

Decision No. 52281

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SONOMA WATER & IRRIGATION COMPANY,)
 a corporation, for authority to)
 increase rates on the sale of)
 domestic water.)

Application No. 35828

Investigation on the Commission's)
 own motion into the main extension)
 practices, operations, contracts)
 and charges of SONOMA WATER &)
 IRRIGATION CO., a public utility)
 water corporation operating in)
 Sonoma County, California.)
 (Petition for Modification of)
 Decision).)

Case No. 5569

SUPPLEMENTAL OPINION AND ORDER
CORRECTING DECISION NO. 51804

Roland H. Kruger, an attorney at law, representing certain owners of real property in Sobre Vista Acres Subdivision No. 1, Sonoma County, by petition filed October 11, 1955, seeks modification of Decision No. 51804, issued August 9, 1955, in the above-entitled and numbered consolidated proceedings. Petitioner alleges, in substance, that certain language appearing on sheet 6 of said decision is inconsistent with earlier decisions of this Commission, to which petitioner refers,¹ and that such inconsistency is prejudicial to the interests of his clients in pending litigation in Sonoma County concerning water rights, in which Sonoma Water & Irrigation Company is a defendant. The language to which petitioner takes exception follows:

¹ Decision No. 48827 (Interim Order), dated July 14, 1953, and Decision No. 49146 (Final Order), dated September 29, 1953, both in Application No. 33786, of Sonoma Water & Irrigation Co., for authority to extend its service to certain portions of the Sonoma Valley. The property owners of Sobre Vista Acres Subdivision No. 1 appeared in that proceeding and protested the inclusion of that particular subdivision within the company's service area.

"In 1953, by Decisions Nos. 48827 (Interim Order) and 49146, in Application No. 33786, the company was authorized to extend service and apply its rates to the Sobre Vista No. 1 area; however, pending the outcome of certain litigation between applicant and the Sobre Vista Mutual Water Company and acting upon advice of its counsel, applicant has been selling water to the Sobre Vista No. 1 group for 10 cents per 1,000 gallons instead of its presently filed tariff rate as shown above." (Decision No. 51804, sheet 6.)

Petitioner alleges that the foregoing language is inconsistent with the earlier decisions to which he referred and from which he quotes the following language, which appears on sheet 3 of the interim opinion in Decision No. 48827:

"Applicant's request for authority to extend its service to other than the Preston Tract and the persons entitled to be served under the 60-day agreements subsequently will be the subject of the final opinion and order herein."

Examination of Decision No. 48827 establishes the fact that the interim order in said decision authorized Sonoma Water & Irrigation Co. to extend its water system and apply its then existing rates to the area described and certificated in said interim order, "but excluding therefrom all property other than the Preston Tract referred to herein and other than the property of parties entitled to receive water service under the so-called 60-day agreements of which Exhibit 3 is representative;" (Sheet 4, Decision No. 48827, Application No. 33786.)

Decision No. 49146, supra, merely made the interim order final and otherwise dismissed the application without prejudice.

It is clear, and we so find, that Decisions Nos. 48827 and 49146 authorized Sonoma Water & Irrigation Co. to extend its service and apply its rates only to the Preston Tract and to the property of parties entitled to receive water service under the so-called 60-day agreements, and specifically excluded from such authorization all other property involved in the proceeding in which those two decisions were rendered.

The language in Decision No. 51804, with which petitioner takes issue, obviously is too broad and might well lead one reading it to conclude that the entire Sobre Vista No. 1 area had been included in the authority conferred by the earlier decisions, both as to the extent of the area authorized to be served and to the application of rates within that area. Since we have found such not to be the case, it follows that Decision No. 51804 should be amended so as to reflect the true import of the Commission's earlier decisions. A public hearing on the petition herein is not deemed necessary.

Therefore, good cause appearing, IT IS HEREBY ORDERED that:

1. Decision No. 51804, issued in the above-entitled and numbered proceedings on August 9, 1955, be and said decision hereby is amended by deleting therefrom the paragraph, appearing on sheet 6 of said decision, referring to Decisions Nos. 48827 and 49146, in Application No. 33786, and to sales of water to "the Sobre Vista No. 1 group", and by substituting for said paragraph the paragraph which follows:

"In 1953, by Decisions Nos. 48827 (Interim Order) and 49146, in Application No. 33786, the company was authorized to extend service and apply its rates to certain properties in the Sonoma Valley, consisting of, and expressly confined to, the so-called Preston Tract and the property of parties entitled to receive water service under certain so-called 60-day agreements. Litigation concerning water rights is now pending in Sonoma County between the company and certain owners of property in Sobre Vista Acres Subdivision No. 1 who appeared in that proceeding and protested the inclusion of that subdivision within the company's service area."

2. Decision No. 51804, as herein amended, shall be and remain in full force and effect.

3. In order that the Commission's corrective action taken herein shall be made effective without unnecessary delay, this order shall be effective on the date hereof.

Dated at San Francisco, California, this 29th day of November, 1955

Carl E. Mitchell
President

Jonathan D. Casner

Ronald L. ...

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Commissioners