

Decision No. 55660

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC WATER CO.,)
)
 Complainant,)
)
 vs.)
)
 DYKE WATER COMPANY,)
)
 Defendant.)

Case No. 5862

Moss, Lyon & Dunn by George C. Lyon for
 Pacific Water Co., complainant.
Glen A. Lane and Arlynne Lansdale for
 Dyke Water Company, defendant.
Charles W. Drake and Chester O. Newman
 for the Commission staff.

O P I N I O N

On December 14, 1956, complainant Pacific Water Co., hereinafter called Pacific, filed its complaint against the defendant, Dyke Water Company, hereinafter called Dyke.

The interim order issued herein on December 18, 1956, Decision No. 54302, summarized the allegations of Pacific in its complaint and ordered Dyke, pending further Commission order herein, immediately to cease and desist and refrain from constructing any new water supply, transmission, or distribution facilities, or from constructing any additions to or extensions of any such existing facilities within the following area: Tract No. 2756 in Orange County, as described in the complaint herein. Said interim order further directed Dyke to serve and file its answer to the complaint herein on or before December 28, 1956, and on said date Dyke served and filed its answer.

Public hearings were held before Examiner Cline in Los Angeles on December 28, 1956, and February 1 and May 9 and 10, 1957. At the close of the hearings the matter was taken under submission.

Location of Tract No. 2756

Decision No. 53862, issued October 1, 1956, in Application No. 36592, and Decision No. 53858, issued October 1, 1956, in Applications Nos. 37097 and 37161, have been incorporated by reference in this proceeding as Items Nos. 1 and 2, respectively.

The record shows that Tract No. 2756 is located in Orange County at the southeast corner of the intersection of Clinton Street and Trask Avenue. Tract No. 2097, which is served by Dyke, is on the north side of Trask Avenue. The southwest corner of Tract No. 2097 is contiguous to the northeast corner of Tract No. 2756.

Tract No. 2097 lies directly between two service areas of Pacific. Neither Tract No. 2097 nor Tract No. 2756 are contiguous to any of Dyke's presently certificated area or areas contiguous thereto, but both of said tracts are within Pacific's spheres of operations for which Pacific has been granted a certificate of public convenience and necessity to construct, extend and operate its public utility water systems by the above referred to Decision No. 53862.

By Decision No. 53858, Dyke was granted a certificate of public convenience and necessity to construct, extend and operate its public utility water systems in its spheres of operations in Orange County, as delineated on the map attached to said decision as Appendix "A." Said decision also ordered Dyke not to extend its water system outside its certificated service area boundaries without further order of the Commission. The decision became effective October 21, 1956.

Extension of Service by Dyke to Tract No. 2756

On September 27, 1956, Dyke entered into an agreement with Emerald Investment Co., Exhibit No. 7 herein, under which Dyke agreed to construct and install a complete water system in Tract No. 2756. This agreement also provided that it should at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as the Commission might, from time to time, direct in the exercise of its jurisdiction.

Prior to the time of the execution of the agreement, Dyke had constructed two mains into and bordering Tract No. 2756, one on Clinton Street and the other on Trask Avenue.

Although Exhibit No. 7 provided that Dyke should install the complete water system, the services were installed by Bejac Company under a contract directly with Emerald Investment Co., the subdivider of Tract No. 2756. Dyke intends to have the system transferred to it, however. The work performed by Bejac was started on October 19, 1956 and was completed on the same day. Bejac also made the connections between the service lines in Tract No. 2756 and the distribution mains which had previously been installed on Clinton Street and Trask Avenues by Dyke. Water was supplied by Dyke to Tract No. 2756, on October 19, 1956, to twenty double connections. No charge has been made for the water yet, and it is not contemplated that a charge will be made until the four model homes within the tract are completed.

Ability of Pacific to Serve Tract No. 2756

In its answer Dyke denied that Pacific has sufficient water available, or sufficient pumping or well equipment available to serve Tract No. 2756, and at the hearing Dyke introduced evidence to show insufficient water service on various occasions by Pacific in certain areas in Orange County which it is serving.

Pacific has water mains along Clinton Street and Trask Avenue adjacent to Tract No. 2756 which could be used to supply water service to said tract. These mains are part of Pacific's water system which is interconnected by four-inch and six-inch mains to its wells Nos. 14, 15, 16, 17 and 18. Field test reports were introduced into evidence to show the performance of these wells. Exhibit No. 14 shows that 659 consumers are served by this interconnected system. The production of the five wells totals 2,311.5 gallons per minute, or an average of 3.96 gallons per minute per customer. There are pressure tanks at the well having pressure switches which are set at forty pounds per square inch on the low side and sixty pounds per square inch on the high side. The record shows that the system has been able to meet peak demands satisfactorily. With the addition of forty consumers in Tract No. 2756, the water supply would average 3.74 gallons per minute per customer.

After a careful consideration of the entire record, we hereby find that Pacific is able and willing to furnish said Tract No. 2756 with water and has sufficient water available and sufficient pumping and well equipment to serve said territory.

Motion of Dyke to Hold Matter in Abeyance

At the close of the hearing, Dyke moved that this matter be held in abeyance pending the disposition of the petitions for writs of review of Decisions Nos. 53858 and 53862 by the California Supreme Court. As the Supreme Court denied such petitions on August 27, 1957, this motion is now moot.

Conclusion

We hereby find that Dyke has unlawfully extended its water system into Tract No. 2756 in Orange County in violation of Section 1001 of the California Public Utilities Code and ordering paragraph 1(a) of Decision No. 53858 issued October 1, 1956, in Applications Nos. 37097 and 37161. Dyke

Upon careful consideration of all the evidence of record herein, we hereby further find and conclude that the interim order set forth in Decision No. 54302 should be made the final order of this Commission. ✓

FINAL ORDER

Public hearings having been held and the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that Decision No. 54302, issued December 18, 1956, herein as an interim order be, and it is hereby made permanent and final.

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

Dated at San Francisco, California, this 8th day of October, 1957.

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