

ORIGINAL

Decision No. 55843

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

W. H. BROCKMANN,
Complainant,

vs.

SMITHSON SPRINGS WATER CO.,
a corporation,
Defendant.

Case No. 5720

Investigation on the Commission's
own motion into the practices,
operations, management, contracts,
charges, extensions and water
supply of the SMITHSON SPRINGS
WATER COMPANY, a public utility
water corporation operating in the
County of San Bernardino, California.

Case No. 5803
PETITION FOR MODIFICATION

Raymond Arthur Young and Carl Harrington, in
propria personae, petitioners.

James G. Shields, for the Commission staff.

OPINION ON REHEARING

By Decision No. 54551, dated February 19, 1957, this Commission, among other things, determined the service area of the Smithson Springs Water Company and ordered the company to notify two consumers whose properties are outside this service area that services to them would be disconnected. Under date of April 26, 1957, Raymond Arthur Young petitioned for rehearing, alleging that this decision adversely affected his interest and that of Carl Harrington, the two consumers concerned.

Under date of May 28, 1957, this Commission issued an order reopening the matter and subsequently, on July 31, 1957, the Smithson Springs Water Company filed a petition requesting modification of the order of Decision No. 54551, supra. That order provides that respondent water company shall establish no new services except haulage service "unless and until such request is approved by formal order of this Commission upon a sufficient showing by respondent of an ample water supply for the additional services requested". Apparently this provision applies to property inside the service area as well as to property outside such area.

A public hearing was held on September 19, 1957, in Los Angeles before Commissioner Ray E. Untereiner and Examiner Grant E. Syphers, at which time evidence was adduced and the matter submitted.

At the hearing, testimony was presented by Messrs. Young and Harrington concerning the property on which they now reside. This land, which is located to the west of the southerly portion of the certificated area of the Smithson Springs Water Company, was originally purchased in 1935 by Mr. Harrington. On January 1, 1939, Harrington entered into a contract with one Mondorf under the terms of which Harrington was to receive water from Mondorf in exchange for a consideration of \$250. Subsequently thereto, the water company was formed and the Smithson Springs Water Company is the successor in interest thereof.

About twelve years ago Harrington installed a pipe and has been getting water through this pipe since that time.

The petitioner Young purchased part of Harrington's land about two years ago and has been receiving water service thereon

until sometime after March, 1957, when his meter was taken out and the water shut off by the defendant water company. Harrington still is getting water through a meter.

It should be noted that the defendant water company did not appear at this hearing although notices thereof were duly sent to that company. The foregoing testimony was not controverted and indeed it was confirmed by the exhibits entered in the prior proceedings leading to Decision No. 54551, supra. Upon this record, therefore, we find that the petitioners Young and Harrington are entitled to receive water service from the defendant company.

Other witnesses appeared at the hearing who are owners of property in the certificated area of the company. These witnesses testified that the company does not and will not furnish water service to them even though their property is within the service area.

In Decision No. 54551, supra, we held that "the Taylor meter, the complainant's service connection, and the Grettenberg-Trimble meter are in the respondent's service area ..." The evidence herein discloses that the Grettenberg-Trimble meter is one through which water is furnished to two rather large ranch properties which are entirely outside of the service area. The evidence further indicates that these ranch properties receive the largest share of water from the water company.

It is a basic rule of utility law that a utility must serve all customers within its service area to the reasonable limit of its facilities. In the instant situation it now appears that the Smithson Springs Water Company is refusing to take any steps to provide service to customers in its certificated area and at the same time is furnishing large amounts of water to a customer outside the service area.

Accordingly, we now find that the defendant water company shall first provide service to users in its certificated area and shall provide for the reasonable demands of such consumers within its service area by maintaining not less than 300,000 gallons in storage when furnishing water to the Grettenberg-Trimble meter. When water storage is less than 300,000 gallons, then the defendant company shall cease supplying water to the Grettenberg-Trimble meter.

In order to effectively carry out the provisions of this order, and in conformity with the petition of the defendant water company, paragraph (4) of the order of Decision No. 54551 will be set aside and vacated. In other words the company will be permitted to serve all consumers within its certificated area in accordance with the existing law.

ORDER ON REHEARING

Decision No. 54551, dated February 19, 1957, having been issued, a petition for rehearing having been filed and an order granting rehearing having been issued, public hearing having been held thereon, and the Commission being fully advised in the premises,

IT IS ORDERED:

(1) That the certificated area of the Smithson Springs Water Company as described in Appendix A of Decision No. 54551, supra, shall be enlarged to include the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, T4N, R7W S.B.B.&M.

(2) That the Grettenberg-Trimble properties are hereby declared to be outside the service area of the Smithson Springs Water Company and when water in storage shall be less than 300,000 gallons, service

to the Grottenberg-Trimble meter shall be discontinued in order that the utility may first meet the normal reasonable demands of all consumers within its service area.

(3) That paragraph (4) of the order of Decision No. 54551 be and it hereby is set aside and vacated.

(4) That the Smithson Springs Water Company shall be restricted to furnishing water service within its presently authorized service area boundaries only, except as provided in this decision and in Decision No. 54551.

Except as hereinbefore modified, Decision No. 54551, supra, shall remain in full force and effect.

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

Dated at San Francisco, California, this 19th day of November 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

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Commissioners