

Decision No. 54422

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
E. L. JELLENC and GEORGETTE M. JELLENC,)
husband and wife, to discontinue)
service as a Public Utility and to)
cancel rates.)

Application No. 38550

E. L. Jellenc, in propria persona.
Walter D. Whitney, for Home Owners of Redwood
Terrace; Eugene Mason Howell, for San Mateo
County Department of Public Health & Welfare;
James M. Parmelee, for County of San Mateo,
interested parties.
Robert C. Moeck, for the Commission staff.

OPINION AND ORDER

Nature of Proceeding

By the above-entitled application, filed November 2, 1956, E. L. Jellenc and Georgette M. Jellenc (Troutmere Utilities) seek an order of this Commission authorizing them to discontinue the rendering of public utility water service in the vicinity of La Honda, San Mateo County, and to be relieved of their public utility duties and obligations.

Public Hearing

After due notice to the public and to each water customer served by applicants, public hearing in the matter was held before Examiner F. Everett Emerson on December 3, 1956, at Redwood City and the matter submitted on that date.

Nature of Evidence

Applicants provide water service within a subdivision known as Redwood Terrace near La Honda, San Mateo County. Of the 48 lots in the subdivision applicants have service connections to 23 lots.

However, applicants actually have only 9 permanent and 5 seasonal customers. The water system has been beset with both physical and financial difficulties over a period of years. Applicants once lived in the subdivision but since their home there was destroyed by fire have resided in San Francisco where Mr. Jellenc is employed. Since the Jellencs left La Honda the system has been operated by a local resident.

In the latter part of 1954, the water system was inspected by the San Mateo County Department of Public Health and was found to be seriously deficient in a number of respects. During 1955 applicants made some improvements to the system but were financially unable to correct many of the deficiencies listed by the health department. During the period of heavy rains and floods in December, 1955, the system's well became filled with debris and mud. Following a meeting with the majority of customers at which meeting the customers were informed that applicants were financially unable to restore the well to operation, the customers donated their own labor and \$120 toward clearing the well and repairing the pump and motor. Since that time applicants have sought to borrow funds from a number of sources and in each instance have been unsuccessful. Applicants also have been unsuccessful in finding a buyer for the system. The system has been operated at a loss of over \$80 per month for the past several years and neither lenders nor buyers are interested in the utility. Applicants' personal funds and credit are exhausted.

At the instance of the health department, the district attorney, on October 10, 1956, issued a citation against applicants for violation of Section 4031 of the Health and Safety Code.¹

¹ "It is unlawful for any person to furnish or supply to a user water used or intended to be used for human consumption or for domestic purposes which is impure, unwholesome, unpotable, polluted, or dangerous to health."

Prosecution, however, is being held in abeyance pending the outcome of this proceeding. According to the testimony of the health officer, the system's well is subject to human contamination and is a health hazard, the water supplied is turbid and has been found to be bacteriologically unsafe and unfit for human consumption. The health department has prohibited the construction of any new dwellings in the area as well as prohibiting the establishment of any new water service connections by applicants.

The minimum improvements necessary to comply with health department requirements would consist of casing and sealing the well, installing adequate surface protection, erecting a properly covered building over the well site, installing and operating a hypochlorinator, and completely covering the system's storage tank. It is estimated that the cost of meeting these minimum requirements will exceed \$7,500. Applicants ~~have~~ ^{do} not ^{have} and cannot obtain such a sum. OK
REK Nor can it be raised through increased rates for water service from so few customers.

Applicants' customers have held a number of meetings relative to the water situation and, according to the testimony of one customer witness, do not object to the proposed abandonment provided their water needs may be met by other means. The over-all problem is being explored by them with the district attorney and the health department but no firm solution to the problem has yet been determined.

Conclusions

The record clearly shows and we so find that the system has operated at a loss for the past several years, that to meet the demands of the health department requires a minimum additional capital investment of at least \$7,500, that applicants have not the financial means to put any more capital into the system and that applicants have been unable to attract capital for the system. We also find that any revenues which might be generated by increasing

rates for water service to any reasonable higher level would be insufficient either to provide needed cash for the demanded improvements or to adequately service the debt which applicants, if they could, would have to undertake.

We further find that this particular system cannot be operated except at a loss. It is beyond the power of the Commission to compel continuance of operations which can be conducted only at a loss. To do so would be a taking of property without just compensation (Lyon & Hoag vs. Railroad Commission 183 Cal 145). In view of the evidence and these findings, therefore,

IT IS HEREBY ORDERED that after the effective date hereof, E. L. Jellenc and Georgette M. Jellenc are authorized to abandon and discontinue water service in Redwood Terrace, La Honda, San Mateo County and to cancel tariffs for service therein.

IT IS HEREBY FURTHER ORDERED that:

1. On or before the date of actual discontinuance of service under the authority herein granted, applicants shall refund all deposits which customers are entitled to have refunded, and within thirty days thereafter shall notify the Commission in writing of the completion of such refunding.

2. Applicants shall, within thirty days after the date of actual discontinuance of service under the authority herein granted, file with this Commission a verified statement showing all obligations to make refunds of advances for construction, if any, the amounts thereof, and the names of persons or corporations in whose favor such obligations exist as of the date of discontinuance of service.

3. If the authority herein granted is exercised, applicants shall, within thirty days thereafter, notify this Commission in writing of the date of such discontinuance of service herein authorized and of their compliance with the terms hereof.

4. Upon due compliance with all of the conditions of this order, applicants shall stand relieved of all further public utility duties, obligations and liabilities in connection with the operation of the public utility water system herein authorized to be discontinued.

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

Dated at San Francisco, California, this 22nd day of January, 1957.

 President
[Signature]

[Signature]

[Signature]

 Commissioners

Peter E. Mitchell
Commissioner S. G. Lya Fox, being necessarily absent, did not participate in the disposition of this proceeding.