

ORIGINAL

Decision No. 57641

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MILTON D. MUNKEBY,

Complainant,

Case No. 6154

vs.

COUNTY WATER COMPANY, a  
corporation,

Defendant.

Milton D. Munkeby, for complainant.  
John A. Erickson and Harry C. Erickson, for the  
defendant.  
C. O. Newman, for the Public Utilities Commission  
staff.

INTERIM OPINION

Public hearing was held in this matter on October 15, 1958, before Examiner Grant E. Syphers in Los Angeles. At that time evidence was adduced and the matter submitted. It now is ready for decision.

The County Water Company is a corporation operating a public utility water system, the territory of which includes certain areas in the Artesia district of Los Angeles County, California. The complainant owns or controls four vacant lots on which he intends to build homes. One of these lots is located on 165th Street, about 425 feet east of that street's intersection with Pioneer Boulevard. The other three lots are located on the south side of Cedarvale Street, one about 325 feet east of Pioneer Boulevard, the second about 725 feet east of Pioneer

Boulevard, and the third about 500 feet east of Clarkdale Street. The complainant has requested the defendant water company to serve water to these four lots and, additionally, he has requested service on 164th Street. The defendant water company is willing to serve water on 164th Street if it can secure a right-of-way to install a main therein.

As to the one lot on 165th Street and the three lots on Cedarvale, the evidence discloses that there are water mains in the streets in front of these properties. These mains were put in by Hodges & Hodges Construction, or by their associates, and at the present time water is going through these mains, which water is being furnished by the County Water Company. The County Water Company purchases this water from the Park Water Company. Prior to installing these mains Hodges & Hodges Construction had an agreement with the predecessor in interest of the County Water Company under the terms of which the water company was to serve water exclusively to the properties developed by Hodges & Hodges Construction until May of 1959. At that time the mains will be turned over to the water company. The evidence discloses that the Hodges obtained the rights-of-way for the water lines concerned and installed them at their own expense.

The position of the defendant company is that it is willing to serve the complainant under its main extension rule whereby the complainant would pay for all pipe extensions over certain amounts designated in the rule, or it is willing to serve the defendant through Hodges' pipes, provided it can be relieved of any liability under the existing contract with Hodges & Hodges Construction. It was the position of Hodges &

Hodges Construction that it paid the expenses of installing these mains and that complainant Munkeby did not participate in these expenses. Therefore, the Hodges brothers desire the exclusive use of these mains, and so stated in their contract with the County Water Company, for a period of two years, which period expires in May of 1959. They further took the position that if Munkeby would pay for his pro rata share of these mains, they would be willing to negotiate with him now for the service of water.

This matter raises a conflict between the effect of a private contract and basic utility law. Under the terms of the private contract between the Hodges brothers and the defendant utility, the lines are to be used exclusively for services to Hodges & Hodges Construction properties for a period of two years. However, under basic utility law the utility must serve all who apply. If the utility is now serving water through these pipes, then it must serve Munkeby, or any others who apply, providing it has sufficient water so to do. There is no question as to the amount of water in this proceeding. On the other hand, if Hodges & Hodges Construction is controlling the pipe line, and directing who shall receive water therefrom, then that company is, in effect, a de facto public utility operating without authority.

A representative of the utility stated that the company is willing to attempt renegotiations of the contract with Hodges.

In the light of this evidence the defendant utility will be directed to attempt renegotiations with Hodges & Hodges Construction and report the results thereof within the time specified in the ensuing order. For this reason this order will be interim in nature.

INTERIM ORDER

Complaint as above entitled and an answer thereto having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and having made the foregoing findings,

IT IS ORDERED that the County Water Company be, and it hereby is, directed to attempt to renegotiate the contract it now has with Hodges & Hodges Construction concerning service of water through pipes installed by the latter, with a view towards furnishing water to the complainant or any other user who may be in the certificated area of defendant company.

IT IS FURTHER ORDERED that any results of these negotiations be reported to this Commission within thirty days from the effective date hereof.

This order shall be interim in nature and the Commission may make further orders in the matter should it deem it necessary to do so.

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

Dated at San Francisco, California,  
this 25th day of November, 1958.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.