

**ORIGINAL**

Decision No. 54709

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CATHERINE KAUTH RICHARDSON )  
 and KERMIT D. LACY, )  
 )  
 Complainants, )  
 )  
 vs. )  
 )  
 JOSHUA TREE SERVICE COMPANY, )  
 a corporation, )  
 )  
 Defendant. )

Case No. 5857

Lewis L. Clarke, Jr., attorney, for complainants.  
Eugene M. Elson, attorney, for defendant.  
Charles W. Drake, for the Commission staff.

O P I N I O N

Catherine Kauth Richardson and Kermit D. Lacy,<sup>1</sup> individuals, filed the above-entitled complaint on December 3, 1956, against Joshua Tree Service Company,<sup>2</sup> a corporation, in which they allege that defendant had refused to furnish water service to their property in unincorporated territory of San Bernardino County in the community of Joshua Tree, and seek an order of the Commission requiring defendant to furnish such water service. Defendant filed its answer on December 24, 1956.

A public hearing on this matter was held before Examiner Stewart C. Warner on February 5, 1957 at Los Angeles.

On October 1, 1956, complainants requested, by letter (Exhibit A), that defendant furnish and provide water service for complainants' Tract No. 5396, located in the east half of Section 25,

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1 Hereinafter referred to as complainants.  
 2 Hereinafter referred to as defendant.

Township 1 North, Range 6 East, S.B.B. & M. On October 2, 1956, defendant's president telephoned complainants and verbally refused to furnish water service to complainants for said tract. On October 3, 1956, complainants addressed a letter (Exhibit No. 4) to this Commission requesting an investigation of the matter, and on November 5, 1956, the Commission replied, by letter (Exhibit No. 5), that defendant had informed the Commission that complainants' property was outside defendant's dedicated service area, and that defendant could not consider serving the property.

The maps, Exhibits Nos. 1 and 3, show the location of complainants' Tentative Tract No. 5396 and the proposed initial subdivision thereof. Complainants' property comprises 270 acres located east of Sunburst Street and north of 29 Palms Highway. Complainants propose to subdivide the first 20 acres as Unit No. 1 with streets running easterly and westerly through said unit to be designated as Oleander Drive and Terrace Drive. Other units will be developed later. Complainants allege that no other source of water supply is available to their property; that defendant has extended its water service outside its dedicated service area to the Sportsmen's Club property comprising five acres; and had indicated by a letter (Exhibit No. 2), dated September 13, 1956, to the Morongo School District that it intended to furnish water service to said school district, also outside its dedicated service area.

The record shows that defendant was granted a certificate of public convenience and necessity to construct and operate a public utility water system in the vicinity of Joshua Tree Townsite by Decision No. 38154, dated August 14, 1945, in Application No. 26451. The map filed on October 9, 1945, in that proceeding clearly sets forth the boundaries of the area in which the utility dedicated its service to the public and the certificate issued was for the area

delineated on that map. The easterly boundary of defendant's certificated service area, north of 29 Palms Highway, is the center line of Sunburst Street. The property of the Sportsmen's Club consisting of 5 acres, the Morongo School District property consisting of 20 acres, and the complainants' Tentative Tract No. 5396 comprising 270 acres, all abutting on the east side of Sunburst Street, are in the east half of Section 25, Township 1 North, Range 6 East, S.B.B. & M., and therefore, are outside of defendant's certificated service area. The record further shows that, except for the service to the Sportsmen's Club, a building formerly owned by the American Legion and used as a community clubhouse, the meter for which is located on the west side of Sunburst Street inside defendant's certificated service area, defendant has not furnished and does not furnish water service outside its certificated service area.

Defendant's president testified that defendant's sources of water supply at the present time were sufficient for its dedicated service area, only; that its well produced approximately 300 gallons per minute; that it was furnishing water service to 349 consumers; that some 1,200 lots had been sold inside its certificated service area; that its present storage facilities totaled 215,000 gallons; and that in order to furnish water service outside its dedicated service area, it would be necessary to drill another well and increase its storage facilities. Defendant's management elected, therefore, not to extend its water service to complainants' property.

It appears that service to the Sportsmen's Club property, consisting of 5 acres, may have been extended in a manner not in accordance with defendant's rules and regulations on file with the Commission. Whether, in so doing, the defendant has included that property in its dedicated service area is not at issue in this

proceeding and need not be decided herein. It is sufficient to observe the fact that none of complainants' property lies within the said 5 acres. Neither does any of complainants' property lie within the 20-acre property of the Morongo School District, to which defendant has not yet extended service although it has offered to do so under certain conditions.

Defendant has the right to extend its service into areas contiguous to its certificated service area. This may be done in one or more of the following ways: (1) by obtaining from this Commission a certificate of public convenience and necessity to serve such additional areas; (2) by extending service in accordance with its filed rules and regulations, with particular reference to its Rule and Regulation No. 19, Main Extension; or (3) by contract for services at other than filed tariff schedules, as provided in Section X of the Commission's General Order No. 96. However, defendant is put on notice that it should not undertake to render service in any additional areas unless and until it first shall have developed or otherwise obtained sources of water supply, together with storage facilities, sufficient and adequate to furnish water service to its presently dedicated service area in accordance with the standards and service rules for water utilities prescribed in the Commission's General Order No. 103.

The Commission finds as a fact and concludes that inasmuch as complainants' property lies outside of defendant's certificated service area and that there has been no dedication of water service by defendant in the complainants' property sought herein to be served, the Commission cannot legally order defendant to furnish water service to complainants' said property or to any other outside of its dedicated service area under the circumstances disclosed by this record.

Based upon the evidence and in view of the foregoing discussion and findings relative thereto, it is our opinion and we find that the relief sought by complainants should be denied. Accordingly this complaint will be dismissed.

O R D E R

Complaint as above entitled having been filed, a public hearing having been held, the matter having been submitted, and now being ready for decision,

IT IS HEREBY ORDERED that the complaint of Catherine Kauth Richardson and Kermit D. Lacy against Joshua Tree Service Company, a public utility water corporation, be, and it is, dismissed.

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

Dated at Los Angeles, California, this 26<sup>th</sup> day of MARCH, 1957.

*Paul J. Wintergreen*  
 President

*Thomas D. Doyle*

*W. H. Harty*

*E. L. Latta*  
 Commissioners