

**ORIGINAL**Decision No. 63655

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER M. MADSEN and OAK  
MOUNTAIN PROPERTIES, INC.,  
a corporation,

Complainant,

vs.

Case No. 7003

DUARTE WATER COMPANY,  
a corporation,

Defendant.

Stapleton, Weinberg & Isen, by F. G. Stapleton,  
for complainants.  
Knapp, Gill, Hibbert & Stevens, by Karl K. Roos,  
for defendant.  
Jerry J. Levander, for the Commission staff.

O P I N I O N

By a complaint filed October 28, 1960, heard October 4, 5 and 30, 1961, at Los Angeles, before Examiner John M. Gregory and submitted on briefs filed by December 21, 1961, complainant development corporation and its president and principal stockholder, Madsen, seek an order directing defendant utility to extend its mains in complainants' private property lying between two previous main extensions, in order to serve six large (2-acre) homesites and other acreage owned and being developed by complainants on or near a ridge in the upper portion of defendant's service area near the City of Monrovia.

The utility requests dismissal of the complaint on a number of grounds: (1) neither the corporation nor its president qualifies as an extension applicant under any provision of defendant's

extension rule; (2) the requested extension is designed to promote complainants' private land development business; hence, an order directing defendant to make the extension or deviate from its rule would subject defendant's property to a new use without its consent and result in an uncompensated taking of its property; (3) complainants have not submitted specific development plans from which the utility could design a proper system or estimate construction costs.

Defendant asserts that if complainants should qualify as applicants under its rule for subdivision extensions and submit data concerning ultimate development plans, the utility would prepare engineering and cost estimates for a proper system (which, the evidence shows, involves pressure or storage facilities required by the terrain), would present an extension agreement and would seek authority for any rule deviations that might be involved.

The complaint should be dismissed, since the record establishes, and we so find, that neither Oak Mountain Properties, Inc., nor Walter M. Madsen, complainants herein, qualifies as an applicant for a main extension for the reason that it has not been shown that said extension is necessary to serve either new bona fide customers or a new subdivision, tract or other development as contemplated by the utility's rule governing main extensions. (Rule 15, pars. B.1., C.1.)

If complainants and the utility are able to reach an agreement for construction of the required facilities, and should the agreement contain terms which deviate from the utility's extension rule, the Commission will reconsider the matter in passing upon an appropriate request for authority to consummate such agreement.

O R D E R

Public hearing having been held herein, evidence and argument having been received and considered, the Commission now being fully advised and basing its order on the finding and conclusion contained in the foregoing opinion,

IT IS ORDERED that the complaint herein be and it hereby is dismissed, without prejudice.

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

Dated at San Francisco, California, this 5th day of MAY, 1962.

*Everett W. Page*  
 President

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*  
 Commissioners

Commissioner George G. Grover did not participate in the disposition of this proceeding.