

ORIGINAL

Decision No. 63907

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of W. PAUL PAYNE, oper-)
 ator of A. T. SMITH WATER CO.,)
 Keeler, Inyo County, California,) Application No. 42499
 for authority to establish new)
 tariffs, rates and rules.)

W. Paul Payne, for A. T. Smith Water Co.
George C. Chatterton, Assistant District
 Attorney, for Inyo County, interested
 party.
Elinore Charles, for the Commission staff.

SUPPLEMENTAL OPINION AND ORDER

Decision No. 61609, issued in the above-entitled proceeding on March 7, 1961, authorized applicant, W. Paul Payne, doing business as A. T. Smith Water Co., to increase his rates for water service and directed him to do certain things to effectuate an improvement in his water service. When it appeared that applicant had not complied with the provisions of Decision No. 61609, the Commission on January 9, 1962, issued its order reopening the proceeding for the following purposes:

1. To inquire into the extent of compliance or noncompliance by W. Paul Payne, doing business as aforesaid, with the provisions of Decision No. 61609, and into the reasons for any noncompliance therewith.
2. To determine whether or not the rates being charged for water service by said W. Paul Payne should be reduced or otherwise modified.
3. To determine whether or not said Payne is assessing or collecting from his customers charges greater than those authorized by said Decision No. 61609.

4. To enter any order or orders that may be appropriate in the exercise of the Commission's jurisdiction in the premises.

Public Hearing

After due notice, a public hearing was held on said reopened proceeding before Examiner Leonard S. Patterson on April 4, 1962, at Keeler. At the conclusion of the day's hearing, the matter was taken under submission. The Commission staff presented results of its investigation as to the status of compliance with the Commission's order and cross-examined witnesses. Applicant presented testimony as to the reasons he had not complied fully with the Commission's order. Three water customers testified that service, and particularly water pressure, had not improved over the past year. One customer testified his service had improved as he had been placed on a more direct line.

Staff Investigation

Exhibit No. 6 presented by the Commission staff set forth the status of compliance with each of the eight ordering paragraphs contained in Decision No. 61609. This exhibit disclosed that applicant has made no plan and has not installed any of the new mains, nor relocated the storage tank as required by ordering paragraph 5. The staff engineering witness testified that his field inspections indicated that no work had been performed by the applicant which would improve the general service being provided by the system.

Ordering paragraph 6 authorized applicant to file further increased rates upon completion of the water system improvements ordered by paragraph 5. Since these improvements have not been made, such increased rates have not been filed, nor placed in effect.

The evidence shows that applicant has complied with all other ordering paragraphs of Decision No. 61609, although on two

of the items compliance was not effected within the time limits specified by the order.

With respect to the rates applicant has charged, two instances were investigated. In one of these it was found that applicant had charged an improper rate, but an adjustment was made to the proper basis. In the other case, it was found that the minimum charge being applied was proper for the size meter actually installed.

Applicant's Position

Applicant testified he had not complied with Decision No. 61609 in all respects as he had found it necessary to use the available funds for maintenance and plant expenditures on items other than those ordered by the Commission. As examples of such items, he described the replacement of a line serving a single customer which was leaking badly and was replaced at a cost of \$252, and the installation of a new pump at a cost of \$396 as the old one was so worn that the belt could not be kept tight. He testified that in 1961 the gross additions to plant totaled about \$1,100 and an additional \$1,100 had already been expended in the first three months of 1962 for plant additions. He further testified that the lack of pressure problem had been aided by these expenditures only to the extent that pressure had been increased about one pound per square inch. It is applicant's position that he cannot make the improvements ordered by the Commission as he does not have the necessary funds available nor has he been able to borrow such funds.

Staff Recommendation

It was the staff's position that at the time of the prior hearing applicant had \$2,000 cash available for system improvements and it was further the testimony of his witness at that time that the improvements could be placed in service within a period of ninety days.

The staff has now recommended that applicant be ordered to make the system improvements outlined in ordering paragraph 5 of Decision No. 61609 within a period of ninety days and in the event he fails to comply with such order, initiation of contempt proceedings should be considered. The Assistant District Attorney for Inyo County, Mr. George C. Chatterton, stated he agreed with the staff's recommendation.

Findings and Conclusions

It is clear from the evidence that instead of completing the system improvements ordered by the Commission, applicant used his available funds for maintenance and plant expenditures which were ineffective in improving service. Applicant's plans for rehabilitating the system and improving service are too elaborate for the ratepayers to support and would present insurmountable financing problems to applicant. The minimum system improvements previously recommended by the staff and ordered by the Commission should be effected. After such improvements have been completed, applicant may seek to further increase his rates through supplemental order of the Commission as provided by ordering paragraph 6 of Decision No. 61609 so as to provide additional revenues to cover maintenance, depreciation, taxes and other costs associated with the increased plant.

Based upon a consideration of the evidence, the Commission finds and concludes that applicant has failed to comply with ordering paragraph 5 of Decision No. 61609 which required the installation of 1,000 feet of 4-inch asbestos cement main in Malone Street and the relocation of the elevated storage tank to a higher site.

The completion of the changes ordered by the Commission is essential if service is to be improved to even a minimum level of acceptance. The order herein will require applicant to complete these improvements within six months of the effective date of this order. Applicant is put on notice that failure to comply with this order may subject him to contempt proceedings before this Commission. We have not changed our opinion, as expressed in Decision No. 61609, that applicant should not be authorized at this time to meter all customers. Meters may be installed only where there is sufficient evidence that water is being wasted.

The Commission also finds that the rates which applicant is charging are in conformity with those authorized by Decision No. 61609 and concludes that they should not be reduced nor otherwise modified at this time.

A public hearing having been held on this reopened proceeding and based upon the evidence of record and the findings and conclusions set forth above,

IT IS ORDERED that:

1. Within six months after the effective date of this order, W. Paul Payne, operator of A. T. Smith Water Company shall install approximately 1,000 feet of 4-inch asbestos cement main in Malone Street from the railroad right of way to State Highway No. 190 to replace existing main and move the elevated storage tank to a higher site adjacent to Malone Street and State Highway 190, and inform the Commission, in writing, that this has been accomplished within ten days thereafter.

2. Upon completion of the plant improvements contained in ordering paragraph 1 above, applicant is authorized to file in quadruplicate with this Commission, after the effective date of this order and in conformity with General Order No. 96-A, the schedule of

rates attached to Decision No. 61609 as Appendix B and upon supplemental order of this Commission to make such rates effective pursuant to such supplemental order. Until further authorized by said supplemental order, applicant shall not install meters on any customer's service unless it has reasonable proof that water is being wasted at any such location and has given such customer written notice as provided in its tariff rules presently on file with this Commission.

The Secretary is directed to cause a copy of this order to be served on W. Paul Payne.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of July, 1962.

George G. Grover
President
John S. Mitchell
E. J. [unclear]
Robert W. [unclear]
Fredrick B. [unclear]
Commissioners