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Decision No. 54153

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BEN M. WOODWORTH, ELMER KRULEVITCH and BERNICE KRULEVITCH, his wife, Complainants, vs. CALIFORNIA WATER SERVICE COMPANY, a California corporation, Defendant.	)	Case No. 5794

Stuart R. Dole for Complainants.
McCutchen, Thomas, Matthew, Griffiths and Greene by Robert Minge Brown for Defendant.
John D. Reader for the Commission Staff.

O P I N I O N

Complainants ask that defendant be required to extend its mains to serve a new subdivision on which complainants propose to construct approximately 190 dwelling units. This complaint filed July 3, 1956, describes the land owned by complainants as containing 42 acres and as being situated partly in the City of Petaluma and partly outside the city limits.

Defendant, by its answer, denies the material allegations of the complaint and avers that it is a public utility water corporation subject to the jurisdiction and regulation of this Commission; that it has heretofore established a service area in its Petaluma district, the boundaries of which are defined in documents filed with this Commission, and within which service area defendant has undertaken to provide a public utility water service; that part of the property of complainants lies within and part lies beyond the boundaries of defendant's service area; and that water supplies in Petaluma and vicinity are very limited.

It is further alleged that growth is continuing within this area and defendant estimates that it will be required to serve an additional 1600 customers within its existing service area; that the water supplies presently available and those which can be reasonably developed by defendant are sufficient only to take care of the reasonable needs of this existing area, and that, to insure the proper fulfillment of a public service obligation to those to whom service is already dedicated defendant cannot extend its service area beyond its alleged existing boundaries.

The answer admits that complainants informed defendant of an intention to develop a subdivision upon the property described in the complaint and requested the preparation of cost estimates of the necessary water facilities upon the basis of a tentative subdivision map submitted to defendant; and the answer further alleges that after an examination of the property, defendant advised complainants that it would be willing to render public utility water service in accordance with its applicable rules and regulations to that portion of the proposed subdivision which was within defendant's existing service area, but that defendant could not extend its service to that portion of the proposed subdivision which was beyond the boundaries of such service area; and that complainants have made no request for the rendition of water service only to that portion of their property lying within the boundaries of defendant's service area.

Public hearing was held in San Francisco on September 25, 1956, before Examiner Rowe at which time evidence both oral and documentary was adduced and the matter submitted for decision.

From the evidence of record the Commission finds that all of complainants' land sought to be served now lies within the boundaries of the City of Petaluma. This was the situation on April 10, 1956 when the request for service to this subdivision first was made in writing and has been at all times since February 8, 1956.

Complainant Woodworth first contacted defendant relative to such service in 1952, but it was in February of 1955 that he advised defendant of his subdivision plans, and at which time he was given no information that the company might not accord service or that the property involved or any part of it was not within defendant's service area. On or about April 20, 1956, it was first suggested that complainants might not be served because of a possible insufficient supply of water. It was at about this time also that defendant first referred to a service area map filed with the Commission on October 6, 1945 and asserted that it constituted a limitation upon the defendant's obligation to serve water.

Several days later, however, complainants were informed by defendant that if certain additional wells could be purchased it would be able to serve them with water. Defendant was asked on or about April 20, 1956, to prepare cost estimates for the installation of mains and service pipelines in the subdivision, so that the proper deposit could be made with defendant.

Officials of the City of Petaluma take the position that the City, in its entirety, should be served by Defendant. Some of the land within the service area of Defendant as shown on the service area map is at present undeveloped and water is not being presently used on it. The city officials in 1954 were informed by defendant that it had never denied an application for water and the local manager said that he doubted that an application for water would ever be denied.

In a letter published in a local newspaper, as an advertisement by defendant, on or about July 11, 1956, the company states that its service area cannot be planned so as to coincide with city boundaries, which are constantly being changed by annexation, but must be planned on a waterworks engineering and operationsl basis, in accordance with topography, geography and nearness to available water supplies.

The testimony introduced in evidence shows that defendant is presently engaged in a construction program amounting to from $350,000 to $400,000 for new wells and connecting pipelines which it is estimated will place the company in a position to be able to serve 1600 additional customers. Defendant stated that within the week following the hearing on September 25, 1956, it would begin this construction program by drilling the first of several wells in an area northwest of Petaluma. A second well is also planned in this area sometime this fall. If these wells each develop 250 gallons of water per minute they will enable the company to serve an additional 800 customers. A pipeline to transport this and additional water is included in this plan in time to deliver this water for next summer's peak use.

At the present rate of growth of about 200 customers per year the two wells and pipeline planned for completion prior to next summer would supply the additional water requirements for about four years. Allowance for increased growth and water use might reduce this period to three years, therefore, the ultimate addition of two more wells under the assumption that they would each produce at least 250 gallons of water per minute would indicate that the plan outlined by the company could be expected to meet the normal increased demands on this system for a period of five to six years.

Mr. Woodworth's testimony with reference to his conversation with defendant's local manager appears to be uncontroverted to the effect that service would be rendered to his subdivision until the company's San Jose office was asked to prepare cost estimates for the installation of mains and service pipelines in the subdivision following Mr. Woodworth's request on April 20, 1956, for a statement of the costs involved and the manner in which the deposit would have to be made.

Witness G. L. Williams, Vice President of defendant, testified that the service area boundary was drawn to include all territory in which the company is actually rendering water service or has agreed to render water service. He also testified that he did not know about Mr. Woodworth's proposed subdivision at the time the service area map was last revised, which was in July of 1952.

The tariff service area map filed by public utility water companies is not a final and conclusive determination of the area a utility must serve or within which it may restrict service, but is filed for the benefit of the public to indicate the area in which the company stands ready and willing to serve in accordance with its filed rules.

Defendant's concern over the possible expansion of its service area seems to indicate that it believes that such expansion will increase the rate of growth to the extent that some further plan might have to be considered for bringing adequate water supplies into this area before the Coyote Dam Project is completed. It stated that to its knowledge there is no economically feasible way to obtain additional water for this area.

The Commission is of the opinion that defendant's Petaluma district may be faced with a water shortage in approximately five years if the additional sources of supply develop as planned or sooner if 1,000 gallons of water per minute cannot be added to the presently available supply. However, it seems safe to assume that some additional water will become available from the wells planned in this area and therefore the situation is not considered to be critical at this time.

There appears to be no reason for the service area to coincide with city boundaries as this water system and many other public utility water systems serve both within and beyond city limits in which they are serving. In many cases more than one company serves a city but they are not required to extend service to all areas within the city limits.

Based upon the evidence and the applicable law, we hereby find that the property of complainants for which water service is requested lies within territory which defendant is lawfully required to serve. Furthermore, the Commission finds that in May of 1952 complainants proceeded with their development on the assurance of the local manager of defendant that said defendant would serve the area in question. We further find that it was not until April of 1956 that complainants were advised of the possibility that service might not be available. Service to this development will result in the possible addition of about 125 customers within the service area of defendant.

Where service is going to be limited a utility has the right to proceed as defendant has proceeded in the operation and management of this district but it should specifically inform the city or local officials of its plans as far in advance as possible. The record in this proceeding indicates that neither the city of Petaluma nor the Commission was advised of an impending water shortage which could have been done at the time the new tariff service area map was filed.

Service to additional areas must be considered in light of the then existing facts. If the wells presently planned each develops more than 250 gallons of water per minute additional areas should be considered as they are requested. The company is obligated to serve all customers within the service area boundary except in an extreme water shortage, therefore it must plan its future operations to provide for the future requirements of the area when fully developed. As the area develops it will be possible to make more accurate

estimates of the total growth possibilities within the area.

This decision is to be considered as in no respect curtailing the Commission's authority under Section 2708 of the Public Utilities Code to order or require a cessation of additional service to new or additional consumers upon a proper showing that defendant has in fact reached the limit of its capacity to serve new customers.

O R D E R

Public hearing having been held in the instant proceeding, the matter having been submitted, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED that defendant after the effective date hereof shall proceed with dispatch, under and in accordance with its rules and regulations on file with this Commission, to make the necessary estimates and upon compliance by complainants with such rules and regulations to construct the necessary water mains, service lines and other appropriate facilities to properly serve the prospective customers located in the subdivision described in the complaint filed in Case No. 5794.

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

Dated at San Francisco, California, this 27th day of November, 1956.

President

Commissioners