

Decision No. 66209

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the practices,  
operations, contracts, rules,  
facilities and service of the  
HESPERIA WATER COMPANY, a cor-  
poration, and KAYEM INVESTMENT  
COMPANY, a corporation.

Case No. 6159

(Instituted July 29, 1958)

(For list of appearances see Decisions  
Nos. 59281, 62183, 64833, and 65240.)

O P I N I O N

Decision No. 65240, dated April 16, 1963, ordered respondent Kayem to effect certain balance sheet adjustments set forth in detail therein; to record the acquisition of additional facilities not yet assigned or recorded at May 1, 1960, in the manner set forth in Table K, Pro Forma Accounting Classification, in Exhibit No. 14, which is of record in the proceeding on Application No. 40862; and to record all additional and future acquisitions of properties in strict conformance with the Uniform System of Accounts for Water Utilities prescribed by this Commission. Respondent Hesperia was ordered to file revised Rule No. 1, Definitions, and revised Rule No. 13, Temporary Service, and a contract form for temporary service supplied under the provisions of Rule No. 13. Hesperia was also ordered to refund all temporary service connection deposits collected from applicants for water

service under conditions not in conformity with Rule No. 13, and to refund temporary service connection deposits collected without first having executed a written contract for such service.

Further public hearing was held before Examiner Warner on August 2, 1963, at Los Angeles. Its purpose was to determine the extent of respondents' compliance with Decision No. 65240. The matter was submitted for decision upon receipt of late-filed Exhibits Nos. 25 and 26 by August 31, 1963. Said exhibits have been received, and the matter is ready for decision.

Exhibit No. 20, a memorandum report, dated July 16, 1963, by a Commission staff accounting witness of the results of his investigation of this matter, shows that Kayem has complied with ordering paragraphs of Decision No. 65240 regarding the adjustment of its books of account, and other accounting orders.

Exhibit No. 20 shows that Hesperia has not made full refund of all deposits ordered refunded, has not paid interest on deposits refunded as required by Tariff Rule No. 7, and was still in many instances collecting deposits of \$35 and in some cases \$50 for "temporary service" installations. Exhibit No. 20 further shows that Hesperia has not refunded to respective contributors the charges of \$100 per acre which have been made for inclusion in the service area of the utility, but which were ordered refunded by Decision No. 62183, dated June 27, 1961. The total amount of such contributions unrefunded was found to be \$126,000 as of December 31, 1962, of which \$111,000 was recorded as Vouchers Payable

(Ac. No. 222-2) to Hesperia North, a subdivision developed by respondent Hesperia's president Mendelsohn (elected in July of 1963).

The record shows that both Kayem and Hesperia have filed annual reports to the Commission for the years 1961 and 1962 as required.

Exhibit No. 21 comprises copies of vouchers covering refunds of 11 water meter advances and deposits made by Hesperia between September, 1962 and March, 1963.

Exhibit No. 22 is a copy of informal complaint No. 39647-W made to the Commission by George W. Nelson, realtor, regarding his inability to receive an extension of water service to Lots 30-31-32 and 33 of Block 69B in Hesperia townsite. Because of restrictions imposed by Decision No. 59281 against either Kayem or Hesperia's making any further main extensions of its distribution facilities without further order of the Commission, Nelson was advised on April 1, 1963, to file a formal complaint, which he has not done.

Exhibits Nos. 23 and 24 are copies of correspondence regarding refunds of temporary service deposits. Exhibit No. 24 contains a memorandum from respondents' Vice President Gould to Hesperia's superintendent and to its controller, issued in mid-June, 1963. Said memorandum directs that temporary service deposits be collected only with applications for premises on which a building permit has not been issued; that all such deposits be collected in accordance with a contract in the amounts of \$35 or \$50 for short and long services, respectively, and states that Hesperia will refund temporary service advances previously collected at the rate of \$200 per month to the limit of its financial ability.

Exhibit No. 25 contains in Schedules A, B, and C a list of active, construction, and closed temporary-service accounts showing the date of deposit, name, account number, amount, date transferred, and date closed as appropriate and as noted in Schedule E. Said exhibit contains a list of meter deposits received between January 7, 1963 and July 22, 1963. Said exhibit also contains a written statement, dated August 30, 1963, by Vice President Gould reiterating the Hesperia proposal to refund temporary deposits at the rate of \$200 in the chronological order of the date of their receipt; such refunds to be made as funds become available over a period of time for this purpose through borrowing, and to the extent that cash requirements for operations, maintenance, and taxes permit.

Exhibit No. 26 is a financial report, dated August 28, 1963, of Hesperia and Kayem. It contains a consolidated balance sheet as of July 31, 1963, and shows, among other things, total current and accrued assets amounting to \$23,421.26, including, among other things, cash of \$2,137.47, and accounts receivable of \$18,738.80; total current and accrued liabilities of \$377,452.40 including notes payable of \$141,821.37, accounts payable of \$191,023.99, customers' deposits of \$14,226.50, taxes accrued of \$445.85, and interest accrued of \$29,859.69; long term debt amounting to \$387,341.26, including notes payable of \$345,549.29 and accrued interest payable of \$41,791.97; advances for construction of \$27,255.03; contributions in aid of construction of \$748,254.09; and total surplus amounting to a net deficit of \$39,072.43, including capital surplus of \$406,271.10 and earned surplus (Deficit) of (\$445,343.53). Total utility plant was shown to be \$2,005,423.38, with a related reserve for depreciation of \$478,202.11.

A consolidated statement of profit and loss for the seven-month period ended July 31, 1963 showed operating revenues of \$63,234.70; total operating revenue deductions of \$92,425.33, including operating expenses of \$38,808.32, depreciation of \$21,250.81, and taxes of \$32,366.20; and net operating loss of \$29,190.63. The record shows that Hesperia continues to lease Kayem's distribution pipeline facilities, and to pay ad valorem taxes thereon. Such taxes have increased to nearly \$33,000 for the fiscal tax year 1963-64. During the fiscal tax years 1960-61, 1961-62 and 1962-63 default judgments were secured by San Bernardino County, which provided for the payment of these taxes in installments over a 12-month period. No installment tax payment is in default.

A Commission staff financial expert recommended that Hesperia be permitted to transfer \$126,000 of vouchers payable, representing the charges collected from subdividers of \$100 per acre for water service, from Ac. No. 222-2 to Ac. No. 265, Contributions in Aid of Construction, if waiver of right to repayment can be obtained by Hesperia from the subdivider contributors. Respondents' Vice President Gould testified that such permission would assist the merger of Hesperia and Kayem. He further testified that respondents had taken steps with their legal counsel to merge, and that such merger might be effected by December 31, 1963, if legal, tax, and other financial problems could be settled.

Respondents' vice president testified that the monthly number of complaints regarding water service made by Hesperia's customers has been minimal; Hesperia has installed, and planned to place

in operation on August 15, 1963, a booster station to increase operating water pressures in the southwest portion of the service area; Hesperia has made other improvements to its water system and its operation thereof to alleviate low water operating pressure conditions, has continued the maintenance, repair and replacement of distribution pipeline, and has not lacked water supplies to or for its some 1,800 present customers. He testified that Hesperia's present water supplies could serve roughly 3,000 customers. Respondents' witness further testified that neither Kayem nor Hesperia seeks the lifting of the restrictions against the extension of its distribution system heretofore mentioned.

Staff counsel stated that the staff had no recommendation to make other than that of transferring \$126,000 to contributions, as heretofore noted.

Upon consideration of the record the Commission finds that:

1. Kayem has complied with Decision No. 65240, and with other orders contained in decisions issued as a result of this investigation.
2. Kayem and Hesperia are in the process of merging.
3. Hesperia has continued to collect temporary service deposits without entering into a contract therefor, as provided by its Rules Nos. 1 and 13.
4. The financial condition of respondents is such that Hesperia cannot comply with Decision No. 62183 requiring the

return to the respective contributors of all charges made for inclusion to the service area of the utility (\$100 per acre), which said unrefunded charges amounted to \$126,000 as of December 31, 1962, reflected in Account No. 222-2, Vouchers Payable. It is unreasonable to continue this requirement.

5. Hesperia has not yet made full refund of all deposits ordered refunded; has not paid interest on deposits refunded as required by Tariff Rule No. 7; and has continued to collect deposits of \$35 and in some cases \$50 for "temporary service" installations.

6. Hesperia's proposal to refund temporary deposits at the rate of \$200 per month in chronological order of their receipt is reasonable.

7. The monthly number of complaints regarding water service made by Hesperia's customers has been minimal; Hesperia has installed a booster station to improve water service in the southwest portion of the service area; Hesperia has continued the maintenance, repair and replacement of distribution pipelines; Hesperia has made other improvements to its water system and its operations thereof to alleviate low water operating pressure conditions; and Hesperia has not lacked water supplies to or for its some 1,800 customers.

8. Kayem or Hesperia do not seek removal of the restrictions imposed by Decision No. 59281 against either Kayem or Hesperia's further extending its distribution system.

Upon consideration of the foregoing findings the Commission concludes:

1. Deposits collected in nonconformance with Hesperia's Rules Nos. 1 and 13 should be returned with interest.
2. Hesperia should be authorized to transfer the amount of \$126,000 from Account No. 222-2, Vouchers Payable, to Account No. 265, Contributions in Aid of Construction, if waiver of the right to repayment can be obtained by Hesperia from the subdivider contributors.
3. Case No. 6159 should be discontinued.

O R D E R

IT IS ORDERED that:

1. Respondents Hesperia Water Company and Kayem Investment Corporation shall continue the process of merging, and shall report to the Commission in writing on or before January 15, 1964, and every ninety days thereafter until merged, their progress therein.
2. Hesperia is authorized to transfer the amount of \$126,000 from Account No. 222-2, Vouchers Payable, to Account No. 265, Contributions in Aid of Construction, if waiver of the right to repayment can be obtained by Hesperia from the subdivider contributors. The prior order (Decision No. 62183) requiring refund of such amounts collected is hereby rescinded. On or before January 15, 1964 and every six months thereafter, to and including January 15, 1966, Hesperia shall report to the Commission, in writing, the names of the subdivider contributors who have assented to such transfer from accounts payable to contributions and the



amount so transferred for each contributor, for the six-month period ending on the last day of the month preceding each such report.

3. Hesperia shall refund all temporary service connection deposits collected from applicants for water service under conditions not in conformity with Rule No. 13 of its filed tariffs, and all temporary service connection deposits collected without first having executed a written contract for such service, at the rate of \$200 per month plus interest at six per cent, in the chronological order of receipt of such deposits as set forth in Exhibit No. 25, and shall report in writing to the Commission within one hundred eighty days after the effective date hereof the extent of its compliance hereof, and every one hundred eighty days thereafter until all such refunds have been made.

4. The restrictions against either Kayem or Hesperia's extending its distribution system imposed by Decision No. 59281 shall remain in full force and effect.

5. Case No. 6159 is discontinued.

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]  
[Signature]  
Commissioners

-9- Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner George G. Grover present but not voting.