

ORIGINAL

Decision No. 57972

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PALM SPRINGS OUTPOST COMMUNITY ASSOCIATION,

Complainant,

vs.

Case No. 6149

PALM SPRINGS OUTPOST WATER COMPANY, a corporation,

Defendant.

In the Matter of the Application of PALM SPRINGS WATER COMPANY, a corporation, for a certificate of public convenience and necessity to extend its water corporation operations into Section 21, Township 4 South, Range 5 East, Riverside County, California.

Application No. 40677

Roy Hoff, past president, for complainant.
Gordon, Knapp, Gill & Hibbert, attorneys, by Wyman C. Knapp, for Palm Springs Water Company, interested party in Case No. 6149, and for applicant.
Riverside County Health Department, by J. Norman Harrison, District Sanitarian, and Maurice B. Hawkins, Sanitary Engineer; Rancho Ramon Water Company, by John Moore Robinson, secretary; Charles F. Hoffmeier, in propria persona; interested parties.
Cyril M. Saroyan, James G. Shields and Richard R. Entwistle, for the Commission staff.

O P I N I O N

The above-entitled complaint was filed on July 8, 1958.

An Order to Satisfy or Answer was mailed, Registered No. 89692, on July 21, 1958, to P. O. Box 670, Palm Springs, ^{1/} and was returned by

1/ The annual report of the defendant to the Commission, for the year 1957, shows the defendant's official mailing address to be P. O. Box 1312, Palm Springs, California.

the post office unclaimed. Said Order was remailed to the defendant at P. O. Box 1312, Palm Springs, Registered No. 89291, air mail, on August 7, 1958, and was returned by the post office unclaimed. A letter to the Commission, dated August 8, 1958, showing defendant's post office address to be P. O. Box 670, Ramon Road, Palm Springs, California, purported to be an answer to the complaint. Said letter was returned by the Commission to the defendant to P. O. Box 1312, Palm Springs, on August 13, 1958. All other attempts by the Secretary of the Commission to contact the defendant by mail, registered mail, telephone, or telegram, were futile except that a subpoena was served on Mr. Charles F. Hoffmeier, as agent for the defendant, on December 8, 1958, and Hoffmeier responded to said subpoena.

The complaint alleges inadequate water service due to inadequate pressures, frequent shutdowns without prior notice, equipment breakdowns, and sand and fine materials in the water, and an order from the Commission is sought directing the defendant to render adequate service.

The above-entitled application was filed December 15, 1958, and therein the applicant seeks a certificate of public convenience and necessity authorizing it to conduct a water corporation service within the $W\frac{1}{2}$ of Section 21, Township 4 South, Range 5 East, SBB&M, except the east 100 acres thereof, heretofore certificated to the defendant by Decision No. 41685, dated June 8, 1948, in Application No. 29235.

Public hearings on a consolidated record were held before Commissioner Ray E. Untereiner and Examiner Stewart C. Warner on December 22 and 23, 1958, at Palm Springs. The defendant did not

appear despite the oral testimony of the Assistant Secretary of the Commission that he had, as late as December 9, 1958, addressed a registered letter, No. 227129, to defendant's president, Maurice Silman, to the defendant's P. O. Box 670, Palm Springs, with instructions to the post office that said letter be delivered to the addressee only. Said letter was returned by the post office unclaimed. Oral and documentary evidence were received on behalf of the complainant and the applicant. No protests to the granting of the application were entered, although Rancho Ramon Water Company, a public utility water corporation, through its secretary, offered to furnish water service to the defendant's area under certain proposed water contractual arrangements and according to Rancho Ramon's filed tariff.

General Information

Palm Springs Outpost Community Association is an association of all property owners in Palm Springs Outpost Unit No. 1, located about 4½ miles east of the City of Palm Springs and about 2 miles north of Cathedral City on the south side of Ramon Road. The area comprises 220 acres and water service is being furnished on a flat rate basis to 100 houses and a service station, a market, and a quonset hut recreation hall, all within said service area, and two to three additional customers outside of Unit No. 1, on the south thereof, in Palm Springs Outpost Unit No. 2, also within defendant's certificated area.

Defendant's sources of water supply are two wells, only one of which is operated at one time. Pipe lines were installed in 1947 and 1948 by the witness Hoffmeier, defendant's authorized agent and maintenance man, who testified at the request of the Commission on the operating practices of the defendant.

The record shows that the defendant's wells are too shallow; that the water table in the Whitewater Basin, whence water is pumped, is down; that the pumps installed in the defendant's wells are too large; that one well is pumping sand due to its shallowness; and that it would be cheaper to drill new wells than to attempt to deepen the present wells. The record further shows that the defendant's maintenance man, who has been operating the system since January 1, 1957, and who lives and works in the vicinity of the service area, was to be paid \$150 every six months for his services but that he has received only one payment from the defendant; that it is necessary to transfer pumping operations from one pump and well to another pump and well from about five to seven times a month and that when this is done there may be service interruptions for an hour or more while the pressure is being built up and maintained at the well site to which well pumping operations are being transferred. Other water service interruptions due to breakdowns in defendant's water system operations have occurred and have lasted one or two days. Due to such water service interruptions, the record shows that water customers' personal water use habits, such as use of water for shaving, cooking, toilet facilities, laundry facilities, and gardening, have been seriously interfered with and customers have been caused great inconvenience. Also, fire hazards have increased during periods of either total lack of water supply or sub-normal water pressures at fire hydrants.

Defendant's basic flat rate for water service is \$5 per month and no meters have been installed on the water system. This encourages unlimited use of water and contributes to excessive demands on the water system facilities during peak periods.

Application of Palm Springs Water Company

The applicant Palm Springs Water Company seeks authority to extend its transmission mains and distribution facilities into the portion of defendant's certificated service area comprising the 100 lots upon which homes have been constructed and to which water is being furnished to the service station, the market, and the recreation hall, all within Unit No. 1, even though such mains and facilities may parallel defendant's system. Applicant alleges that, in the event that defendant is decertificated, applicant is prepared to install at its own expense all transmission mains and distribution facilities up to and including the meters. The estimated cost of extending mains, distribution facilities, and providing meters is \$38,240, which applicant proposes to finance from presently available funds.

The record shows that the applicant has placed a tentative order for the necessary pipe to serve Unit No. 1, and that it would require 12 working days from the date of receipt of authorization from the Commission to effect service to the 103 customers in said unit. The record also shows that the applicant will install fire hydrants on the request of the complainant association.

The applicant also proposed to provide service to existing customers in Unit No. 2 at its own expense and to the balance of Unit No. 2 under its regularly filed main extension rule. The record also indicates that there may be a possibility of acquiring the existing distribution mains of the Palm Springs Outpost Water Company. If reasonable and more economic service would result, it is a possibility which the applicant could explore further.

The record shows that applicant has an aggregate supply of well water amounting to approximately 8,000 gallons per minute, plus

2,000 gallons per minute of gravity water stream flow, and that its maximum monthly use over the past 12 months, September 1957, was 33,530,000 cubic feet of water, or approximately 5,700 gallons per minute per day. Applicant proposes, among other things, to complete the construction of a 5,000,000-gallon reservoir early in 1959. When such construction is completed applicant's total storage will amount to 9,500,000 gallons, all of which will be available to the area sought herein to be certificated to applicant.

Proposal of Rancho Ramon Water Company

Rancho Ramon Water Company, a public utility water corporation, through its secretary, proposed verbally at the hearing to make certain water supplies available to the defendant's water system from its sources of water supply immediately adjacent to the Palm Springs Outpost tracts on the north side of Ramon Road, but no formal application to serve the area was filed by Rancho Ramon Water Company and no firm agreements, commitments or contracts were offered for the record in these proceedings.

Findings and Conclusions

From a review of the record it is evident and we hereby find that the defendant Palm Springs Outpost Water Company has failed to meet its public utility water corporation responsibilities by furnishing consistently inadequate, insufficient and unreliable water service, and by deliberately failing and neglecting to make its responsible officer or officers available, either to any or all of its customers, to its agent and operating and maintenance man, or to the Commission or its staff for the purpose of receiving complaints regarding water service outages and interruptions and low pressure conditions, or for any other reasonable purposes.

It is found as a fact that such inadequate, insufficient and unreliable water service and such neglect by and unavailability

of defendant's responsible officers have been, are, and will continue to constitute a public hazard.

Based on such finding, it is further found as a fact that public convenience and necessity require that the certificate of public convenience and necessity granted to the defendant by Decision No. 41685, supra, to extend, construct, and operate a public utility water system as such certificate covered the W $\frac{1}{2}$ of Section 21, Township 4 South, Range 5 East, SBB&M, except the east 100 acres thereof, should be revoked, and the order hereinafter will so provide; such revocation of certificate to be effective as hereinafter provided.

It is further found as a fact that public convenience and necessity require that the application of Palm Springs Water Company to extend, construct and operate its water system in the W $\frac{1}{2}$ of Section 21, Township 4 South, Range 5 East, SBB&M, except the east 100 acres thereof, all as heretofore certificated to Palm Springs Outpost Water Company by Decision No. 41685, supra, and including Palm Springs Outpost Units Nos. 1 and 2, should be granted subject to the following conditions:

That, insofar as the certificate hereinafter granted covers Palm Springs Outpost Unit No. 1 and existing customers in Unit No. 2, the applicant should extend its transmission mains and distribution facilities pursuant to its application, and should install or acquire at its own expense all transmission mains and distribution facilities up to and including the meters, and should apply its presently filed rates for general metered service within said Unit No. 1.

The certificate of public convenience and necessity granted herein is subject to the following provision of law:

"That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or

enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

The order hereinafter will provide that the revocation of defendant's certificate of public convenience and necessity shall not be effective nor shall defendant be relieved of its public utility water corporation responsibilities until Palm Springs Water Company shall have certified to the Commission the exact date that it is ready, able and willing to and will serve Palm Springs Outpost Unit No. 1 and existing customers in Unit No. 2. Defendant will be ordered, by a supplemental order herein, to cease and desist from furnishing water service therein.

It is found as a fact that, due to the hazardous water service conditions hereinbefore found as a fact to exist, public necessity requires that the effective date of the order hereinafter shall be its date.

O R D E R

Complaint and application as above entitled having been filed, public hearings thereon having been held, the matters having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. (a) That the certificate of public convenience and necessity granted to Palm Springs Outpost Water Company, a corporation, by Decision No. 41685, dated June 8, 1948, in Application No. 29235, to extend, construct and operate a public utility water system covering the W $\frac{1}{2}$ of Section 21, Township 4 South, Range 5 East, SBB&M except the east 100 acres thereof, be and it is revoked; such revocation to be effective on the date that Palm Springs Water Company shall have certified to the Commission that it is ready, able and willing to and will serve Palm Springs Outpost Units No. 1 and No. 2, whereupon the Commission will issue its supplemental order to defendant to cease and desist from furnishing water service therein.

- (b) That Palm Springs Outpost Water Company shall continue to furnish water service to its customers until Palm Springs Water Company has certified to the Commission that it is ready, able and willing to and will serve each and every customer within the area herein certificated to it.
2. That Palm Springs Water Company, a corporation, be and it is granted a certificate of public convenience and necessity to extend, construct and operate its public utility water system in the West $\frac{1}{2}$ of Section 21, Township 4 South, Range 5 East, SBB& M, except the east 100 acres thereof, and including Palm Springs Outpost Units Nos. 1 and 2, subject to the following conditions:
- (a) That as to Palm Springs Outpost Unit No.1 and existing customers in Unit No. 2, applicant shall install or acquire at its own expense all transmission mains and distribution facilities up to and including the meters.
- (b) That applicant, on and after the effective date hereof, is authorized to charge in the area certificated to it herein, its presently filed schedules of rates for water service and to apply in said area its rules which are on file with the Commission.
- (c) That applicant shall after the effective date hereof revise its presently effective schedules to provide for the application of its rates and rules in the area certificated to it herein, together with a revised tariff service area map acceptable to this Commission, all in accordance with the procedure described by General Order No. 96. Such rates, rules, and tariff service area map shall become effective on five days' notice to the Commission and to the public after filing as hereinabove provided.
- (d) That applicant, within ten days after the system in the area certificated to it herein is placed in operation under the rates and rules authorized herein, shall notify the Commission in writing of the date when such operation began in said area.
- (e) That applicant shall file, within forty days after the system in the area certificated to it herein is placed in operation under the rates and rules authorized herein, four copies of an appropriate comprehensive map of said area, drawn to an indicated scale not smaller than 1,000 feet to the inch, delineating by appropriate markings the various tracts of land and property served; the principal water production, storage and distribution facilities; and the location of the various properties of applicant.

3. That applicant shall forthwith proceed with the extension of its water system, into the area certificated herein, according to the plans outlined in its application, and shall notify the Commission in writing or by telegram when it is ready, able and willing to and will furnish the water service authorized herein.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 3rd day of February, 1959.

E. Lee Fox
President

W. E. Mitchell

Walter J. Pyle

Theodore J. Jensen
Commissioners