

ORIGINAL

Decision No. 53060

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT E. JOHNSTON,)
)
 Complainant,)
)
 vs.)
)
 STARTER HOUSE DEVELOPMENT)
)
 CORPORATION and C. F. STEINEN,)
)
 Defendants.)

Case No. 5677

Wayne Cardon, for Robert E. Johnston, complainant.
O. E. Goodwin, for Starter House Development Corporation, defendant.
Charles E. Kenner, for County Water Company, interested party.
James G. Shields, for the Commission staff.

O P I N I O N

The complainant is an individual who owns property consisting of a four-room residence and two lots located at 11847 East 167th Street, Artesia, California. The defendant is a corporation which has built 148 houses in the vicinity of complainant's property and is providing water to these houses through water mains which have been installed by the defendant. The water so furnished is purchased by the defendant from the Park Water Company, a public utility.

The complaint requests that the defendant company be required to comply with the Public Utilities Code of the State of California and with the rules and regulations of the Public Utilities Commission relative to the furnishing of water.

A public hearing was held before Examiner Grant E. Syphers, in Long Beach, on April 18, 1956, at which time evidence was adduced and the matter submitted.

At the hearing Robert E. Johnston, the complainant, described his property and stated that he had been unable to secure water for this property for almost a year last past. He further testified that he had requested water from one C. F. Steiner (whose correct name was by subsequent testimony determined to be C. F. Steinen) and had been informed that he could receive water from the defendant company upon the payment of \$250. He further pointed out that houses on both sides of his property and across the street are receiving water from defendant company. Additionally he testified that the Park Water Company would serve him, but only at a cost of between \$600 to \$700 for the installation of pipe.

The president of the Starter House Development Corporation testified that C. F. Steinen had no connection with, nor authority to speak for that company. The Starter House Development Corporation is a real estate development company, which, according to the witness, is supplying water free of charge to the houses it has built in the area. Additionally it is serving five other consumers who were referred to by the witness as emergency cases. These were families which were unable to obtain water and which were furnished water by the defendant company upon the payment of \$250 per family.

A representative of the County Water Company stated that his company has presently applied for authority to serve the area as a public utility and that it is ready, willing, and able to provide water to the consumers in the area, including the complainant herein, if and when authority is received from this Commission.

An analysis of all of the evidence in this record leads us to the conclusion and we now find that the Starter House Development Corporation, through its activities in furnishing water, is operating as a public utility water company under the provisions of Sections 240 and 241 of the Public Utilities Code. As such it is

subject to the duties and obligations of a public utility as well as to all of the applicable laws and the regulations of this Commission. Inasmuch as it has charged five users \$250 each to furnish water to them and has not made a similar charge to the other users to whom it is supplying water, it has granted a preference which is not countenanced in the law. Therefore, Starter House Development Corporation will be ordered herein to refund these payments. It should be noted that in its answer the defendant company indicates a willingness to refund these payments upon order of this Commission.

Since this record indicates that there is a pending application before this Commission for another company to conduct operations as a water company in the area, and since the defendant company herein has indicated on this record a willingness to transfer its facilities to the new company should it be certificated, the ensuing order will provide that the defendant, Starter House Development Corporation, be given a period of ninety days within which to comply with the applicable laws and the regulations of this Commission. If, during this period, and upon proper application, this Commission should authorize defendant's operations to be transferred to a new utility, then the provisions of this order will have been fulfilled with respect to its continuation as a public utility water corporation.

As to the request of complainant for water service, the record does not disclose that he has made a demand upon defendant for such service. Accordingly, no specific action will be taken on this phase of the complaint at this time.

O R D E R

Complaint as above entitled having been filed, defendant having filed an answer thereto, public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be in the public interest,

IT IS ORDERED:

(1) That the Starter House Development Corporation be, and it hereby is, declared to be a public utility water company, subject to the jurisdiction of this Commission.

(2) Within ninety days from the effective date of this order the Starter House Development Corporation or its successor in interest shall comply with all applicable rules and regulations pertaining to the operations of a public utility water company and advise this Commission in writing of such compliance within ten days thereafter.

(3) That the Starter House Development Corporation shall refund, to each of the persons from which it received a payment or payments as a condition to its furnishing water service, the full amount thereof within ten days after the effective date of this order, and said defendant shall report within five days thereafter in writing to the Commission that such refunds have been made, to whom made, and the amounts thereof.

(4) In all other respects the complaint of Robert E. Johnston is dismissed without prejudice.

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

Dated at Los Angeles, California, this 15th day of May, 1956.

[Signature] President
[Signature]
[Signature]
[Signature]
[Signature] Commissioners