

ORIGINAL

Decision No. 59185

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SLIDE INN IMPROVEMENT ASSOCIATION,)
 Complainant,)
 vs.)
 J. R. MILLS AND GWENDOLYN MILLS,)
 Defendants.)

Case No. 5801

(Appearances) ^{1/}

Lucien Berthier and Walter A. Zipser, for complainant.
Hardin & Gorgas, by James R. Hardin, for defendants.
Colin Garrity, for the Commission staff.

SUPPLEMENTAL OPINION AND ORDER

Three previous orders have been issued by the Commission in this case. Decision No. 54141, dated November 27, 1956, declared defendants to be a public utility subject to the control and jurisdiction of this Commission. Decision No. 55597, issued September 24, 1957, among other things, directed the utility owners to file the rates authorized to be charged for both general metered and flat rate water service; limited the water service to be rendered to those consumers (approximately seventy premises) which were being served by defendants on June 27, 1957; and ordered them to submit a program for the improvement of the water supply, storage and distribution facilities so that by October 15, 1958 the water service would fully meet the requirements of this Commission's General Order No. 103.

^{1/} At the hearing on July 30, 1959.

On April 11, 1958 a report was filed by defendants, operating under the name of Slide Inn Water Company, stating that the following improvements had been made and were in use as of March 31, 1958:

1. A new 61-foot drilled well.
2. A 1-horsepower pump installed on said well, producing ten gallons of water per minute.
3. A second 12,000-gallon storage tank, thus providing total storage capacity of 24,000 gallons.
4. Approximately 1500 feet of 2-, 2½- and 3-inch pipe in the distribution system.

The old well near the creek had been physically disconnected from the system and was to be used only for emergency purposes. The report also stated that there were no plans for any additional major improvements to be made before the end of the year 1958.

A further hearing was held on October 8, 1958, which was primarily concerned with the requirements of Decision No. 55597 relating to improvement of the system. It was found that compliance had not been fulfilled as ordered and that certain deficiencies still remained. The new well merely made possible the abandonment of the old creek well, with its danger of pollution and need of chlorination, so that the water supply was actually no greater than before. Any greater availability of water to consumers was due mainly to the increase in storage capacity. Numerous dead ends on the distribution system had not been eliminated. One Albert Warren testified to a desire to receive water service for a 10-unit motel he was constructing and the utility indicated its willingness to service his motel; however, because of the utility's shortcomings as indicated by the record, Mr. Warren's request for service was denied.

Pending the lifting of the restriction against additional service connections by further order of the Commission, Decision No. 57818 dated January 6, 1959, ordered that defendants should:

- a. Continue to supplement their water supply with additional sources or by increasing storage capacity.
- b. On or before March 1, 1959, and every 90 days thereafter, submit to this Commission a report to include an estimate of the volume of water supplied on the day of maximum use during the period; a statement describing any water shortages which were experienced; and any changes made in the source of supply and storage capacity of the system.

Except as to certain portions as modified by paragraph 1 of said Decision No. 57818, all provisions of Decision No. 55597 were continued in full force and effect.

No reports were submitted by defendants as required by paragraph 2.b. of Decision No. 57818 and on June 16, 1959, the Commission issued its order reopening this Case No. 5801 for further hearing for the purpose of determining whether defendants have extended water service to any consumers not served by them on or before June 27, 1957, in violation of said Decision No. 55597 as affirmed by said Decision No. 57818; whether said decisions should be altered or amended in any respect; and whether any additional order or orders should be entered by the Commission in the lawful exercise of its jurisdiction.

In the meantime, on March 9, 1959, defendants J. R. Mills and Gwendolyn Mills filed Application No. 40909 for a certificate of public convenience and necessity to construct and operate a water utility, under the name of Snobowl Water System, to serve another area located approximately a quarter mile northeast of the Slide Inn Water System.

A duly noticed further public hearing in Case No. 5801 was held before Commissioner Theodore H. Jenner and Examiner E. Ronald Foster at Sonora on July 30, 1959, the record of which was

consolidated with that of the first day of hearing on said Application No. 40909. After considerable oral testimony by witnesses on behalf of both complainant and defendants, Case No. 5801 was submitted subject to the filing of concurrent briefs on or before August 15, 1959. No brief having been received, the matter will be considered submitted as of the latter date and is now ready for decision.

Julia S. Carson testified that she and her husband, together with Albert Warren, previously mentioned herein, and his wife, are owners and operators of the Owl Motel which had been completed and to which a water service connection from the defendants' system was made since June 27, 1957; that she had not been informed of the general restriction against such additional service connections nor of the denial of water service to the said motel premises in particular; that she had paid defendants \$135 for water service during 1959 which included \$59 for the Owl Motel; and that she had become aware of the said Commission's order limiting service by defendants only some three weeks prior to the hearing, when she became secretary of the complainant association.

The record further reveals that service connections have been made recently to two other premises, one on the westerly side of the service area just below the wooden storage tank, and another in a new subdivision developed by defendants, located outside and southeasterly of the original service area, supplied from the 2½-inch pipeline installed between the new well No. 3 and the new steel storage tank.

Defendant J. R. Mills testified to his awareness of the three connections and, although he had not connected them himself, he had not taken any steps to cause them to be disconnected. His

only defense was that he had promised the parties water service some time in the past and that he didn't have the heart to refuse them.

Lucien Berthier, complainant's president, did not take the position that the three premises concerned should be cut off from water service but he requested that the Commission enforce its order as to limitation of service to any additional consumers. He further asked that the utility be required to proceed without delay with the improvements necessary to render adequate service to the existing customers.

Several customers testified in regard to water shortages which have occurred particularly at higher elevations in some parts of the system, apparently always on week ends and the most serious of which was on June 21, 1959. The record shows that on that occasion the wooden storage tank on the northwesterly side of the service area was practically empty while the steel tank on the opposite side was full, even though the two tanks are at the same elevation. In addition to the meager water supply, it appears that the outages may have been caused by lack of proper attention by the local service man and were aggravated by the difficulty experienced by customers in locating the service man for the purpose of obtaining relief from the water shortages. Defendants themselves live in Sonora, some twenty miles distant.

Since rendering their report on April 11, 1958, defendants have neither installed any additional storage facilities nor supplemented their water supply with additional sources, other than to reconnect the creek well to the system. At the time that the State Board of Public Health issued its water supply permit on March 31, 1958 (Exhibit No. 27), the shallow dug well at the creek

was not connected and it was recommended that this well should remain physically separated from the distribution system and used only under conditions of emergency, provided that defects in construction were eliminated and the water adequately chlorinated. Witness Mills stated that emergencies had required the use of the well which is equipped with a hypochlorinator discharging into the well and set to operate with the well pump motor. He testified that the dug well and the two drilled wells are each capable of producing no more than about ten gallons of water per minute, or a total of thirty gallons per minute. This supply, even when supplemented by the existing storage capacity of 24,000 gallons, does not meet the requirements considered reasonable for a system serving seventy customers at flat rates.

Defendant Mills further testified that he has plans for the installation of a 30,000-gallon storage tank and that he is endeavoring to arrange for the drilling of another deep well in hopes that it will produce a more copious supply of water. When questioned as to his financial ability to carry out such plans he stated that he has no funds immediately available but that he could arrange a personal loan.

It is evident from the record, and the Commission finds as a fact, that defendants have permitted connections to be made from their public utility water system to at least three additional consumers not served by them on or before June 27, 1957, in violation of the Commission's Decision No. 55597 as affirmed by its Decision No. 57818. Furthermore, defendants have not complied with the requirement set forth in paragraph 2.b. of said Decision No. 57818. While no punitive action will be taken at this time, defendants are put on notice that any such continued evasion or

defiance of the Commission's orders will place them in a position of being considered in contempt of the Commission.

The Commission further finds that there still remain deficiencies in the water supply and that the utility must diligently proceed with the procurement of additional water, not only to be able to supply additional customers but also in order to adequately serve the customers now connected to and in need of service from the water system. The proscription against adding service connections will be continued in full force, except as modified to accommodate those few consumers added to the system since June 27, 1957 and who are now dependent upon service therefrom.

It further appears necessary for defendants to exercise more supervision over the operations of the system to the end that better service will be rendered and future complaints more quickly satisfied. There is no telephone listed under the name of the utility, either in Sonora or at Long Barn. Consumers should be informed as to the name and location of the local service man or responsible representative of defendants. Therefore defendants will be required to take the necessary steps to establish a local headquarters.

The requirements of prior decisions on this complaint matter will be continued in effect, modified only as necessary to bring them up-to-date and expanded as appears appropriate in order to effect proper compliance. Until such reasonable compliance is manifested by defendants, the proceeding will be continued to facilitate such further action as the Commission may find to be appropriate.

O R D E R

A further public hearing having been held, the Commission being fully advised in the premises and basing its order on the findings set forth in the foregoing opinion,

IT IS HEREBY ORDERED as follows:

1. That paragraph 4 of the order in Decision No. 55597, dated September 24, 1957, shall be deemed rescinded and that in lieu thereof:

- a. Defendants J. R. Mills and Gwendolyn Mills, doing business as Slide Inn Water Company, shall not extend water service to any consumer not served by them on or before July 30, 1959 without further order of this Commission.
- b. Within thirty days after the effective date of this order, said defendants shall submit in writing to this Commission a list of all service connections to their distribution system existing as of July 30, 1959, including the following details pertaining to each such connection:
 - (1) The nominal size of the service pipe and the size of the meter installed thereon, if any.
 - (2) Whether considered active or inactive on the said date and, if inactive, the last date on which service was rendered as determined by charges paid for such service.
 - (3) The name of the customer and the location of the premises served by street address, block and lot number, or other specific designation.
 - (4) A description of the premises served, i.e., whether residential or business (naming type) and whether any additional units on the same premises are served from the same service connection.
 - (5) The total annual rate or minimum charge being billed, or last billed, if inactive.

2. That paragraph 2 of the order in Decision No. 57818, dated January 6, 1959, shall be deemed rescinded and that in lieu thereof, until the restriction against extending water service to additional consumers has been removed or modified by further order of this Commission, the said defendants shall:

- a. Diligently take steps necessary to increase the supply of water available to the consumers served from their distribution system by providing additional sources of water or by augmenting the amount of water storage, or both.
- b. On or before November 15, 1959, and every ninety days thereafter, submit a report to this Commission which shall include:
 - (1) An estimate of the volume of water supplied to the consumers, from the primary sources of supply and from storage, on the day of maximum use during the previous ninety-day period.
 - (2) A statement describing any water shortages which may have been experienced during such period.
 - (3) Any important changes which shall have been made in the sources of water supply and in total storage capacity of the system.
 - (4) A record of the calendar days and the number of hours of each day when emergency conditions may have required that water be pumped from the shallow dug well near the creek.

3. That, within forty days after the effective date of this order, said defendants shall submit a written report to this Commission listing all improvements or additions to the water supply, pumping, storage and distribution facilities of the water system, if any, which have been completed since March 31, 1958, indicating the date when each unit of such facilities was placed in operation and the cost thereof.

4. That, within thirty days after the effective date of this order, defendants shall establish and maintain a suitable office under the name of Slide Inn Water Company, in the immediate vicinity

of the service area, where consumers may readily communicate with a representative responsible to applicants, by telephone or otherwise, any water service requirements or complaints pertaining thereto, and shall promptly notify all consumers by mail of the location of such office. Within ten days thereafter, defendants shall inform this Commission fully as to the steps taken to comply with this portion of the order.

5. That Case No. 5801 is hereby continued pending further appropriate action by this Commission.

6. That in all other respects the provisions of said Decisions No. 55597 and No. 57818 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 20th day of October, 1959.

 President

[Handwritten Signature]

[Handwritten Signature]

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 Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.