

ORIGINAL

62244

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

City of PICO RIVERA, a Municipal
Corporation,

Complainant,

vs.

CLARENCE POOL, PACIFIC WATER CO.,
a Corporation,

Defendants.

Case No. 7015

John S. Todd and Legion Kramer, for complainant.
Scott J. Raymond for Clarence Pool, and Moss, Lyon
& Dunn by George C. Lyon, for Pacific Water
Co., defendants.
C. O. Newman, for the Commission staff.

O P I N I O N

The above-entitled complaint was filed November 15, 1960; defendant, Pacific Water Co., answered on December 8, 1960, and defendant, Clarence Pool, answered on December 15, 1960.

A public hearing was held before Examiner Stewart C. Warner on May 18, 1961, at Los Angeles. The parties stipulated to the contents of Paragraphs I, II, III, IV, V, VI and VIII; evidence was received on Paragraph VII; the matter stands submitted; and it is now ready for decision.

Summary of Allegations

The complainant, on behalf of some 22 citizens who are also water users of a water system owned and operated by

defendant Clarence Pool, an individual, alleged that since 1947 said defendant has been engaged in the business of selling or delivering water to persons as a public utility in the City of Pico Rivera, Los Angeles County, in the territory delineated in the map, Exhibit No. 5 filed at the hearing. The territory lies between Parsons Boulevard and Serapis Avenue (east of the easterly end of Terradell Avenue) and adjoins the north and south sides of East Charlesworth Road, which is an undedicated street traversing the area from east to west in the center thereof. The complainant further alleged that in May of 1959 the complainant's Health Department collected samples of water from the defendant Pool's water system which were highly contaminated; that, thereupon, the Health Department notified said defendant to take immediate steps to eliminate the contamination and to furnish consumers with potable water; that because of such contamination, and because of the lack of water pressure in his system, the defendant Pool borrowed a fire hose from the Fire Department and rented from Park Water Company, a public utility water corporation, the use of a fire hydrant in order to supply water to his system; that the fire hose was laid in the gutter on the street; that later, a two-inch pipe was installed in the gutter of the street and supplied through a fire hydrant.

The complainant alleged, further, that the defendant Pool's water system is in the area certificated to Pacific Water Co., a public utility water corporation, and that the defendants had been negotiating with each other for the acquisition by Pacific of the Pool water system, but that these negotiations had failed because

the defendant Pool had failed and refused to supply Pacific with the necessary easement to maintain and/or install pipeline in the area to be served.

Relief Sought

Complainants asked that the defendant Pool be declared to be a public utility subject to the jurisdiction of this Commission, or that Pacific Water Co. be ordered to sell and supply water to the consumers now supplied by the defendant Pool, in accordance with the Commission's rules and regulations and that the defendant Pool be ordered to cease and desist from the operation of a public utility.

Evidence

As noted heretofore, all of the allegations were stipulated by the parties as being factual except those contained in Paragraph VII. The evidence received as Exhibits Nos. 1 through 4 supports the allegations of Paragraph VII as to the date of notification to Pool by the County of Los Angeles Health Department of the contamination of his domestic water supply, and as to the other details of said Paragraph.

Counsel for the defendant, Pacific, stipulated that Pool's water system is entirely within Pacific's Orangewood District certificated area. Pacific's tariff service area map filed September 18, 1942, shows that Pool's water system area was included in Pacific's service area as of that date.

Pacific's president testified that Pacific is ready, willing, and able to serve Pool's customers, but that no application for water service had ever been made to Pacific by Pool's customers.

Pool has been charging \$1.75 per month for each 1,000 cubic feet of water usage. He has also charged some customers for meters. All water service is furnished on a metered basis.

Findings and Conclusions

After a careful review of the record, the following findings and conclusions are made:

1. That Clarence Pool, an individual, is engaged in the selling and delivering of water as a public utility, and is subject to the provisions of the Public Utilities Code of the State of California, and the jurisdiction of this Commission.
2. That the water service furnished by the defendant, Pool, is substandard as to quality and quantity of water and as to operating pressures, and as to source of water supply.
3. That the defendant Pool is operating his public utility water system in an area certificated to Pacific Water Co., a public utility water corporation under the jurisdiction of this Commission, in Pacific's Orangewood District.
4. That Pacific Water Co., is ready, willing, and able to furnish water service to the consumers now receiving water from the defendant, Clarence Pool.
5. a. That the defendant, Clarence Pool, should be ordered to cease and desist from the furnishing of water service within Pacific's certificated area, but that Clarence Pool should not be ordered or permitted to cease and desist from the operation of his public utility until all of his consumers have been connected to Pacific's water system.
b. That the defendant, Clarence Pool, should be directed to return all amounts collected from or charged to his consumers for meters, and to return to his consumers all deposits for water service made with him by such consumers.

6. That the defendant, Pacific Water Co. should be directed to furnish water service to the consumers now supplied by the defendant Pool, in accordance with Pacific's tariffs on file with this Commission.
7. That the defendants should be required to report to the Commission in writing, within thirty days, and every thirty days thereafter, their progress in carrying out the provisions of the order which follows.
8. That the public utility equipment, appliances, facilities and service of the defendant Pool are unreasonable, improper, inadequate and insufficient, and that such condition will exist for the foreseeable future; that as a result of such condition, a present emergency exists with regard to the public utility water operations, which emergency is adverse to the public interest; that public convenience and necessity require that Pacific Water Co. serve the present and future customers of defendant Pool, and that defendant Pool cease serving water to such customers when service by Pacific Water Co. has been effected; that the emergency condition herein found to exist requires that the effective date of the order which follows be the date hereof.

O R D E R

Complaint as above entitled having been filed, a public hearing having been held, the matter having been submitted and now being ready for submission,



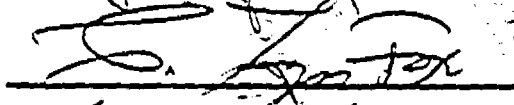


IT IS HEREBY ORDERED:

1. That Clarence Pool, an individual, be and he is declared to be engaged in the business of selling and delivering water as a public utility, and that he be, and is declared to be, subject to the provisions of the Public Utilities Code of the State of California and subject to the jurisdiction of this Commission.
2. That Pacific Water Co., a public utility water corporation, be, and it is, directed to sell and supply water to the consumers now supplied by the defendant, Clarence Pool, in accordance with its tariffs on file with this Commission.

3. a. That when Pacific Water Co. shall have made the necessary arrangements and connections to supply all of the defendant Pool's water consumers, said defendant Pool shall cease and desist from his operations as a public utility.
- b. That the defendant, Clarence Pool, be and he is directed to return all amounts collected from or charged to his consumers for meters, and to return to his consumers all deposits for water service made with him by such consumers.
4. That the defendants, Clarence Pool and Pacific Water Co., each shall, within thirty days after the effective date of this order, report to the Commission in writing their progress in complying with the provisions of this order and shall make a like report each thirty days thereafter until compliance is completed. Upon full compliance with all the terms and conditions of this order, defendant Pool shall stand relieved of all obligations as a public utility water company.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this
11th day of JULY, 1961.


President




Commissioners