

ORIGINAL

Decision No. 53972

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CROSS WATER COMPANY, )  
 A California corporation, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 SAN GABRIEL VALLEY WATER COMPANY, )  
 a California corporation, )  
 )  
 Defendant. )

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Case No. 5833

George C. Gillette, for complainant.

Gibson, Dunn and Crutcher, by Max Eddy Utt, and  
John E. Shelton, for defendant.

O'Melveny and Myers, by Lauren M. Wright, for  
Vallecito Water Company, interested party.

ORDER SETTING ASIDE INTERIM ORDER

In the above-entitled complaint, filed with this Commission on October 11, 1956, Cross Water Company alleges, inter alia, that complainant is a mutual water company engaged in distributing water in Tract No. 1343 of Rancho La Puente, Los Angeles County; that Tract No. 1343 is presently being adequately served by complainant with a full, adequate and sufficient water service; that San Gabriel Valley Water Company has filed, in Application No. 38065 before the Public Utilities Commission of the State of California, an application for a certificate of public convenience and necessity to extend water service into

territory more particularly described in said application, but being roughly the Tract No. 1343, presently being served by complainant; that said application has been set for hearing on October 18, 1956, and complainant and several others have filed protests to said application; that on or about October 8, 1956, the defendant, San Gabriel Valley Water Company, deposited 12-inch pipe along Turnbull Canyon Road, also known as Tenth Avenue, for a distance of approximately 1900 feet between Proctor Avenue on the north and Kwiss Water Company, a subsidiary of the defendant, on the south; that complainant is informed and believes that defendant has hired Royal Pipeline Construction Company to install a pipe line from the Kwiss Water Company well to Valley Boulevard and Orange Avenue, a distance of approximately 1-3/4 miles, all of which proposed pipe line is within Tract No. 1343 and parallels complainant's pipeline system exactly; that San Gabriel Valley Water Company is not rendering service in and has no certificate of public convenience and necessity from this Commission to serve in Tract No. 1343, or any area adjacent thereto; and that the installation of said pipe line by defendant is not for the purpose of serving water in the area for the reason that the area is presently adequately served but is merely for the purpose of influencing the Hearing Commissioner on pending Application No. 38065. The complainant prays that pursuant to Section 1006 of the Public Utilities Act the Commission forthwith issue its order requiring defendant to cease and desist from any construction of water supply, transmission or distribution facilities in Tract No. 1343.

On October 16, 1956, this Commission made an Interim Order, Decision No. 53940, in Case No. 5833, ordering San Gabriel Valley Water Company, pending further Commission order, to immediately cease and desist and refrain from constructing any new water supply, transmission or distribution facilities, or from constructing any addition to or extensions of any such existing facilities within Tract No. 1343 as described in the complaint in Case No. 5833. This order was mailed at 3:15 p.m. on October 16, 1956, in San Francisco.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on October 18, 1956. The defendant moved for a dismissal of the interim order which had been issued in connection with Decision No. 53940 in Case No. 5833. Evidence was presented concerning that motion.

From the evidence presented it appears, and we find, that complainant is a mutual water company distributing water in Tract No. 1343 of Rancho La Puente, Los Angeles County, California; that San Gabriel Valley Water Company is a public utility water company serving as such pursuant to authority from this Commission; that defendant's Kwiss service area is southeast of and adjacent to Tract No 1343; that defendant has been ordered by this Commission to take necessary steps to remedy the condition of the hardness of the water in the Kwiss service area (Decision No. 50251, dated July 6, 1954, in Application No. 35093); that defendant has several sources of water supply in its certificated service area immediately north of and east of this Tract No. 1343; that to provide an acceptable source of water supply for the Kwiss service area, defendant, approximately ten days prior to

October 18, 1956, hired the Royal Pipeline Construction Company to install pipe from the Kwiss service area through Tract No. 1343 to defendant's sources of supply north thereof; that on or about October 11, 1956, said construction company commenced ditching and installing pipes; that on October 17, 1956, the date of service of the restraining order herein, the construction company had ditched 3200 feet and had laid and partially covered 2800 feet of 12-inch pipe; that said construction company has graded the balance of the route and has laid the pipe on the ground; that the construction company had twenty-five men on the job plus the requisite equipment at the time of the stop order; that there are two creek channels on the route and scaffolding to support the pipe had been constructed thereon at the time the Commission's stop order was served; that these scaffoldings are liable to be destroyed or washed away if the work is not allowed to progress; that the ditches are liable to become damaged if not refilled; and that the primary purpose of the line under construction is to furnish water to the defendant's Kwiss area.

The complainant presented evidence concerning the reasonableness of the sizes of pipes proposed to be used by the defendant in constructing the transmission line here involved, and concerning the estimated cost of the construction of the line. We consider that both of these matters are immaterial to the disposition of the matter here involved.

The effect of the defendant's motion was to vacate the Interim Order set out in Decision No. 53940, and we will adopt that effect. Upon the evidence of record herein we find that the

Interim Order, Decision No. 53940, dated October 16, 1956, in Case No. 5833, should be set aside and vacated, subject to the restriction that defendant San Gabriel Valley Water Company shall furnish no water, except water used in constructing the pipe line, for any purpose to any consumer in any portion of Tract No. 1343 without further order of this Commission.

Good cause appearing, IT IS ORDERED that the Interim Order set forth in Decision No. 53940 in Case No. 5833, issued October 16, 1956, is vacated, dissolved and terminated. Defendant San Gabriel Valley Water Company shall furnish no water (except water used in constructing the pipe line) for any purpose or to any consumer in any portion of Tract No. 1343 without further order of this Commission.

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

Dated at Los Angeles, California,  
this 23<sup>rd</sup> day of OCTOBER, 1956.

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

Commissioner [Signature], being necessarily absent, did not participate in the disposition of this proceeding.