

ORIGINAL

Decision No. 56114

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation and suspension on the)
Commission's own motion of Schedule)
No. 7-LF of Dyke Water Company,)
filed by Advice Letter No. 13.)

Case No. 6024

William Bricca for the Commission staff. 1/
Glenn A. Lane, attorney, and Dyke Lansdale, vice president,
for respondent.
Fred D. Johnston, city attorney, City of Stanton; Charles Berg,
Water Committee chairman, City of Stanton; A. M. Reynolds
and L. B. Movius, subdividers of Tract No. 3268; Henry C.
Cox for Twin Oaks Corporation, subdivider of Tract No. 3159;
Howard W. Crooke, secretary-manager, Orange County Water
District; Peggy Spellman, assistant secretary, and Bon L.
Wells, for Pacific Water Co.; interested parties.
O'Melveny & Myers, attorneys, by Lauren M. Wright, and Philip F.
Walsh, vice president, for Southern California Water Company,
protestant.

O P I N I O N

The above-entitled investigation and suspension on its own motion of Schedule No. 7-LF of Dyke Water Company, a corporation, was instituted by the Commission on December 10, 1957. Said schedule to be investigated and suspended was filed by Advice Letter No. 13 on November 27, 1957, and a copy thereof has been received in evidence as Exhibit No. 2.

An original public hearing was held before Commissioner Rex Hardy and Examiner Stewart C. Warner on December 26, 1957, at

1/ Exhibit No. 3 is a certified copy of minutes of a special meeting of the Board of Directors of Dyke Water Company held on December 26, 1957, making Dyke Lansdale a vice president and authorizing him to handle all matters relating to the operation and business of the corporation.

Santa Ana. This matter was consolidated for hearing at that time with an adjourned hearing on Application No. 39303 of Dyke Water Company for authority to increase its rates for water service, and an original hearing on Case No. 5841, an investigation on the Commission's own motion into the rates, rules, regulations, contracts, operations and practices pertaining to and involving water main extensions of Dyke Water Company. No evidence was taken at the December 26, 1957, hearing and the applicant, Dyke Water Company, requested and was granted an indefinite continuance of its Application No. 39303 and Case No. 5841 due to the illness of Mrs. Arlyne Lansdale, applicant's secretary-treasurer and attorney. The instant-captioned matter was, at the request of officials of the City of Stanton, reset for January 8, 1958, at Stanton. A public hearing was held on that date and the matter was submitted thereon for decision.

Evidence

Advice Letter No. 13, Exhibit No. 2, set forth on tariff sheets submitted by such advice letter and attached to said exhibit, a rate for limited flat rate wholesale service to be furnished by respondent to the City of Stanton. Dyke Water Company estimated in said letter that the City of Stanton would require 80 acre feet of water per annum for approximately 80 domestic service connections; that the revenue to Dyke would be \$3,840 per annum; that the same quantity of water billed at 12 cents per 100 cubic feet, the minimum rate shown on Schedule No. 1, General Metered Service, of Dyke Water Company in effect on November 25, 1957, the date of Advice Letter No. 13, would yield \$4,182 per annum, which amount would be greater than the charge computed from Schedule No. 7-LF requested to be filed. The monthly flat rate requested to be filed in said schedule

was \$4.00 per month per domestic consumer for the City of Stanton, and the territory covered by said schedule comprised the incorporated limits of the City of Stanton, Orange County. Said city limits, as of January 8, 1958, are delineated on the map, Exhibit No. 5, filed at the hearing.

Exhibit No. 4, submitted by the Commission staff, is a map of a major portion of Orange County showing in various colors denoted by the legend thereon, the certificated water utilities. The area certificated to Dyke Water Company in and in the vicinity of the boundaries of the city limits of Stanton, is delineated on said map in green; that of Southern California Water Company in red. Said certificated areas were granted pursuant to Application No. 37097 of Dyke Water Company in Decision No. 53858 and pursuant to Application No. 37172 of Southern California Water Company in Decision No. 53856, each dated October 1, 1956, and are delineated on the map, Appendix A, attached to said decisions incorporated in the record herein as Item No. 1.

The record shows that the City of Stanton intends to furnish retail domestic water service to some 80 prospective consumers in Tract No. 3268 which is located about 1000 feet north of Cerritos Avenue along the west side of Dale Street. Said tract is located within the certificated area of Southern California Water Company as shown on Exhibit No. 4. Dale Street, in this area, is the north-south dividing line between the certificated areas of Southern California Water Company and Dyke Water Company.

A witness for the respondent testified that Dyke intended to install a 6-inch service connection to serve the City of Stanton

on the east side of Dale Street at Chanticleer Road. Such location would be across Dale Street to the east from the southern boundary of Tract No. 3268. The subdivider, the record shows, intends to have installed by a subcontractor, Plumbing Contractors Inc., a water system in Tract No. 3268. It was this subdivider's testimony that he understood, in his negotiations with the City of Stanton, that a markup charge or surcharge of between 75 cents and \$1.50 would be added by the city to Dyke's proposed wholesale flat rate charge of \$4.00 per connection per month. Such combined charge would constitute each consumer's monthly charge in the tract. He also testified that some negotiations had been conducted between himself and the city on a basis that the subdivider might donate his water system to the city.

Respondent's witness also testified that Dyke Water Company intended to install a 6-inch service connection to serve the City of Stanton from an existing main on Orangewood Avenue at a point three or four hundred feet east of Stanton Avenue, and that the city would furnish domestic water service to approximately sixty homes under construction and to be built in Tract No. 3159. Said tract would be comprised of twenty acres - 1150 feet in a north-south direction and 520 feet in an east-west direction. Such proposed service connection would be outside Dyke's certificated area as shown on Exhibit No. 4, and within the certificated area of Southern California Water Company.

This witness further testified that the four dollar monthly wholesale flat rate charge to the City of Stanton would include maintenance and billing services by Dyke Water Company.

The record shows that by Decision No. 56003, dated December 17, 1957, in Application No. 39303 (Interim), Dyke Water Company was granted authority to increase its then-filed monthly flat rates from \$3.00 per month to \$3.75 per month, and its general metered service schedules, on an interim basis pending further hearing and decision on Dyke's principal Application No. 39303 to increase its monthly flat rate from \$3.00 per month to \$4.50 per month and to increase its general metered service schedules by 50 per cent.

A witness for Orange County Water District submitted a prepared statement as Exhibit No. 1, containing an analysis of water usage habits of flat rate consumers of Dyke Water Company and of metered consumers of the cities of Anaheim, Santa Ana, Fullerton and Orange, and Orange County Water Works District No. 3. This analysis showed, among other things, that flat rate consumers of Dyke Water Company used 0.941 acre feet of water per year per connection as contrasted to a weighted average of nearly 200,000 connection-years of water use in Anaheim, Fullerton, Santa Ana, and Water Works District No. 3 of 0.570 per acre feet of water per connection including all domestic, industrial, and municipal water usages. This witness reiterated the official position of Orange County Water District, a municipal body created to import Metropolitan Water District water into Orange County for sale to municipalities and others and for spreading in underground basins to replenish ground water supplies, urging the Commission to require of all utilities under its jurisdiction serving water within the boundaries of Orange County Water District that totalizing water meters be installed on all service connections, and that applicable rates be established on a volume basis.

The record shows that by Decision No. 55333, dated July 30, 1957, Dyke Water Company was ordered to cease and desist from furnishing water service to Tract No. 3268 (supra) pending a public hearing. Said order was made permanent and final, after hearing, by Decision No. 55662, dated October 8, 1957, upon a stipulation by Dyke Water Company and Southern California Water Company that the interim order therein should be made the final order of the Commission.

The chairman of the Water Committee of the City of Stanton testified that, at the request of the City Council of said city, his Committee had analyzed the monthly bills for the year 1956-57 of 1170 consumers of Southern California Water Company in the City of Stanton, and that such analysis had produced an average monthly water bill of \$4.04 per consumer. The analysis excluded some 230 consumers who had not been connected to the lines for a full-year period, and such consumers included, among others, those in the Berlin Tract where average water usages might have been higher.

A witness for the protestant, Southern California Water Company, testified that said company had been, and was, ready, willing, and able at all times to furnish water service to the City of Stanton, according to said protestant's regularly filed general metered service tariffs; that Southern California Water Company's mains were immediately adjacent to Tract No. 3268, and were within 300 feet of Tract No. 3159; that adequate water supplies were available; that Southern California Water Company had deposited \$18,000 with the Metropolitan Water District for a connection to be effected at Dale Street and Katella Avenue; that Metropolitan Water District water would be available at such connection to supplement the ground water sources of water supply of Southern California Water

Company in and about the City of Stanton; that the average water bill of \$4.04, hereinbefore referred to, included a 15 cent fire hydrant charge per consumer per month; that the resulting quantity charge of \$3.89 would provide for an average monthly usage of 1330 cubic feet of water per month per house according to Southern California Water Company's presently filed general metered service tariff; that if the City of Stanton were to apply for water service to serve some 80 houses then the total monthly water purchases by the City of Stanton, based on such average usage amounts, would be 106,400 cubic feet; that the average price to the city would be 17½ cents per 100 cubic feet; that the total monthly bill to the city would be \$178.91 which would equate to an average price to the City of Stanton for water purchased from Southern California Water Company of \$2.25 per house per month. This witness further testified that it was his opinion that the City of Stanton would be ill-advised to attempt to set up its own water department on the limited scale proposed on the record herein; that it was his opinion that a successful municipal water department should have its own maintenance, service, and office personnel and equipment; and that the proper way for the City of Stanton to establish a water department would be to condemn all of the presently installed water system properties within its boundaries, and thus acquire them.

Findings and Conclusions

It is evident from a review of the record, and the Commissioner finds as a fact and concludes, that Schedule No. 7-LF, Limited Flat Rate Wholesale Service (Cal. P.U.C. Sheets Nos. 119-W and 120-W), filed by Dyke Water Company by its Advice Letter No. 13, dated November 25, 1957, is improper, unreasonable, discriminatory and preferential; that it would be adverse to the public interest to permit the schedule to become effective; and that said schedule should be permanently suspended.

Schedule No. 7-LF is improper because it proposes a method for Dyke Water Company, the respondent herein, to extend its water service outside the boundaries of its sphere of operations established by Decision No. 53858, above, and thereby constitutes an attempt by the respondent to circumvent the Commission's orders to each of the three major public utility water companies furnishing water service in southwest Orange County. Said orders were designed by the Commission to eliminate uneconomical competition and were designed to bring about the orderly development of public utility water systems in that territory comprising some one hundred square miles of southwestern Orange County as shown on the map, Appendix A, which is Item No. 1.

Schedule No. 7-LF is unreasonable because it would provide for the tendering of flat rate wholesale service in contradiction to the Commission's expressed orders to each public utility water corporation, operating in southwestern Orange County, to pursue a program of metering of all water service connections in order to conserve ground water supplies.

The proposed schedule is discriminatory and preferential because it would provide for a higher charge for flat rate wholesale service than respondent's presently authorized charge for flat rate retail service.

No good cause having been shown on the record herein for the granting of the requested filing, the order hereinafter will provide that said filing be permanently suspended.

O R D E R

An investigation and suspension on the Commission's own motion of Schedule No. 7-LF of Dyke Water Company, filed by Advice Letter No. 13, dated November 25, 1957, having been instituted on December 10, 1957, public hearings having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that:

(1) Schedule No. 7-LF, Limited Flat Rate Wholesale Service (Cal. P.U.C. Sheets Nos. 119-W and 120-W) of Dyke Water Company, a corporation, filed on November 27, 1957, and suspended until April 26, 1958, be and it hereby is permanently suspended.

(2) The investigation herein, instituted by order of the Commission on December 10, 1957, be and it is hereby discontinued.

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

Dated at San Francisco, California, this 21st day of January, 1958

[Signature]
President
[Signature]
[Signature]
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Commissioners