

**ORIGINAL**Decision No. 62091

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES R. ROSE,

Complainant,

vs.

CHARLES S. CAMPBELL and MYRTLE  
E. CAMPBELL,

Defendants.

Case No. 7000

Mark M. Brawman, for complainant.  
Harry A. Hammond, for defendants.  
Walter E. Moltke, for the Commission staff.

O P I N I O N

James R. Rose, filed the above-entitled complaint against Charles S. Campbell and Myrtle E. Campbell on October 20, 1960. Defendants filed their answer on November 17, 1960. Hearing in the matter was held before Examiner James F. Haley at Yreka on March 14, 1961; evidence was adduced, and the matter was submitted.

Allegations of the Complaint

Complainant alleges substantially as follows:

1. That he is, and for many years has been, a water service customer of defendants, for which service he has paid them regular fixed charges;
2. That defendants own and operate a water system which provides water service to properties in a development known as the Charles S. Campbell Tract, where complainant owns and maintains his residence;

3. That he has no water supply other than that furnished by defendants; and that he requires such water for domestic purposes;

4. That defendants have shut off the water without prior notice and have threatened to terminate water service to complainant;

5. That additional customers have been added to the water system without corresponding addition to the total water supply available for distribution;

6. That defendants' water system is dedicated to public use and that defendants are engaged in serving water as a public utility.

Relief Sought

In substance, complainant seeks a determination by this Commission:

1. That the water supply system of defendants is dedicated to public use;

2. That defendants be adjudged to be a public utility and be subjected to regulation by this Commission.

Answer of Defendants

Defendants admit that complainant has taken water from their system for domestic purposes and that complainant has paid certain sums to defendants. Defendants otherwise generally deny the allegations of complainant. As a separate defense, defendants allege that, as provided by Section 2704 of the Public Utilities Code, their water system is not subject to the jurisdiction of this Commission by reason of the following premises:

1. That their water system has never been dedicated to public use and has been used primarily by defendants for domestic purposes and irrigation of lands they own in the Charles S. Campbell Tract.

2. That defendants formerly owned the entire Charles S. Campbell Tract and, from time to time, have made sales of portions of the tract to various persons, among whom is the complainant.

3. That, at the time of the aforesaid property sales, it was specifically understood and agreed orally that complainant and the other purchasers would furnish their own water supply by digging wells on their own property, and that, until such time as complainant and the other purchasers provided their own water supply, defendants would, insofar as there was any surplus of their own supply available, furnish for a consideration water to said persons for domestic purposes as a matter of accommodation.

As a further separate defense, defendants allege that because of the natural depletion of the water supply in the area of the Charles S. Campbell Tract, there has been a shortage of water beyond the control of defendants, making it necessary to apportion the water, which apportionment defendants state they have supervised in an equitable manner to provide complainant and each of the other users an equal portion.

#### Summary of Evidence

In 1948 defendants acquired the property known as the Charles S. Campbell Tract. At that time the 96-acre property had one well but was otherwise unimproved. The tract lies about one mile southeast of the City of Yreka.

Defendants have subsequently sold portions of the property up to two acres in size for homesites. On six parcels defendants built houses, four of which were completely equipped with plumbing which defendants connected to their water system prior to selling the homes. On the other parcels sold, the purchasers have built

homes or live in trailers. These purchasers have, in most cases, built their own lines to tap into the system with defendants' permission.

There are now a total of 24 domestic premises in the tract being served water by defendants' system. About 20 of these connections have meters installed in the services; the others are not so equipped. Defendants assess a \$3.00 monthly charge which, in the case of metered service, includes 4,000 gallons of water, with an additional charge of \$.50 per 1,000 gallons for usage over the minimum. All service was originally provided on a flat rate basis at a charge of \$2.50 per month. Defendants saw fit to increase the monthly charge to \$3.00 to meet higher operating costs and to install meters to curtail usage and thereby conserve water. In actual practice defendants generally do not read the meters and bill therefrom; instead, their practice is to bill the flat-rate charge of \$3.00 per month for metered as well as unmetered services.

The evidence indicates that the water sold has often not been surplus to defendants' needs; that defendants have been selling water from their supply to the residents of the tract for at least four years; and that, in a number of cases, at least, water has been provided with no understanding between defendants and their water users to the effect that the water so provided was on an accommodation basis. It appears, in fact, that defendants have used the water system as an aid in the sale of houses and lots within their tract. ✓

The record shows that defendants have been faced with a continuing struggle to provide sufficient water for their tract, the needs of which have increased as they have built homes and sold home-sites. The system has a total of 5 shallow wells, each equipped with

a small pump. None of the pumps is powered by a motor larger than one horsepower. Defendants' largest main consists of a three-inch plastic pipe. There are long runs of 3/4-inch pipe, some of which serve several customers. Because of the small pipe size and the inadequacy of the wells, which during the dry season are drawn down, the system cannot, in the absence of any storage facilities, meet peak demand.

In order to provide adequate service, the system requires a properly developed and equipped well, elevated storage and, in many instances, larger size pipe than is now installed. The system as built is not capable of adequately serving its present few customers, let alone any additional ones which defendants might acquire as a result of the sale of further lots within their tract.

#### Findings and Conclusions

Based upon the evidence of record, it is hereby found as a fact that the water system owned by the defendants, supplying water for domestic purposes in the area known as the Charles S. Campbell Tract, near Yreka, has been dedicated to the public use and that said water system is a public utility and, as such, is under the jurisdiction, control and regulation of the Public Utilities Commission of the State of California. The finding herein that defendants are operating a public utility water system requires that the Commission direct them to comply immediately with those provisions of the Public Utilities Code which imposes particular duties upon each public utility, such as the filing and observance of rate schedules and rules affecting service.

In line with a continuing policy to achieve as much uniformity as possible in the form of rate schedules as set forth in General Order No. 96 and for convenience of comparison, the

schedules of rates for metered service will be stated in units of 100 cubic feet instead of in units of 1,000 gallons as at present. While defendants will not be required to convert the dials of their existing meters from readings in gallons to cubic feet, it is recommended that defendants make such conversions whenever replacements and repairs to their existing meters make such conversion feasible and that all new meters purchased should register deliveries in cubic feet. Defendants will be required to post in their office, for the convenience of all customers, a table illustrating the conversion of meter readings in gallons to billing quantities in cubic feet, together with the appropriate charges therefor.

The Commission further finds that, in order to forestall further deterioration of service, defendants should be enjoined from connecting any additional users to their system until such time as the system and its operation are brought into full compliance with the provisions of General Order No. 103 of this Commission. The order herein will so provide.

O R D E R

The above-entitled complaint having been filed with this Commission, a public hearing having been held thereon, the matter having been submitted and now being ready for decision,

IT IS ORDERED that:

1. Charles S. Campbell and Myrtle E. Campbell, defendants, having been found to be operating a public utility water system, shall within thirty days after the effective date of this order, prepare and file with this Commission, in quadruplicate and in

conformity with the Commission's General Order No. 96, the schedule of rates set forth in Appendix A attached hereto and made a part hereof. Such rates shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided. ✓

2. Within sixty days after the effective date of this order, defendants shall file in quadruplicate with this Commission, in conformity with the provisions of General Order No. 96 and in a form acceptable to this Commission, rules governing customer relations, a tariff service area map and sample copies of printed forms that are normally used in connection with customers' services. Such rules, map and forms shall become effective upon five days' notice to the Commission and to the public following filing as hereinabove provided. ✓

3. Within sixty days after the effective date of this order, defendants shall file with this Commission four copies of a comprehensive map drawn to an indicated scale not smaller than 400 feet to the inch, delineating by appropriate markings the territory served, the principal water production and distribution facilities and the location of all of their water utility properties.

4. Within six months after the effective date of this order, defendants shall prepare and file with this Commission an inventory and original cost appraisal of their water system properties together with the depreciation reserve requirement related thereto..

5. Within six months after the effective date of this order, defendants shall furnish to the Commission, in writing, a review of depreciation rates based on the straight-line remaining life method.

6. Defendants shall determine accruals for depreciation by dividing the original cost of their depreciable utility plant less

estimated future net salvage less depreciation reserve by the estimated remaining life of such plant. They shall review the accruals when major changes in plant composition occur and at intervals of not more than five years. The results of these reviews shall be submitted to the Commission.

7. Within thirty days after the effective date of this order, defendants shall file with this Commission a copy of a water supply permit issued by the appropriate Department of Public Health, or, if the permit has not yet been issued, a copy of an application for such permit.

8. Defendants shall have prepared by a registered civil engineer qualified to design and lay out domestic water supply systems a comprehensive master plan of an adequate water supply system which, when carried out, will provide their entire water utility service area with a water system that will fully meet the minimum requirements of this Commission's General Order No. 103. Said comprehensive master plan shall take into appropriate consideration use of existing facilities and be in such detail as to clearly indicate the sizes and capacities of the several units making up the system, the estimated costs thereof and the probable dates when each of the said several units will be placed in operation.

9. Until expressly authorized by this Commission, defendants shall not supply water service to any persons who have not received or applied for such service on or before the date of this decision. Upon the bringing of their water system and its operation into full compliance with the provisions of General Order No. 103, defendants may file an application with the Commission requesting that this ordering paragraph be modified or set aside.



10. That on or before July 1, 1961, and continuously thereafter until all meter dials installed in defendants' service area are stated in units of cubic feet, defendants shall have posted in their office and open to public inspection, a table illustrating the conversion of meter readings for each 1,000 gallons, from zero to 30,000 gallons, to billing quantities in cubic feet, together with the appropriate charges therefor at the currently effective rate schedule or schedules. Within ten days after the initial posting, defendants shall file with the Commission two copies of such conversion table.

The Secretary is directed to cause certified copies of this decision to be served upon Charles S. Campbell and Myrtle E. Campbell.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of June, 1961.

[Signature]  
 President

[Signature]

[Signature]

[Signature]  
 Commissioners

APPENDIX A  
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated area known as Charles S. Campbell Tract, and vicinity, located approximately three-quarter mile south of the City of Yreka, Siskiyou County.

RATES

	<u>Per Meter Per Month</u>
Quantity Rates:	
First 535 cu. ft. or less . . . . .	\$3.00
Over 535 cu. ft., per 100 cu. ft. . . . .	.37
Minimum Charge:	
For 5/8 x 3/4-inch meter . . . . .	\$3.00

The Minimum Charge will entitle the customer to the quantity of water which that minimum charge will purchase at the Quantity Rates.

Schedule No. 2

GENERAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all residential water service furnished on a flat rate basis.

TERRITORY

The unincorporated area known as Charles S. Campbell Tract, and vicinity, located approximately three-quarter mile south of the City of Yreka, Siskiyou County.

RATE

Per Month

Per Service Connection . . . . . \$3.00

SPECIAL CONDITIONS

1. The foregoing flat rate applies to service connections not larger than one inch in diameter.
2. Meters may be installed at option of utility or customer for above classification, in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service.