

ORIGINAL

Decision No. 52592

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLERICO PARK TWO, INC., a California corporation,)

Complainant,)

vs.)

PACIFIC WATER COMPANY, a California corporation,)

Defendant.)

Case No. 5688

Carl A. Stutsman, Jr., for complainant.
Moss Lyon & Dunn by George C. Lyon, for defendant.
John D. Reader, for the Commission staff.

OPINION AND ORDER

This case was heard and submitted at Bakersfield on December 12, 1955 before Examiner John M. Gregory on a complaint by Clerico Park Two, Inc., vs. Pacific Water Co., filed October 24, 1955, which sought a determination by the Commission that the sum of \$51,527.18 was the amount of the maximum reimbursable cost to which complainant was entitled by virtue of a contract with defendant, dated April 5, 1954, providing for installation of a water system to serve complainant's subdivisions located in defendant's East Bakersfield service area.

Complainant also sought to have the Commission direct defendant to reimburse said sum out of collections from said water system to the extent of 35 per cent thereof up to a total of the cost so determined in accordance with the terms of said contract.

Defendant, a public utility water company, by its answer, among other defenses, alleged that a well, acquired by it from complainant as part of the water system pursuant to the contract, was so

inadequately equipped as to require rehabilitation by defendant at a cost of \$2,876.79. Defendant likewise requested that the Commission make an order determining the maximum reimbursement to which complainant was entitled.

Evidence was presented at the hearing concerning the cost of the facilities installed pursuant to the contract and the case was then submitted for decision. Subsequently the parties filed with the Commission a stipulation for dismissal of the case which recites that they have entered into an agreement determining the maximum reimbursable cost to complainant under the agreement of April 5, 1954 and that because of such settlement they desire to dismiss the complaint.

The agreement attached to the stipulation, in substance, provides that the total reimbursable cost to the subdivider for the installation is understood to be the sum of \$48,650.39; that Pacific Water Co. agrees to reimburse complainant, or its assigns, from its collection for water furnished to customers in Clerico Park Subdivision up to a maximum amount of not to exceed \$48,650.39; that in the event Pacific should sell said system to a public service district created in Kern County prior to such reimbursement Pacific agrees to place in trust, in accordance with such order as the Public Utilities Commission may make, said sum of \$48,650.39 less any amounts which may have been paid to complainant prior to such sale, to be held as a reserve covering the maximum potential reimbursement.

Complainant represents that in executing said agreement it is authorized to act and is acting on behalf of Clerico Park Three (an affiliated corporation involved in developing the subdivision which is supplied by said system) and that payments to complainant by

Pacific will fully discharge any obligation of Pacific to Clerico Park Three under the contract of April 5, 1954.

The parties in effect have agreed to settle the issues raised by the complaint and answer on the basis of deducting from the amount claimed by the complainant viz. \$51,527.18, the sum of \$2,876.79 expended by defendant for rehabilitation of the well acquired from complainant as part of the water system.

In the circumstances, the parties will be authorized to *adjudged* carry out the terms of their settlement and the case will be dismissed. Our action herein, however, shall not be construed as constituting approval or authorization of the agreement of April 5, 1954, between Clerico Park Two, Inc., and Pacific Water Co., nor as a finding that the sum of \$48,650.39 constitutes a reasonable sum as the reimbursable cost to Clerico Park Two, Inc., pursuant either to said contract of April 5, 1954, or to said agreement of settlement filed herein with the stipulation of the parties for dismissal of this case.

The Commission reserves the right to make whatever order or orders it may deem appropriate respecting the accounting for or disposition of said sum, or of any portion thereof, in any future proceeding involving Pacific Water Co. in which such order or orders may, in its judgment, be required.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that:

1. Pacific Water Co. be and it hereby is authorized to carry out the terms and conditions of the agreement for settlement of this proceeding attached to the stipulation for dismissal heretofore filed herein.
2. Case No. 5688 be and it hereby is dismissed.

Dated at San Francisco, California, this 7th day
of FEBRUARY, 1956.

Edna E. Mitchell
President

Arthur D. Casper

Roy G. Wasserman

Madison Hardy

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.