

Decision No. 60940

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ELIZABETH M. DADMUN and ERVING E.
DADMUN,

Complainants,

vs.

SAN JOSE WATER WORKS, a corporation,
Defendant.

Case No. 6623

O P I N I O N

The Complaint

On July 15, 1960, Elizabeth M. Dadmun and Erving E. Dadmun filed the complaint herein alleging as follows:

Pursuant to Decision No. 48847 issued July 21, 1953, defendant San Jose Water Works was ordered to supply water to complainants at property facing on Bear Creek Road in Santa Clara County then owned in its entirety by complainants, and defendant has supplied water to that parcel to the present time. Complainants have sold the center portion of said property as shown on the Record of Survey Map attached to the complaint and the two remaining parcels owned by complainants are sufficient in size for only a single dwelling on each parcel. Water at the present time is supplied only to the center parcel. Complainants have requested defendant to serve water to the most easterly and westerly parcels of said property as it is now subdivided and the defendant has consistently refused to do so. Complainants allege they will be grievously injured in their property rights if defendant is not ordered also to supply water to these two parcels of land.

Complainants request that the defendant be ordered to supply water to their remaining two parcels of land, maintain pressure

sufficient to supply water to those parcels and set two new meters at appropriate places for that purpose.

The Answer

Defendant filed its answer on August 12, 1960, and answered the complaint as follows:

Defendant admitted that complainants have requested defendant to supply water to the most easterly and westerly parcels of complainants' property as it is now subdivided and that defendant has consistently refused to do so, but denies that complainants will be injured in their property rights if defendant is not ordered by this Commission to supply water to the remaining two parcels of said property.

In accordance with the direction contained in Decision No. 49159 issued by this Commission, defendant filed with the Commission on October 19, 1953, Cal. P.U.C. Sheet No. 5-W which became effective for service rendered on or after November 1, 1953. Pursuant to the authority contained in Decision No. 49752, there was a general refiling of the rules and regulations of defendant and a revised Cal. P.U.C. Sheet No. 5-W was filed on March 23, 1954, to be effective for service on and after April 1, 1954. Said revised sheet, however, made no changes in the provisions of the rule relating to service to consumers on the 6-inch line originally installed by the Santa Clara Valley Water Conservation District from which complainants are served.

Defendant cannot accept additional applications for service from the 6-inch line without impairing service to existing consumers. The conditions set forth in Cal. P.U.C. Sheet No. 5-W that:

- "1. Service shall be limited to lands now occupied by above named consumers, with only one service connection to each property. Additional property will not be served.

- "2. Service to consumers entitled to service hereunder shall be rendered and meters installed only at the point of connection of the service lines of such consumers to the said 6-inch pipe line, but shall otherwise be subject to San Jose Water Works' general rules and regulations applicable to metered service, as in effect from time to time."

are reasonable and are applicable so as to prohibit compliance with complainants' request for additional service connections to their property from the 6-inch line.

Defendant requests in its answer that the complaint be dismissed without argument and without hearing for failure to state a cause of action.

Findings and Conclusions

The Commission takes official notice of its Decisions Nos. 48847, 49159 and 49752, and defendant's tariff sheet Cal. P.U.C. Sheet No. 5-W which is on file with the Commission. Said decisions and the conditions set forth in said tariff sheet require defendant to continue offering service to the center parcel referred to above, but prevent defendant from making service connections to complainants' east and west parcels as requested.

Section 1709 of the Public Utilities Code provides that in all collateral actions, the orders and decisions of the Commission which have become final shall be conclusive.

We find and conclude that the complaint should be dismissed for failure to state a cause of action. Public hearing in this matter is unnecessary.

Should complainants seek to have any decisions and orders of this Commission modified they may file a petition for such relief pursuant to Section 1708 of the Public Utilities Code.

ORDER

The complaint herein having been considered by the Commission
and good cause appearing,

IT IS HEREBY ORDERED that the complaint be dismissed.

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

Dated at San Francisco, California, this
25th day of OCTOBER, 1960.

President

Commissioners