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Decision No. 55083

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY, a corporation, for an order limiting service under Section 2708 of the Public Utilities Code.	Application No. 38640
BEN M. WOODWORTH, ELMER KRULEVITCH and BERNICE KRULEVITCH, his wife, Complainants, vs. CALIFORNIA WATER SERVICE COMPANY, a California corporation, Defendant.	Case No. 5794
ROY A. KEISER, Complainant, vs. CALIFORNIA WATER SERVICE COMPANY, a corporation, Defendant.	Case No. 5821
MARINO P. CRINELLA, Complainant, vs. CALIFORNIA WATER SERVICE COMPANY, a corporation, Defendant.	Case No. 5822

McCutcheon, Thomas, Matthew, Griffiths & Greene; and Robert Minze Brown, for applicant and defendant.

Orrick, Dahlquist, Herrington and Sutcliffe; Warren A. Palmer and James F. Crafts, Jr.; and Edouard Robert, for the City of Petaluma, protestant to Application No. 38640.

Leonard & Dole and Stuart R. Dole, for complainants in Case No. 5794.
John B. Lounibos, for complainants in Cases Nos. 5821 and 5822.
John D. Reader, for the Commission staff.

O P I N I O N

Application No. 38640, filed December 6, 1956, requests a finding authorized by Section 2708 of the Public Utilities Code that California Water Service Company has in the Petaluma area reached the limit of its capacity to supply water and that no further customers can be supplied from its system without injuriously withdrawing the supply from those customers who have been served.

The complaint, Case No. 5822 filed September 14, 1956, by Marino P. Crinella, requests a Commission order requiring this water company to extend its service area to include a tract owned by him consisting of about 31 acres which he wishes to subdivide. This land lies within the boundaries of the City of Petaluma but outside of and contiguous to the area included in a service area map filed with the Commission by the water company. Complainant alleges that final maps for his subdivision will be ready for filing in January, 1958.

The complaint of Roy A. Keiser, Case No. 5821 filed September 14, 1956, alleges that complainant purchased approximately 175 acres for subdivision purposes and to supply a hospital site for the Petaluma Hospital District; that 5.74 acres of this tract were sold to the district which constructed thereon a hospital; that the district entered into an agreement with defendant for the installation of water facilities which included

a pipeline along El Rose Drive and Hayes Avenue on complainant's property; that seventy acres of his property have been annexed to the city. All of complainant's property in this area which is in the southwest corner of the city is sought to be included in defendant's water service area.

By Decision No. 54153, dated November 27, 1956, in Case No. 5794, defendant California Water Service Company was ordered to proceed under its rules and regulations to construct the necessary water facilities in the subdivision owned by complainants in that case. Rehearing, by petition filed on December 6, 1956, was sought by defendant upon the assertion that expected additional water supplies anticipated had failed to materialize and that consequently defendant was unable to supply this subdivision with water. On January 15, 1957, rehearing was granted. All four matters were consolidated for hearing.

Public hearings were held on April 4, 5, 12 and 16, 1957, before Commissioner C. Lyn Fox and Examiner John A. Rowe, Jr., in San Francisco. After oral argument the matter was ordered submitted on the latter date by Commissioner Fox.

At present there are roughly 5,100 customers in the area presently being served by the company and the annual yearly growth of consumers is estimated to be in the neighborhood of 200 for the entire area under consideration. The average yearly use of water by customers in this area has been about 111,000 gallons each. From the evidence of record it appears that the Commission finds that defendant's wells, including an additional well which, by lease executed during the hearings, was made available for a ten-year period and at an additional cost of about $65,000 for additional facilities, including transmission pipelines, have a total pumping rate of

approximately 2,000 gallons per minute. This should provide sufficient water assuming normal population growth and precipitation for the next four years, at which time Coyote Dam water may be available. Consequently, the Commission is unable to find that California Water Service Company has reached the limit of its capacity to supply water in the Petaluma district. Application No. 38640 will be denied without prejudice to the filing of a new application requesting similar relief should conditions change.

In his opening statement counsel for defendant stated that the company on rehearing in Case No. 5794 was not questioning the Commission's determination that the Woodworth tract was properly included in its service area. The evidence of record on rehearing and in the original hearings support the findings and order in Decision No. 54153 and it will be affirmed.

The complainants in Cases Nos. 5821 and 5822 ask that defendant in each case be ordered to extend its service area to include the land of these complainants being presently in the city limits. Counsel for defendant in his closing argument conceded that the land of complainants should not be considered as excluded from the company's service area.

Complainant Marino P. Crinella, in Case No. 5822, alleges that he does not expect to file final maps for the tract until January of 1958. It also appears from evidence presented by witness C. F. Mau, vice president of defendant, that the Coyote Dam may be completed in 1958 and therefore that water from this source may be available to the Petaluma area in 1959.

In Case No. 5821, according to the testimony of record the hospital constructed on land sold to the district by complainant

Roy A. Keiser is presently being served by defendant. Water could be made available by the installation of service connections as houses are constructed and occupied along Hayes Avenue. The Commission finds that such connections should be made to the lots along Hayes Avenue which are adjacent to the pipeline installed in this street to the tank installed for the use of the hospital, and to which services minimum operating pressures of 25 pounds per square inch can be maintained with the existing facilities. The tank and pipeline were installed under a main extension agreement which provides for the refund of moneys advanced by the hospital district. This area has in effect been included in the company's water service area when it entered into the subject main extension agreement. Upon compliance with the company's rules, water mains and pipe should now be constructed in the 11 acres set aside as a medical center. This complainant indicated in his testimony that at present he was not desirous of requiring further main extensions.

Complainant Crinella indicated that construction in his tract will be undertaken in yearly phases. He should apply for extensions of service by the construction of mains and service lines as the need therefor arises. The company should not be requested to undertake service in the areas of this subdivision prior to the time that complainant is ready to proceed with construction.

The Commission will not include in its findings a provision that any area as to which the company is not ordered to extend service is within or without its dedicated district. It should be noted, however, that in the evidence and argument the water company contemplates service within a much more expanded

territory after water from the Coyote Dam Reservoir, now under construction in Sonoma County, becomes available. The company generally argues that it must restrict the area to be served because of insufficient water rather than because it has not dedicated itself to serve the entire community. Counsel for the water company in his oral argument indicated that when letters are sent to the Division of Real Estate assuring the Commissioner that water will be available for a proposed subdivision that the company would treat the necessary amount of water "as reserved for customers on that property." Defendant should be reminded that such a reservation violates a fundamental rule of public utility law which requires that all be treated equally.

The Commission is aware of the possibility that any unexpected acceleration in growth of the area, coupled with an unusually dry season, might necessitate the curtailment of water service to patrons of the area. At the present time, however, any probability of a situation arising wherein water rationing would be necessary, appears to be remote. The Commission is of the opinion, however, that should the eventuality arise it would be more desirable to initiate rationing, thereby spreading the burden of short water supply over the entire community, than to limit or curtail the normal growth of the community.

O R D E R

Hearings in the above matters having been held, the Commission being fully advised and basing its decision upon the findings in the above opinion,

IT IS ORDERED:

(1) That Application No. 38640 is denied without prejudice.

(2) That the relief sought in Case No. 5822 is granted and the subdivision referred to in the complaint in said case is declared to be in defendant's service area.

(3) That defendant in Case No. 5821 is ordered pursuant to its rules to render service to those lots along Hayes Avenue which are adjacent to the existing main installed to serve the hospital and to which minimum operating pressures of 25 pounds per square inch can be maintained with the existing facilities, and in the eleven acres laid out and designated as a medical center.

(4) That Decision No. 54153 is reaffirmed.

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

Dated at San Francisco, California, this 4th day of JUNE, 1957.

President

Commissioners