

Decision No. 60779

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF RIALTO,)
)
 Complainant,)
)
 vs.)
)
 CITIZENS LAND AND WATER)
 COMPANY OF BLOOMINGTON,)
)
 Defendant.)

Case No. 6853

INTERIM ORDER

The verified complaint herein alleges in substance that although defendant purports to be a "mutual water company" it is in fact a public utility within the meaning of the Public Utilities Code. It is alleged that complainant City of Rialto operates a waterworks system supplying approximately 20,000 residents of said City with domestic water service, purchasing from defendant water necessary to the City in meeting the needs of the City's domestic water system.

Complainant alleges it is informed and believes that during the water year 1958-1959 defendant also sold water to the City of San Bernardino, which used and delivered such water to the customers of the domestic water system of said City, and that neither the City of San Bernardino nor the customers of its domestic water system are shareholders in defendant company. Complainant also alleges it is informed and believes that for several years defendant has sold water to the City of Colton, which has used and delivered such water to the customers of the domestic water system of that City, that said City of Colton

does not own sufficient shares in defendant company to entitle it to the amount of water received by it from defendant, and that the customers of the domestic water system of the City of Colton are not shareholders in defendant company.

It is alleged that under defendant's articles of incorporation defendant shall supply water at cost to its stockholders, in proportion to the number of shares held by them, such water to be used exclusively on specified lands, a large portion of such lands being within the corporate limits of complainant City of Rialto. Complainant alleges it is such a shareholder, has paid all dues and assessments, and in addition has paid for and received water from defendant. The complaint alleges that defendant's shares have been freely transferred, with no requirement that such shares be appurtenant to any particular land, and that there has never been any mutuality in the rights of defendant's shareholders.

Complainant alleges further that defendant's officers and directors have been negotiating with Semi-Tropic County Water District to annex portions of the land described in the complaint, and to sell all of defendant's water, water rights, wells, storage and distribution facilities to said District, and have refused to negotiate with complainant City of Rialto for the purchase by said City of some part or all of the above facilities.

Complainant alleges on information and belief that said District operates a well belonging to defendant, using water therefrom only to meet demands of the District's water customers, that such District's water customers are not shareholders in defendant company, and that the District does not own

sufficient shares to entitle it to the amounts of water received by it from defendant.

Complainant alleges it is informed and believes that landowners served by defendant have had to pay amounts arbitrarily fixed for water service, irrespective of and in excess of operating costs, and that defendant company is operated at a profit.

It is alleged that complainant fears that, unless immediately restrained, defendant will sell all its properties to said District, and that complainant City will lose the water to which its shares entitle it and as to which there has been a dedication to public use. Complainant also alleges that the effect of such transfer to the District would place large areas of the present service area of complainant City within said District, deprive it of water necessary to its needs, and deprive it of effective use of its waterworks system within said area.

An Amendment to Complaint, filed September 19, 1960, alleges that on many occasions defendant's officers and directors have acknowledged the reservation and dedication to complainant City of the amount of water represented by its shares. It also alleges that on or about September 9, 1960, defendant's Notice of Annual Meeting of Shareholders was mailed to stockholders, that the true purpose of said meeting is to secure necessary shareholder approval for sale of all of defendant's assets, that concurrently a Proxy Statement and Proxy Consent Form (attached as exhibits to the amendment) were mailed to shareholders, urging the stockholder to appoint as his proxy four majority directors who advocate sale of defendant's assets to the District. The annual meeting is to be held on Saturday,

September 24, 1960, and complainant alleges the sale to the District would have already taken place but for the fact that defendant's directors are in doubt as to the legal capacity of the present board to act due to absence of a quorum of shareholders at the last five annual meetings. It is alleged that unless restrained defendant company could, upon receiving a majority vote or sufficient proxies, authorize the sale of all its assets. Complainant alleges it is informed and believes that a majority of defendant's directors intend to act as swiftly as possible to effectuate said sale with the intent of evading this Commission's jurisdiction and interposing possible new public rights of said District to the vested rights of complainant City.

The complaint requests that defendant be declared a public utility, ordered to desist negotiations for sale of its assets, required to sell and distribute water to all entitled thereto by virtue of dedication to public use, and file rates and schedules with the Commission. The amendment to complaint requests immediate action to restrain defendant from sale of its assets pending hearing.

Formal service of the complaint has been made, and at request of counsel for defendant, time to answer the complaint was extended to September 20, 1960. The amendment to complaint shows that a copy thereof was mailed to counsel for defendant on September 18, 1960.

Good cause appearing, IT IS ORDERED that Citizens Land and Water Company of Bloomington, a corporation, pending further Commission order herein, shall refrain from any sale of its assets mentioned in the complaint herein.

The matter will be set for early hearing, and the Secretary is directed to cause a certified copy of this order, together with a copy of the amendment to complaint herein, to be served forthwith by registered mail upon Citizens Land and Water Company of Bloomington. The Secretary is also directed to cause a certified copy of this order to be served by registered mail upon the City of Rialto and upon Semi-Tropic County Water District (formerly Bloomington County Water District).

The Secretary is further directed to cause appropriate notice of hearing to be mailed to all parties at least five days before such hearing, it being found that public necessity requires a hearing on less than ten days notice.

Dated at San Francisco, California, this 20th day of September, 1960.

Evelyn C. Page
President
W. E. [unclear]
William T. [unclear]
Shadole [unclear]
Commissioners