

ORIGINALDecision No. 66175

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Residents of West Patton Village)
 (Title 9), Herlong, California,)
 Complainant,)

vs.

Case No. 7473

PATTON VILLAGE #2 Water Co.,)
 Sidney Landis, owner)
 9711 Venice Boulevard)
 Los Angeles 34, California,)
 Defendant.)

James E. Pardee, for complainants.
Alvin Landis, for defendant.
Michael A. Pollard, for Federal Housing
 Administration, interested party.
Arthur C. Fegan, for the Commission staff.

O P I N I O N

On October 29, 1962, the residents of West Patton Village, Herlong, California, filed a complaint with the Commission alleging that Patton Village #2 Water Company, a corporation,¹ was operating as a public utility and as such was subject to the jurisdiction of this Commission. On November 30, 1962, defendant filed an answer to the complaint denying that it was operating as a public utility and denied that it was subject to the jurisdiction of this Commission.

A public hearing was held before Examiner Daly on June 27, 1963, at Herlong, and the matter was submitted upon briefs since filed and considered.

¹ During the course of hearing the complaint was amended to indicate that Patton Village #2 Water Company was a corporation and that Mr. Sidney Landis was its president.

The parties hereto are situated near the Sierra-Ordance Depot, a military installation located in Lassen County. The depot is approximately 40 miles from Susanville, which is the closest community. Military and civilian personnel employed by the Government are quartered on or near the depot.

In 1954, pursuant to the efforts of the Department of Defense, Federal Housing Administration, and the Housing and Home Finance Agency, 375 family units were planned to be constructed. Of the total, 125 units were authorized under Title VIII of the National Housing Act and were constructed at the depot on Government land. An additional 150 units were authorized under Title IX of the same act and were constructed on private land adjacent to the depot. The Title VIII units were sponsored and constructed by the Herlong-Sierra Homes, Inc., a Nevada corporation, and the Title IX units were sponsored and constructed by the Builders Corporation of America, a California corporation, which owns all of the capital stock of Herlong-Sierra Homes, Inc.

As the result of an agreement with the sponsoring corporation, the Federal Housing Administration, and the Department of Defense, it was agreed that the Government would furnish the water supply from wells located on the depot, which represent the only source of water supply. It was further agreed that the Government distribution system would be extended to the new housing units. Shortly after the agreement was entered into and the extension completed, it was determined that the Government could not contract with the sponsoring corporations for the sale of Government-owned water to the occupants of Title IX units because said units were located on private land. Thereafter it was decided that the Government could contract to sell water to a private water company,

which would, in turn, provide service to the residents of the Title IX units. As a consequence the sponsoring corporations caused to be formed Patton Village #2 Water Company, defendant herein.

Defendant provides water service to the 150 Title IX units only, pursuant to an agreement with the Department of Defense, whereby defendant agreed to provide service for a period of thirty years. To assure a continuance of service, the Government required defendant to execute trust deeds to the facilities installed on the private property in favor of the California Trust Company, as trustee, authorizing said trustee to take possession of the facilities in the event defendant should fail to provide service.

The Government provides water to defendant from its source of supply through a distribution main to a meter located just outside of the Title IX property. The meter measures the amount of water supplied by the Government to defendant. The distribution system from the meter to the Title IX units is owned by defendant and is valued at \$32,000. Defendant charges a flat rate of \$5.50 a month for water, and \$2 for sewage.

Defendant argues that inasmuch as it owns no source of water supply and it was formed only as an instrumentality through which the residents of Title IX could be served with water, there can be no dedication of property to a public use. It also argues that the arrangement between itself and the Government is contractual in nature and is therefore beyond the jurisdiction of this Commission.

After consideration the Commission finds that:

1. Defendant is providing water service to 150 units in West Patton Village.
2. Defendant is not a mutual water company nor a public agency.

3. Defendant has no contractual relationship with the residents of West Patton Village.

4. Defendant has a contract with the United States whereby the Government agrees to supply water to defendant.

5. The agreement with the Government establishes a contractual relationship with the Government only and not with the residents of Patton Village.

6. The general area surrounding the Sierra-Ordinance Depot is desolate and uninhabited. In such an area 150 users represent a substantial portion of the public and to that extent we find that defendant has dedicated its property and service to a public use.

Based upon the above findings the Commission therefore concludes that defendant is operating a public utility water system and is a public utility within the meaning of Sections 216, 240 and 241 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Patton Village #2 Water Company, a corporation, is declared to be a public utility subject to the jurisdiction of this Commission and to the applicable provisions of law.

2. Said defendant is authorized and directed to file, within thirty days after the effective date hereof, in conformity with the Commission's General Order No. 96-A, and in a manner acceptable to the Commission, the schedule of rates shown in Appendix A attached hereto, together with rules governing service to customers and a tariff service area map and copies of printed forms used in connection with customers' services. Such rates, rules, tariff service area map and forms shall become effective upon five days' notice

to this Commission and to the public after filing as hereinabove provided.

3. Within sixty days after the effective date of this order, said defendant shall file with this Commission four copies of a comprehensive map drawn to an indicated scale of not more than 400 feet to the inch, delineating by appropriate markings the various tracts of land and territory served, the principal water production storage and distribution facilities, and the location of the various water utility properties of respondent.

4. Said defendant shall file with this Commission, within ninety days after the effective date of this order, a report setting forth in detail a determination of the original cost, estimated if not known (historical cost appraisal), of the properties used and useful in providing water service, and also the depreciation reserve requirement applicable to such properties. The report shall designate which items are supported by vouchers or other like documentary evidence and which items are estimated, and shall show the basis upon which any such estimates were made.

5. Defendant shall base the accruals to the depreciation reserve upon spreading the original cost of the water utility plant, less estimated future net salvage and depreciation reserve, over the remaining life of the plant. Defendant shall review the depreciation rates when major changes in utility plant composition occur and for each plant account at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

6. Within thirty days after the effective date of this order defendant shall file with this Commission a copy of a water supply permit issued by the appropriate Department of Public Health,

or a copy of an application for such permit if the permit has not yet been issued.

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

Dated at San Francisco, California, this 22nd day of OCTOBER, 1963.

[Signature] President
[Signature]
[Signature]
George A. Trover
Fredrick B. Halaloff
 Commissioners

Commissioner William M. Bonnett, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

The area known as West Patton Village, Lassen County.

RATE

Per Service Connection
Per Month

For a single family residential unit, including premises	\$5.50
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SPECIAL CONDITION

The above flat rates apply to service connections not larger than one inch in diameter.