

ORIGINAL

Decision No. 63432

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALBERT E. ENGEL, MARJORIE L. ENGEL
and ALBERT L. PRYOR as trustee for
ALBERT OTTO ENGEL and SUSAN J.
ENGEL, minors,

Complainants,

vs.

CLYDE HENRY, dba FRIENDLY ACRES
WATER COMPANY,

Respondent.

Case No. 7248

Dennis L. Woodman, for complainants.

Lester L. Brown, for defendant.

John D. Reader, for the Commission staff.

O P I N I O N

Albert E. Engel, et al., filed the above-entitled complaint against Clyde Henry, ^{1/} doing business as Friendly Acres Water Company, on December 8, 1961. Defendant filed his answer on January 3, 1962. Public hearing on the complaint was held before Examiner E. Ronald Foster at Redwood City on February 9, 1962, evidence was adduced and the matter was taken under submission.

Allegations of the Complainants

In substance, complainants allege as follows:

1. That complainants are owners of that certain parcel of real property known as the "Harbor Village Mobile Homes Court" situated at 3015 Bayshore Highway, Redwood City, San Mateo County, and that defendant owns and operates a public utility water system

1/ Also known as Clyde W. Henry.

for the distribution and sale of domestic water in that geographical area where complainants' property is located.

2. That defendant now serves a portion of complainants' said property and that the existing water mains and the available water supply are adequate to service all of complainants' property.

3. That complainants have made demand in writing upon defendant to increase the supply of water and to install the additional meters necessary to supply all of their said property with domestic water and that defendant has refused and continues to refuse to install any additional meters or to supply any additional water to complainants' property.

Relief Sought

Complainants seek an order from the Commission directing defendant to furnish complainants with such water connections, meters, facilities and service as may be required by complainants' property.

Answer of Defendant

In his answer to the complaint, defendant does not deny the allegations that complainants are the owners of the property described in the complaint, that he is the owner and operator of the public utility water system serving the area and that he is now serving a portion of complainants' property. He does deny that the existing mains are adequate to supply all of complainants' property and that complainants have made a written request for additional water service. As a separate and distinct defense, defendant alleges that complainants have caused dirt, rocks and other debris to be piled and otherwise thrown upon defendant's existing water mains supplying water to the property of the complainants in such a fashion as to cause multiple breaks in the mains and to otherwise render it impossible to supply water to complainants through the existing mains in any quantity greater than that now supplied to them.

Summary of Evidence

By Decision No. 29506 dated February 1, 1937, in Application No. 20800, a certificate of public convenience and necessity was granted to Clyde Henry to operate a public utility water works under the fictitious firm name and style of Friendly Acres Water Company in Friendly Acres, a subdivision then adjacent to Redwood City, San Mateo County, as designated on a map attached to the application therein. A photostatic copy of that map was received in evidence in the instant proceeding as Exhibit No. 5. The subdivision was described as being "*** bounded by Second Avenue on the west; on the north by a line 140 feet north of and parallel to the north boundary of Bay Shore Highway ***." At that time, defendant had acquired and was in possession of an existing distribution system which included a water main, most or all of which was 6-inch cast iron pipe, laid along the north boundary of the said subdivision, with several 4-inch and 6-inch pipelines connecting with it which had been laid across and under the highway, one of which is at Second Avenue. The water supply was then, and still is, obtained by purchase from the San Francisco Water Department.

Exhibit No. 5 shows the location of complainants' property, indicated as a trailer court consisting of Sections A and B, located on the north side of Bay Shore Highway, just east of a line extended northerly from Second Avenue. Section B, the easterly portion of complainants' property, has been fully developed to accommodate about 114 mobile homes or trailers and is presently being supplied with water by defendant through two 2-inch meters. The water is being supplied to this location through either one or both of two interconnected 6-inch mains; one main is laid parallel to and along the south boundary of complainants' property and the other is laid under the highway, extending northward from Fifth Avenue.

Section A of complainants' property, lying west of Section B and shown in more detail on Exhibit No. 1, is being developed to accommodate some 125 trailers, with the interior water piping completed, and is the property for which complainants desire the water service which has been refused by defendant. The 4-inch pipeline extended northward from Second Avenue across the highway terminates in the southwest corner of Section A but is shut off by valves on both sides of the highway. Defendant claims that water cannot be transmitted through the pipeline along the southerly boundary of Section A to the junction of the 6-inch pipelines at the southwest corner of Section B because of its damaged and unserviceable condition; this pipeline is now about 7-1/2 feet below the ground surface and it is not certain whether it is 4-inch or 6-inch pipe. Defendant also claims that adequate water service for Section A cannot be rendered through the 4-inch line because of other consumers' demands from this pipeline south of the highway.

Complainants' witness testified that, with the arrangement of the interior piping in Section A, an adequate supply of water therefor could be obtained through either a 3-inch meter or two additional 2-inch meters installed in the proximity of the existing 2-inch meters supplying Section B. Defendant testified that to furnish an adequate supply of water for both Sections A and B of complainants' property might jeopardize the service being rendered to other large consumers on the north side of the highway who are being supplied through the same 6-inch main.

Defendant testified that there never has been any lack of an adequate supply of water to his system from the San Francisco Water Department. He also stated that there is another 6-inch

pipeline crossing the highway at Annette Avenue (near Fifteenth Avenue) which serves to supply water to the 6-inch line north of the highway.

Defendant readily admitted that complainants' property is within his service area as indicated on the service area map included with his current tariff filings.

The record does not contain conclusive evidence that complainants have made a written request or filed an application with defendant for the desired service.

Other testimony and certain letters introduced in evidence in this proceeding (Exhibits Nos. 2, 3 and 4), indicate that defendant's refusal of further service to complainants results from defendant's claim that complainants were responsible for damage to his pipeline, followed by unsuccessful efforts to require complainants to contribute all or part of the cost of installing an 8-inch pipeline to replace the line claimed to have been destroyed by them.

Discussion

It is incumbent upon a public utility to render service within its dedicated service area to all applicants for service in accordance with its lawfully filed tariffs. Where water mains exist on or adjacent to the complainants' property, as in the instant case, no extension of such mains is involved.

It is the duty of the utility to maintain its facilities in serviceable condition and, if damaged, to make such repairs or restorations as may be necessary to render adequate service therefrom. Claims for damage may be settled in the appropriate court and such claims for damage should not be used as a basis for not rendering service to a prospective customer.

Where increased demands for service by one or more of a utility's customers render existing facilities inadequate, it is the duty of the utility, subject to exceptions not herein applicable, to provide the necessary additional facilities or to increase the capacity of the existing facilities.

Findings and Conclusions

Upon consideration of the evidence, the Commission finds and concludes as follows:

1. That defendant, Clyde Henry, is the owner and operator of a public utility water system.
2. That defendant has dedicated his service as a public utility to furnish water within an area on both sides of the Bay Shore Highway located near the southerly city limits of Redwood City, San Mateo County.
3. That the property to which complainants desire to have water service furnished by defendant lies within defendant's dedicated service area.
4. That defendant now serves a portion of complainants' property.
5. That there are existing water mains, which are part of defendant's water system, from which water service can be furnished to the remaining portion of complainants' property without any extension of such mains.
6. That, therefore, defendant should be required, in conformance with his filed tariffs, to install at no cost to complainants the lines, service connections and meters necessary to supply water to all of complainants' property within defendant's service area.

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. If complainants, Albert E. Engel, Marjorie L. Engel and Albert L. Pryor as trustee for Albert Otto Engel and Susan J. Engel, minors, either collectively, or any of them, shall file a written request with defendant, Clyde Henry, operating a public utility water system under the name of Friendly Acres Water Company, for additional or increased water service to their property located at 3015 Bay Shore Highway, Redwood City, San Mateo County, California, said defendant shall provide such service within thirty days after the filing of said request. The service so provided shall be in accordance with defendant's effective tariff schedules, including the rates and rules therein, now on file with this Commission.

2. If and when the written request referred to in Paragraph 1 of this order shall have been filed with defendant,

- (a) Within ten days thereafter, defendant shall inform the Commission in writing the date on which said request was signed and details of the additional or increased water service so requested.
- (b) Within ten days after the requested service has been provided, defendant shall inform the Commission in writing the date on which such service was completed, with details of the manner in which it was provided, namely: the location thereof in relation to the previously existing service to complainants, the size of defendant's water main supplying the service, the size of the new service connection (or connections), and the number and size of meters installed thereon.

The Secretary of the Commission is directed to cause a certified copy of this decision to be served upon defendant Clyde Henry and to mail a copy thereof to the complainants herein.

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

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

Everett W. Payne
 President

W. L. Mitchell

George B. Grover

Fredrick B. Hildner

Commissioners

C. Lyn Fox
Commissioner....., being necessarily absent, did not participate in the disposition of this proceeding.