

**ORIGINAL**Decision No. 64305

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. H. NICHOLSON,

Complainant,

vs.

Case No. 7422

VALLECITO WATER COMPANY,  
a Corporation,

Defendant.

ORDER OF DISMISSAL

Complainant alleges he has from time to time purchased shares of stock of defendant from numerous individuals and corporations, such purchases having been made by complainant as an individual using personal funds, and not as an agent for any other person or corporation. The complaint alleges that since April 6, 1962 defendant has refused to transfer and issue to complainant new certificates for shares purchased by complainant, thereby denying to him his rights as a shareholder.

Complainant seeks an order requiring defendant to transfer the shares purchased by complainant, and to issue new certificates in the name of complainant for all shares represented by certificates heretofore submitted by complainant for transfer.

A public utility is required to obtain Commission authorization for the issuance of stock. (Public Utilities Code, secs. 816 - 830.) After authorization and issuance, later sales by stockholders to others do not come within the jurisdiction of the Commission. (San Diego Elec. Rwy. Co., 48 Cal. P.U.C. 105, 107.) From the face of the complaint it

appears that a private individual is attempting to assert a private right against defendant, an issue not to be determined by the Commission. There is no allegation "setting forth any act or thing done or omitted to be done by any public utility, \*\*\* in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission.\*\*\*" (Public Utilities Code, sec. 1702.) The complaint fails to state a cause of action within the jurisdiction of the Commission.

For the purpose of directing attention to Public Utilities Code sec. 852, we take official notice that the 1961 annual report of San Gabriel Valley Water Company shows that complainant is chairman of the board of directors and a principal stockholder of that public utility. Section 852 provides as follows:

"No public utility shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under or by virtue of the laws of this State, without having been first authorized to do so by the commission. Every assignment, transfer, contract, or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this article is void and of no effect, and no such transfer shall be made on the books of any public utility. Nothing herein contained shall prevent the holding of stock heretofore lawfully acquired."

The complaint herein is dismissed for failure to

state a cause of action within the Commission's jurisdiction.

Dated at San Francisco, California, this 25th  
day of SEPTEMBER, 1962.

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President

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*[Handwritten Signature]*

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Commissioners