

Decision No. 61213

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF RIALTO,

Complainant,

vs.

LYTLE CREEK WATER AND
IMPROVEMENT COMPANY,

Defendant.

Case No. 7034

INTERIM ORDER

The verified complaint filed herein alleges in substance as follows:

That although defendant purports to be a mutual water company, it is in fact operating as a public utility within the meaning of the Public Utilities Code.

That for several years last past, defendant has sold and delivered to complainant water. That complainant owns, maintains and operates a water works system supplying approximately 20,000 residents in the City of Rialto. That all of said water purchased by complainant from defendant was sold and delivered to the customers of complainant's domestic water system, according to complainant's rate schedule for domestic service. That defendant, for a period of more than five years last past, has attempted to persuade complainant to grant a franchise to serve domestic water within said City. That the water sold to complainant was and is necessary in meeting the needs of said domestic water system, and that complainant relies upon said water.

Complainant further alleges that it is a shareholder of said defendant, but there is no requirement of stock ownership for city customers, and virtually none of said customers are stockholders therein or exercise any control over the affairs, including the price paid for said water.

Complainant further alleges that defendant owns and operates a domestic water system which serves approximately 500 domestic users. That while new water connections are allowed for each one-quarter share of stock in defendant company, there are several users which receive water from defendant although they own no shares of said stock. It is further alleged that defendant serves domestic water to several housing tracts, including at least one such tract within the corporate limits and boundaries of complainant City, where none of the consumers having metered connections for water from complainant are shareholders.

Complainant alleges on information and belief that during the water years of 1958-59 and 1959-60, defendant also sold water to the City of San Bernardino, which used and delivered such water to the customers of the domestic 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 further alleges on information and belief that on numerous and divers occasions extending over the last five years, defendant has sold and delivered water to persons other than shareholders through the device of delivering and selling said water to lessees of shareholder rights.

Complainant alleges that the shares of stock in defendant company have been freely transferred with no requirement that said shares be appurtenant to any particular land, and that there has never been any mutuality in the rights of shareholders.

Complainant alleges upon information and belief that defendant is not a mutual water company for the reason that no statement has ever been made showing the amount of money required to operate in relation to the prorated amount paid by each landowner, and that the landowners served by defendant have had to pay amounts arbitrarily fixed for water service irrespective of the amount required, vastly in excess of the costs thereof.

Complaint further alleges that defendant's officers and directors have been negotiating with Semi-Tropic County Water District to annex certain 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.

Complainant further alleges that the president of defendant company has recently been named to the Board of Directors of said Water District and also to the Board of Directors of Citizens' Land and Water Company of Bloomington, and that the management of said two companies and said Water District are actively seeking to sell the assets of said companies to said Water District without regard for the public rights of complainant. It is further alleged that complainant fears unless immediately restrained, defendant will sell all of its properties to said Water District, and complainant will lose the water to which its shares entitle it and to which there has been a dedication to public use. Complainant also alleges that the effect of such transfer to said Water District will place large areas of the present service area of complainant within said Water District, deprive it of water necessary to its needs and deprive it of effective use of its water works system.

The complaint prays and requests that defendant be declared a public utility, ordered to cease negotiations for sale of its

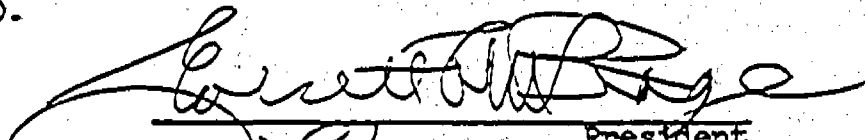


assets, required to sell and distribute water to all persons entitled thereto by virtue of dedication to public use, and file rates and schedules with the Commission.

Good cause appearing, IT IS ORDERED that defendant Lytle Creek Water and Improvement Company, a corporation, pending further Commission order herein, refrain from any sale of its assets mentioned in the complaint on file herein.

This 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 complaint herein to be served forthwith, by registered mail, upon said Lytle Creek Water and Improvement Company. The Secretary is also directed to cause a certified copy of this order to be served by registered mail upon complainant City of Rialto, and upon Semi-Tropic 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 December, 1960.


President


Theodore J. Deane
Commissioners