

ORIGINAL

Decision No. 59882

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DICK R. FRIESEN for a certificate of public convenience and necessity and for the establishment of rates for water service to Angwin and vicinity in Napa County.)

Application No. 36736

Investigation on the Commission's own motion into the status, operations, practices, contracts, rules, charges and service of DICK R. FRIESEN and of J. H. CHAMPION in the furnishing of water in or near the community of Angwin, Napa County, California.)

Case No. 5683

OPINION AND ORDER
MODIFYING DECISION NO. 57751
AND FURTHER EXTENDING DATES
FOR COMPLIANCE THEREWITH

Ordering paragraphs 3 and 4 of the Commission's Decision No. 57751 dated December 16, 1958, in the above-entitled matters,^{1/} as revised by Decision No. 59208 dated October 27, 1959, were again revised by an order dated January 12, 1960, granting an extension of time. They require Dick R. Friesen, petitioner herein, to install and maintain in each of his six storage reservoirs a visual gauge, reading in feet and tenths of feet, indicating the depth of water above the outlet pipe in such reservoir and to prepare a chart or curve corresponding to each of the six gauges to show the water storage capacity in acre-feet of the respective reservoirs for any gauge reading. These ordering paragraphs also require petitioner, among other things, to read such gauges every ten days, to maintain

^{1/} Also Case No. 5910 and Application No. 38853.

a record of such readings, and to make certain reports to the Commission in connection with them.

On January 11, 1960, Dick R. Friesen filed a petition for modification of said Decision No. 57751, requesting that ordering paragraphs 3 and 4 be deleted therefrom. Petitioner states that he intended in all sincerity to comply with the requirements of said ordering paragraphs until, upon preparing to so do following the issuance of Decision No. 59208, their impracticability first became evident to him.

Petitioner makes the following allegations why he cannot effectively or economically comply with the requirements of the said ordering paragraphs:

The expense of installing suitable gauges would be several thousand dollars and beyond petitioner's means.

The installation of such gauges would require the reservoirs to be emptied, which would destroy the fish life essential to maintaining the water in proper condition.

Close to the bottoms of the reservoirs is an underlying lava rock hardpan which is too hard to permit calibrated wooden posts, for use as gauges, to be driven into it.

The required chart or curve for use in connection with the gauge for each reservoir to show water storage capacity at the various gauge readings cannot be prepared without a survey of each reservoir, which surveys are beyond petitioner's financial ability to provide.

Petitioner lacks the personnel and manpower to make the readings, keep the records and submit the required reports.

The petition further alleges, among other things, as follows:

That the installation or use of such gauges and charts was not proposed or suggested during the

hearings in any of the proceedings in which Decision No. 57751 was issued.

That petitioner was never informed in any way that such gauges, charts, records or reports were involved or might be required.

That no evidence was produced pertaining to the need for, or purpose to be served by, such gauges and charts; to petitioner's financial ability to install them and to make the required readings, records and reports; or to the reasonableness of the requirements of the order in respect to them.

That the opinions and orders do not disclose what, if any, need or purpose the gauges, charts, readings, records, or reports are intended to serve, and petitioner avers that in actuality they would serve no necessary or useful purpose.

That the requirements of the order in respect to such gauges, charts, readings, records and reports are unreasonable and arbitrary and, in the absence of notice and hearing, that said orders were made without due process of law.

A review of the record of the further hearings in 1958, as well as of the original hearings in 1955^{2/} in the above-entitled matters, reveals much evidence in support of the limitation of water service as set forth in ordering paragraph 1 of Decision No. 57751. Such limitation was imposed "...until a showing has been made, satisfactory to the Commission, that there is available an adequate supply of water for any requested new connections in addition to all consumers then being served, and the Commission, upon such showing, shall first have modified this order..." It was to provide a possible basis for such a showing that paragraphs 3 and 4 were included in the order of Decision No. 57751. The purpose and objective thereof are clearly set forth in the first full paragraph on page 29 of the opinion therein.

^{2/} See Decision No. 53765 dated September 18, 1956 and Decision No. 54196 dated December 4, 1956, both in Application No. 36736 and Case No. 5683.

In ordering such requirements, it was not intended to make any inordinate demands upon Friesen. In this connection, reference is made to similar requirements entitled "Water Supply Measurement", paragraphs II, 4, a and b of the Commission's General Order No. 103. Ordering paragraphs 3 and 4 of Decision No. 57751 were intended to more specifically define the measuring devices to be installed and the records to be maintained in connection with Friesen's principal source of water supply. It is apparent from his petition that Friesen considers these requirements of the order to be onerous and unreasonable.

Although the evidence does not disclose how they were determined, the total capacities of the several storage reservoirs are known as indicated on Exhibits Nos. 33 and 40, introduced into the record by Friesen. It is conceivable that it might be relatively costly to make surveys now, from which to prepare charts or curves to show the water storage capacities of the respective reservoirs corresponding to any gauge reading. To avoid the necessity of such expense at this time, the requirement to prepare capacity charts or curves which would be based thereon may be eliminated. Readings of the gauges showing the depth of water in the several reservoirs will afford at least a comparison of the quantities stored therein from time to time.

It does not appear that the installation of suitable gauges would be unduly expensive nor that it would be necessary to empty the reservoirs or to wait until they are drawn down to low levels by use therefrom. It appears entirely feasible to install gauges along the banks of the reservoirs or attached to the sloping upper surfaces of the dams forming them, and they may be installed in sections progressively as the water levels recede. They need not

be elaborate but should be of durable construction and so calibrated as to indicate vertical depths of water above the bottoms of the respective reservoirs.

While frequent readings of the gauges, at least every ten days, would appear to be useful to the utility in its operations, this requirement may be modified to require only monthly readings so that they may be taken at the same time and by the same personnel used for reading consumers' meters and other measuring devices. The recording and reporting of such readings will be required.

Based upon the present record in the above-entitled and related matters, the Commission finds and concludes that the petition of Dick R. Friesen to entirely delete ordering paragraphs 3 and 4 from Decision No. 57751 should be denied. However, we further find and conclude that said paragraphs should be modified. Therefore, good cause appearing,

IT IS HEREBY ORDERED that paragraphs 3 and 4 of the order in Decision No. 57751, dated December 16, 1958, and subsequent revisions thereof, are hereby modified to read as follows:

"3. That not later than June 30, 1960, Dick R. Friesen shall cause to be installed and thereafter maintained in each of the storage reservoirs known as Oroville, Red, Newton, Granite, Deer and Whitehead Lakes at least the uppermost portion of a suitable visual gauge, appropriately calibrated to read in feet and fractions thereof, indicating the vertical depth of water in each reservoir. Within fifteen days after the installation of each such gauge, he shall so notify the Commission in writing. As the level of the water in each reservoir recedes and conditions permit, Dick R. Friesen shall cause to be installed and thereafter maintained in each of said reservoirs such additional portions of the gauge as may

be necessary to indicate the depth of water in the reservoir at any and all levels therein. Dick R. Friesen shall cause to be installed a similar or other suitable gauge in each additional such storage reservoir that in the future may be created and placed in operation in connection with his public utility system."

"4. That commencing on the date when each gauge is installed as required by the preceding paragraph 3 of this order and regularly at about the end of each month thereafter, and as much oftener as he desires for his own purposes, Dick R. Friesen shall cause the said gauges to be read and a written record maintained of the depth of water in each storage reservoir, and that on or before the tenth day of each of the months of January, April, July and October through the year 1963 he shall file with the Commission a tabulation of the gauge readings during the preceding three-month period."

IT IS HEREBY FURTHER ORDERED as follows:

- a. That except to the extent of the relief granted in the preceding paragraphs of this order, the petition herein be and it is denied.
- b. That the provisions of the said Decision No. 57751 shall remain in full force and effect except to the extent that ordering paragraphs 2 and 5 therein were revised by Decision No. 59208, dated October 27, 1959 and except as ordering paragraphs 3 and 4 of Decision No. 57751 are modified by the order herein.

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

Dated at San Francisco, California, this 5th day of April, 1960.

[Handwritten Signature]

 President

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 Commissioners