Own Motion into the Operations of Del Rosa Heights Water Company having been held on July 30, 1952, an emergency with respect to the source of water supply, the water service and the financial and operating condition of the Company having been found to exist, it being evident that an interim

order should be issued at once and that the furnishing of water service to additional consumers should be prohibited and that the company's accounts should immediately be put in order, the matter having been continued to a date to be set, and good cause appearing, therefore,

IT IS HEREBY ORDERED as follows:

1. That Del Rosa Heights Water Company be and is prohibited from furnishing water service to any additional consumers, and that no new applications for water service shall be accepted by the Company, without further order of the Commission.
2. (a) That Del Rosa Heights Water Company shall immediately employ a public accountant to bring its books of accounts up to date in conformance with the Uniform Classification of Accounts prescribed by the Commission, and that a balance sheet as of June 30, 1952, and an income statement for the first 6 months of 1952, be submitted to the Commission within 20 days after the effective date of this order.
- (b) That the Annual Report of Del Rosa Heights Water Company for the year 1951 be filed with the Commission within thirty (30) days after the effective date hereof.
- (c) That Del Rosa Heights Water Company shall continue to keep its books of accounts up to date and in conformance with the Uniform Classification of Accounts prescribed by the Commission.
- (d) That Del Rosa Heights Water Company shall file with the Commission an up-to-date balance sheet and income statement for the current month and for the year to date once a month within twenty (20) days after the close of each month until further order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 5th day of

August, 1952.

R. T. [Signature]
Justice F. [Signature] PRESIDENT
[Signature]
[Signature]
[Signature]
[Signature] COMMISSIONERS