

**ORIGINAL**Decision No. 54655

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHARLES G. SAWYER,

Complainant,

vs.

Case No. 5596

CALIFORNIA WATER & TELEPHONE  
COMPANY, a California corpora-  
tion,

Defendant.

ORDER DENYING APPLICATION TO  
AMEND AND MODIFY ORDER EXTENDING  
EFFECTIVE DATE OF DECISION NO. 53661

Charles G. Sawyer, on February 8, 1957, made application to the Commission for an order amending and modifying a previous order, dated January 10, 1957, which extended the effective date of Decision No. 53661 --

"until expiration of the time within which defendant may apply to the Supreme Court" (of California) "for a writ of review, and in the event such application is made said effective date is further extended until thirty days after final determination of such review proceeding before the Supreme Court, unless otherwise hereafter ordered."

Sawyer alleges that he did not have adequate time to reply to defendant company's application for an extension of time to comply with Decision No. 53661, which was issued on August 29, 1956 (rehearing denied, December 28, 1956, Decision No. 54340); that the extension order should be vacated and modified to require defendant to extend its water service to existing subdivisions in the Victorine Ranch, provided that Sawyer advance sufficient funds to pay for the costs of installation under defendant's subdivision main extension rules in effect on July 8, 1949 and November 3, 1954.

Much of the application consists of evidentiary matter urged in support of the requested vacation of the extension order.

The company replied, with points and authorities, alleging that its petition for writ of review, filed with the Supreme Court on January 28, 1957, for the purpose of reviewing Decision No. 53661, is pending. It also alleges that due notice of its application to the Commission for the extension order was given. The balance of the reply consists generally of a denial of the evidentiary matter pleaded by Sawyer, together with certain allegations, admissions and other matter set forth in response to his pleading. The reply concludes with an allegation of lack of jurisdiction in the Commission to amend and modify its order of January 10, 1957, pending determination of the review proceeding by the Supreme Court. In addition, the company alleges that it would suffer irreparable injury should the Commission force it to render the requested service under the conditions imposed by Decision No. 53661, and that such action by the Commission would make the petition for writ of review ineffective and render major matters covered thereby moot.

With respect to notice of the company's application for an extension of the effective date of Decision No. 53661, Sawyer alleges that he received a copy thereof, by mail, on January 9, 1957, at Carmel. Nowhere in his pleading does he assert that he made any attempt to communicate with the Commission or its staff for the purpose of securing additional time to reply. His allegation of lack of reasonable opportunity to make such reply is without merit.

We are of the opinion and conclude that the matters presented to the Supreme Court by defendant's petition for a writ of review and by the forthcoming answer to such petition to be filed by the Commission, are of such importance in the field of regulation of water utilities as to require that we refrain from taking the

action requested by Sawyer. Assuming that we possessed the power to do as he requests, which we do not here decide, such action might well tend to embarrass the court in its consideration of questions raised by the petition which are of concern to the Commission, as well as to Sawyer and the company.

For the reasons stated, Sawyer's application, filed February 8, 1957, is denied.

Dated at San Francisco, California, this 12<sup>th</sup> day of March, 1957.

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