

Decision No. 54141

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Slide Inn Improvement Association, )  
 Complainant, )  
 vs. )  
 J. R. Mills and Gwendolyn Mills, )  
 Defendants. )

Case No. 5801

T. R. Vilas, for complainant;  
Hardin and Gorgas by E. L. Gorgas, for defendants;  
George F. Tinkler, for the Commission staff.

INTERIM OPINION

This complaint was filed on July 23, 1956. Complainant seeks to have defendants declared to be a public utility. Public hearing was held before Examiner Power at Sonora on September 20, 1956. The matter was submitted subject to receipt of briefs. These were received on October 5 and the matter is ready for decision.

The complainant is composed of a number of persons who own property in Slide Inn Subdivision No. 1, near Long Barn, Tuolumne County. This subdivision has long been served with water by the defendants. The terms under which this service has been rendered constitute the subject matter of this action.

J. R. Mills testified that he acquired the Slide Inn property in 1934. In 1936 he commenced subdividing Slide Inn Tract No. 1. Between 1936 and 1939 only about three lots were sold. In the latter year Mills, or his attorney, prepared a standard form contract to be signed by both defendants and, as opposite contracting parties, by all property owners in the tract. It appears that the signatures of

all, or virtually all, of the property owners were obtained until about 1944. Thereafter the witness neglected to obtain signatures of many owners. After 1952 none at all were obtained even from persons who bought property directly from defendants.

The form contract used by Mills purports to establish a "mutual water users association." Water was to be furnished to members and to no others. The form recited that Mr. and Mrs. Mills were the owners both of the water right and the water system. The users were to have the right to use water as long as they kept their "dues" paid up. The testimony both of the witness Mills and of other witnesses establishes that there were about 60 property owners in the service area at the time of the hearing. It also establishes beyond doubt that at least half of these owners had not signed the form contract. It further establishes, but not so clearly, that, with one possible exception, none of the others had signed it either.

The evidence establishes certain other facts. Since 1952, at least, Mills had never refused service to anyone whether a signatory or not. Second, the association contemplated by the form contract never met in all the years of its existence. It never elected any officers. Third, defendants exercised complete dominion over the system. Fourth, all dues and assessments were fixed by Mills and were levied and collected by him.

The Commission, basing its findings upon the evidence of record herein finds and concludes that J. R. Mills and Gwendolyn Mills have been and are a water corporation as that term is defined in Section 241 of the Public Utilities Code, and a public utility as defined by Section 216 of the Public Utilities Code.

It would normally be the duty of the Commission, having made such a determination, to proceed to order maps, rates, rules and regulations to be filed. The present record would not, however,

sustain such orders. Further proceedings must be held at a future date. Matters of health, necessary capital investment and rate structure may be inquired into when such a hearing is, or hearings are, held.

INTERIM ORDER

Complaint having been filed, public hearing held thereon, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED:

1. That the water system owned and operated by J. R. Mills and Gwendolyn Mills in Slide Inn Subdivision No. 1 located near Long Barn in Tuolumne County be, and it is, declared to be a public utility subject to the control and jurisdiction of this Commission.

2. That submission be set aside and this proceeding be reopened for further hearing for the purpose of determining various matters pertinent to the regulation of this utility, including, but not limited to the following:

- a. Determination of the original cost, estimated if not known (historical cost appraisal), of the properties of J. R. Mills and Gwendolyn Mills, used and useful in the public service, and also the depreciation reserve requirement applicable to such properties;
- b. The establishment of fair and reasonable rates, rules and regulations for this system;
- c. Determination of the sufficiency, potability and safety of the water supply.

The Secretary is directed to serve a copy of this decision on each of the parties hereto and their attorneys and on the California State Department of Public Health, the Chairman of the

Board of Supervisors of Tuolumne County and the Health Officer of Tuolumne County.

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

Dated at San Francisco, California, this 27<sup>th</sup> day of November, 1956.

[Signature]  
 President.

[Signature]

[Signature]

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 Commissioners