

ORIGINAL

63293

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension
and Investigation on the Commis-
sion's own motion of Proposed
Tariff Service Area Map, Revised
Cal. P.U.C. Sheet No. 46-W, filed
by Crest Water Company.

Case No. 7116

Investigation upon the Commission's
own motion into the operations,
service, and practices of CREST
WATER COMPANY and into the adequacy
of its finances, water supply and
facilities.

Case No. 7177

Kenneth H. Bates, of Deadrich & Bates, and Hugh
Curran, for Crest Water Company.
Kenneth W. Hoagland and Robert A. Stratton
interested parties.
Hugh N. Orr, for the Commission staff.

O P I N I O N

Case No. 7116, instituted by a Commission order filed May 16, 1961, is an inquiry into the propriety and reasonableness of a revised tariff service area map filed by Crest Water Company on April 25, 1961, the operation of which has been suspended until March 22, 1962, unless otherwise ordered (Pub. Util. Code, Sec. 455).

Case No. 7177 is an investigation, instituted by the Commission on August 22, 1961, into the operations and practices of Crest Water Company, to determine: (1) whether its facilities are adequate for present and anticipated future demands; (2) whether the utility has discriminated between subdividers with regard to main extensions and contracts therefor; (3) whether the utility is financially able to provide necessary off-site facilities to serve

the present area and contemplated extensions thereof; (4) whether the utility's certificate of public convenience and necessity should be modified; (5) whether a cease and desist order should issue against any unauthorized practice or operation; and (6) whether any other appropriate order should be issued.

The two cases were heard and submitted on a consolidated record at Bakersfield on November 9, 1961 before Commissioner George G. Grover and Examiner John M. Gregory.

Suspension of the revised map (which extends the present service area eastward) and institution of the general investigation resulted from certain facts developed in prior formal proceedings which showed the adequacy of the utility's resources, both physical and financial, and the propriety of its subdivision extension practices to be related to the specific issues there involved, (See Decision No. 60943, Application No. 41991 and Decision No. 62771, Case No. 7053. The order in the latter case, which included a direction to make reparation to a subdivider of certain sums paid to the utility for off-site water facilities, has been stayed pending determination of a petition for rehearing).

The record developed at the hearing in the instant proceeding establishes that the utility has an adequate supply of water to meet maximum service demands, both within its presently certificated area and in certain contiguous areas (to which it is authorized to extend pursuant to Section 1001 of the Public Utilities Code) in which lie developments for which the utility has concluded extension agreements, or to which it anticipates extending its service, including the area covered by the suspended tariff map.

The record also establishes that the utility has had and will have sufficient funds from operations within its present

service area and in the area to which it here seeks to extend to meet its financial requirements for 1961 and 1962. This assumes no outlay for additional plant facilities for the present service area (the record indicates that none are required) and that additional on-site facilities for subdivisions will be financed by main extension agreements. Not included in the calculation of the utility's financial requirements, however, is the potential liability represented by the Commission's reparation order in favor of a subdivider, S & G Properties, Inc., issued in Decision No. 62771, supra, in the sum of \$43,809.81, without interest.

With respect to discriminatory practices in subdivision extensions, the evidence reveals that while such practices have not been prevalent with respect to in-tract installations, the utility, on one occasion, has exchanged a portion of an issue of common stock, authorized for payment of the cost of backup facilities, for main extension contracts owned by an affiliate, without Commission authorization. In connection with off-tract installations (normally provided by the utility's investment of its own funds) the utility has required nonaffiliated subdividers to pay cash for their pro rata shares while permitting an affiliated land developer to give a note for its share.

We take official notice that the utility recently has been authorized to issue common stock to its president and preferred stock to affiliated and nonaffiliated subdividers for acquisition of off-site facilities and for approximately \$75,000 cash to provide additional plant (Decision No. 63198, February 6, 1962, Application No. 44105, amended). The utility's request, in that application, for approval of the suspended tariff service area

map was denied, but without prejudice to its consideration in the instant proceedings.

The recent financial arrangements, with which the sub-dividers have indicated their agreement, have been undertaken, as Decision No. 63198 indicates, in an endeavor to resolve the controversy over provision of off-site facilities for tracts in both the present service area and in the area covered by the suspended map, as well as to improve the utility's cash position by satisfying the reparations award of \$43,809.81 and to provide for orderly financing of future improvements. If these arrangements prove successful much of the Commission's recent concern over these matters should be alleviated. There remains, however, the question of providing for service throughout certificated or extended service areas in accordance with the utility's main extension rule and without discrimination. A directive covering that subject will be included in the order to follow:

We find on this record that:

1. Crest Water Company, at the present time, has available a sufficient flow of water to meet its requirements during periods of maximum demand for its entire service area, including that portion delineated on its revised tariff service area map (Cal. P.U.C. Sheet No. 46-W) now under suspension.

2. Funds generated from operations of the utility in the foreseeable future, within its present service area and in the new area into which it has requested permission to extend service, should be sufficient to meet all financial requirements except the contingent liability represented by the reparations award made in Case No. 7053. Arrangements recently concluded with S & G

Properties, Inc., complainant in that case, as indicated in Decision No. 63198, supra, provide for a reasonable and satisfactory extinguishment of that liability.

3. Crest Water Company, on certain occasions shown on this record, has extended its facilities to subdivisions, without prior authorization, under conditions which deviate from its main extension rule and which have been more favorable to its affiliated land developers than to nonaffiliated developers.

We conclude that:

1. The Commission's suspension of the revised tariff service area map (Cal. P.U.C. Sheet No. 46-W), filed by the utility on April 25, 1961, should be vacated and that said revised map should be permitted to become effective forthwith.

2. The utility should be directed to provide water service throughout its service area, without discrimination, in accordance with its filed main extension rule, unless otherwise first authorized by the Commission.

O R D E R

Public hearing having been held herein, the matter having been submitted for decision, the Commission now being fully advised and basing its order on the findings and conclusions contained in the foregoing opinion,

IT IS HEREBY ORDERED that:

1. The suspension of the revised tariff service area map (Cal. P.U.C. Sheet No. 46-W) filed by Crest Water Company on April 25, 1961, which is the subject of Case No. 7116 herein, be and said suspension is vacated as of the effective date of this

order. Said map is accepted for filing, and said Case No. 7116 is hereby discontinued.

2. Crest Water Company shall extend and provide water service throughout its service area, as presently existing and as hereafter lawfully extended, without discrimination and in accordance with the provisions of its filed main extension rule, unless otherwise first authorized by the Commission.

3. Crest Water Company, within thirty days after the effective date of this order, shall file with the Commission a written stipulation to the effect that it will comply with all proper requests for water service within its designated service area, or lawful extensions thereof, in accordance with ordering paragraph 2 hereof.

The Secretary is directed to cause personal service of a certified copy of this order to be made upon Crest Water Company, a corporation.

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

Dated at San Francisco, California, this 20th day of FEBRUARY, 1962.

George G. Grover
President

John E. Hartwell

Edgar Fox

Frederick B. Holmberg

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.