

Decision No. 61397**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates and practices of P. M.  
EDMINISTER.

Case No. 6167

Elmer J. Sjostron, for the Commission staff.

O P I N I O N

On May 31, 1960, this Commission issued its order reopening the proceeding herein. In this order the Commission stated that it appeared that respondent P. M. Edminister may have failed to file monthly reports for March and April, 1960, as ordered in Decision No. 57504 herein and ordered that Case No. 6167 be reopened for the purpose of determining:

1. Whether respondent has failed to comply with the Commission's decision in Case No. 6167.
2. Whether respondent's operating authority should be canceled, revoked or suspended.

A copy of this order reopening the proceeding and a copy of the notice of hearing were personally served upon Philip M. Edminister.

Public hearing in this matter was held before Examiner Wilson E. Cline in Redding, California, on October 4, 1960. Neither the respondent nor anyone on his behalf appeared at the hearing. At the close of the hearing the matter was taken under submission.

Findings and Conclusions

The Commission having considered the evidence herein hereby finds and concludes as follows:

- (1) Paragraphs 3, 4, 5 and 6 of Decision No. 57504 issued October 21, 1958 herein, which became effective November 16, 1958, provide as follows:

- "3. That P. M. Edminister shall examine his records for the period from May 1, 1957 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.
- "4. That within ninety days after the effective date of this decision, P. M. Edminister shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 3.
- "5. That P. M. Edminister is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph 3 of this order, and to notify the Commission in writing upon the consummation of such collections.
- "6. That, in the event charges to be collected as provided in paragraph 5 of this order, or any part thereof, remain uncollected 120 days after the effective date of this order, P. M. Edminister shall submit to the Commission, on the first Monday of each month, a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such, until such charges have been collected in full or until further order of this Commission."

(2) By letter dated November 18, 1959, P. M. Edminister reported undercharges amounting to \$2,603.04, and by letter dated February 9, 1960, he reported the collection of \$300 on account of these undercharges. By letter dated June 21, 1960, P. M. Edminister reported to the Commission a further collection of \$1,455.68 on the Heron Mills account for undercharges, leaving only the Hawkins Mill account for undercharges in the amount of \$247.36 unpaid. He advised that Hawkins Mill was burned out completely and is no longer in operation. He stated that he had fully complied with Decision No. 57504 and requested that the current proceeding be dropped. This letter, dated June 21, 1960, was misfiled and was not placed in the formal file of this case until December 9, 1960.

(3) No monthly reports as required by the above-quoted paragraph No. 6 of said Decision No. 57504 for the month of July 1960, or any month subsequent thereto have been filed by respondent P. M. Edminister.

(4) The statement of respondent that the plant of Hawkins Mill has burned out and that it is no longer in operation is not a sufficient showing of inability to collect the undercharges due from Hawkins Mill. Hawkins Mill may, nevertheless, have sufficient assets to pay the undercharge claims, and if it is insolvent an appropriate claim in bankruptcy should be filed.

(5) The submission of this matter should be set aside and the matter herein held in abeyance pending the filing of further reports by the respondent pursuant to paragraph No. 6 of Decision No. 57504, or request for dismissal or further hearing by the Commission staff counsel.

Respondent is admonished to respond to any future notices of hearing in this matter issued by the Commission. Failure to do so may result in his operating rights being revoked as a result of his own default.

ORDER

A public hearing having been held in the above-entitled matter and the Commission being informed therein, now therefore,

IT IS ORDERED that submission herein be set aside and that the matter be held in abeyance pending the filing of further reports by the respondent pursuant to paragraph No. 6 of Decision No. 57504, or request for dismissal or further hearing by the Commission staff counsel herein.

The Secretary of the Commission is directed to cause personal service of this order to be made upon P. M. Edminister.

This order shall be effective upon the date of issuance hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of January, 1961.

[Handwritten Signature]  
President  
[Handwritten Signature]  
[Handwritten Signature]

\_\_\_\_\_  
Commissioners