

Decision No. 49454**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN FERNANDEZ,)
 dba. THE FREEPORT WATER COMPANY)
 to increase flat rate charges.) Application No. 34668
 (Art. 6 PUA 63(a))
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APPEARANCES

For Applicant: Wells & McCarthy, attorneys,
 by John J. Wells.
 For Interested Parties: City of Sacramento
 and Freeport Manor Home Owners
 Association by Everett M. Glenn,
 City Attorney; James B. Thompson,
 for Freeport Manor residents.
 For Commission Staff: J. T. Phelps and J. D.
Reader.

OPINION AND ORDER

By the above-entitled application, filed August 22, 1953, John Fernandez seeks an order of this Commission authorizing an increase in charges for water service rendered in a recently annexed portion of the City of Sacramento known as Freeport Manor.

A public hearing in this matter was held before Examiner Emerson on October 22, 1953 at Sacramento. The complete record in Application No. 32051 and Decision No. 46118 pertaining thereto, concerning an earlier request of applicant for increased rates, was made a part of this record by reference.

Applicant's Position and Request

In the above referred to Decision No. 46118, issued August 20, 1951, this Commission stated, in part, as follows:

"The Commission may and does require that each and every public utility water system furnish an adequate and reasonable supply of potable water to its consumers. While a utility cannot be compelled to operate at a loss, the Commission can authorize rates which are predicated upon improvements that will produce a quality of water satisfactory for the use of the utility's patrons.

"In view of the record in this proceeding, applicant should, without undue delay, take whatever steps may be necessary to ensure that the water served will be improved to such degree that the utility customers may make reasonable use of it for domestic purposes.

"The rates to be authorized herein will be designed only to halt applicant's present losses during the developmental stage of the service area.

"Upon installation and satisfactory operation of facilities necessary to make the desired improvement, applicant may apply to this Commission for further rate relief. The record indicates no objection to increased rates if satisfactory water were to be furnished."

Applicant's position herein is that the desired improvement has been made and that, therefore, he is now entitled to the full increase sought in said prior rate proceeding. He proposes to increase the present residential flat rate charge of \$2.25 per month to \$2.75 per month.

Position of Interested Parties

Interested parties in this present proceeding oppose any further increase in rates on the grounds that no improvement has been made or can be demonstrated. At the close of applicant's showing in the instant proceeding counsel for the Commission staff, joined by interested parties, moved to deny the application for increased rates.

Nature of Evidence

Through applicant's part-time water superintendent, testimony was offered indicating that one of the system's two wells has had certain water bearing strata sealed off by means of a cement plug installed therein and that the other well has been relegated to a standby position. This witness claimed that as a result of such work, done at a capital cost of about \$316, the prior deficiencies in quality of water served have been substantially

improved. He further testified that the installation of a flushing valve, installed at a capital cost of about \$397, coupled with the sealing of the well, had eliminated sand from the water, removed the disagreeable taste and odor and reduced the hardness content of the water served.

On behalf of applicant a chemical engineer and owner of a water testing laboratory testified as to the results of water analyses made at the request of applicant. His direct testimony was a factual presentation of the water sample analyses made June 4, 1951 and on July 7, 1953. His review of the two tests indicated an improvement in all prior deficiencies. However, on cross-examination in answer to the Examiner's question "I want to ask this...as an expert in these matters: to place yourself in the lay position whereby you would take two samples, as you have here, and could you, as an ordinary individual, determine or see any difference in the water? Would it be recognizable?" The witness replied with an unequivocal "No".

Applicant's bookkeeper and an accountant who makes a once-yearly audit of the books presented testimony respecting the financial results of applicant's operations. Their testimony showed that not only had applicant's prior losses been halted, as intended by this Commission's last decision on this system, but that applicant's earning position has so improved that, during the year 1952 after all expenses including a salary for the owner, taxes and depreciation, a net return of \$1398.75 had been realized. When related to applicant's claimed rate base such net revenue indicates a rate of return of 2.4 per cent.

Applicant testified that he is engaged in the business of building houses and the development of real estate subdivisions. His water business is only an incident to such operations. He has or takes no interest in the water business and would not enter it

if he could sell real estate without the availability of water service. He has no plans for and no inclination to make further improvements to this water system but is seeking to divest himself of his utility obligations.

The Commission staff and interested parties called five consumer witnesses and two witnesses from the Sacramento City Health Department. The consumer witnesses were unanimous in their opposition to any increase in rates. Their testimony indicated that no improvement has been made in the quality of water served but that at times there may be slightly less sand in the water. It appears that nearly all of applicant's consumers use individual water treatment devices but still find the water unsatisfactory from the standpoints of odor, taste, discoloration, corrosiveness and hardness.

The health department witnesses presented the results of their investigation of the water served by applicant. In addition, there was introduced into evidence an exhibit containing two reports from the State Department of Public Health. In lay language, this evidence indicates that applicant serves a water containing *Crenothrix* (iron bacteria) and a group of organisms best described as "slime bacteria". The "rotting cabbage" odor and "musty" taste described by water users arises from such bacteria. The high concentration of iron and manganese in the water accounts for the staining of plumbing fixtures and provides the food upon which the bacteria thrive, according to these expert witnesses. Such water conditions, while of undesirable characteristics, are not harmful from the standpoint of health, however.

In the present proceeding, as well as in the prior proceeding, technical experts indicated that water deficiencies on this system can be completely overcome by the installation of a

proper treatment plant, the estimated cost of which is approximately \$15,000. Applicant refused to consider such an expenditure.

Conclusions

We find that the improvement claimed by applicant, if indeed any improvement at all can be recognized, is insufficient to justify the authorization of an increase in rates.

Applicant's losses have been halted. A rate of return commensurate with the service rendered is now being earned. We are of the opinion that, in the public interest, denial of applicant's request is required; therefore,

IT IS ORDERED that the application of John Fernandez for authorization to increase water rates for service rendered in the City of Sacramento be, and it is hereby, denied.

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

Dated at San Francisco, California, this 21st day of December, 1953.

A. Z. [Signature]
 President

[Signature]

[Signature]

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 Commissioners