

ORIGINAL

Decision No. 66329

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CLEAR LAKE PARK WATER COMPANY, a)
 corporation, for an order author-)
 izing an increase in rates for water)
 service in and adjoining the unin-)
 corporated communities of Clearlake)
 Park and Austins in Lake County,)
 California, and for relief pending)
 full hearing.)

Application No. 44644

William Stava, for applicant.
Lester W. Adams, for residents of Oakmont
 Park Area; S. H. Patterson, for the
 Pine Dell Mutual Water Company and
 Norwood J. Patterson and himself, and
 other lot owners of Pine Dell Subdivi-
 sion, protestants.
Leslie D. Hay, for the Commission staff.

SUPPLEMENTAL OPINION

On July 30, 1963, the Commission issued Decision No. 65777, which authorized applicant to increase rates for water service and required it to make certain improvements and additions to its system. Paragraph 7 of the order provided that:

"7. On or before January 1, 1964, applicant shall install and place in operation three additional 50,000-gallon water storage tanks at appropriate elevations and locations within its service area and shall so notify the Commission in writing within ten days thereafter."

On August 19, 1963, applicant filed a petition seeking modification of Decision No. 65777 on the ground that between the date of hearing and the date the decision was issued, new management acquired the stock of applicant; that the new management had expended a large sum of money in improving the system, including the installation of additional storage facilities, and that compliance with the terms

of Paragraph 7 would result in unnecessary duplication of facilities. On September 17, 1963, the Commission entered an order which reopened the proceeding for the purpose of determining whether Paragraph 7 should be modified. A duly noticed public hearing, dealing with the requested modification of Paragraph 7, was held before Examiner Jarvis, on October 17, 1963, at Clear Lake Highlands, and the matter was submitted on that date.

The record discloses that subsequent to the last hearing in this matter new management has acquired the stock of applicant. The new management had spent \$69,327, as of August 30, 1963, and approximately \$80,000, as of October 17, 1963, in improving the water system. Among the improvements was a new 200,000-gallon storage tank. Applicant's engineer testified that the 200,000-gallon tank was the equivalent of the three storage tanks required by Paragraph 7, and that the system is adequate to supply the needs of the area. A Commission staff engineer testified that he had examined the 200,000-gallon tank and that it was more than the equivalent of the storage tanks required by Paragraph 7.

The president of the Pine Dell Mutual Water Company protested the modification of Paragraph 7 on behalf of the Mutual and as an individual property owner in the Pine Dell area. He contended that he has a contractual arrangement with applicant which allegedly requires it to install a water tank in the Pine Dell area; that the Mutual buys water from applicant; that the pressure at which water is received by the Mutual at the point of delivery is insufficient to permit the Mutual to serve customers at high elevations, thereby impeding development in the area; and that the installation of one of the required 50,000-gallon storage tanks in the Pine Dell area at a sufficiently high elevation would alleviate the problem.

The previous decision noted the controversy between this protestant and applicant and did not attempt to resolve it. The Commission acts under the police power of the State and is not bound by private contracts in the exercise of that power. (San Bernardino v. Railroad Commission, 190 Cal. 562.) The proper tribunal for the resolution of private contractual disputes of this nature is the Superior Court. (Cal. Water & Tel. Co. v. Public Util. Com., 51 Cal.2d 478, 488.) If facts exist, with respect to the controversy between protestant and applicant, which would be sufficient to warrant action by the Commission under its regulatory powers, protestant is privileged to invoke the Commission's jurisdiction by filing an appropriate petition or complaint.

Applicant's engineer testified that the company was in the process of making a survey to determine the present and future needs of the system to provide adequate service and to plan for the orderly development of the system along with the growth of the area. Applicant's engineer testified that, in his opinion, installation of a storage tank in the Pine Dell area was not presently warranted, and that any storage facilities should be part of a master plan for the proper development of the system. The Commission staff engineer testified that on October 16, 1963 he took a pressure reading at the higher of the two meters serving the Pine Dell Mutual system and the pressure was 40 pounds per square inch. He estimated that the pressure would be less during periods of peak consumption. He expressed the opinion that suitability studies should be made before additional storage facilities are added to the system, and that if additional storage facilities become necessary, they be placed at the most advantageous places indicated by such studies. The record also indicates that on October 17, 1963, there were only three service connections in the Pine Hill Mutual system, although at least one of these connections is for a resort.

Based upon the evidence of record in this proceeding, the Commission makes the following findings and conclusions.

Findings of Fact

1. Applicant has installed in its water system a 200,000-gallon storage tank.

2. The installation of said 200,000-gallon storage tank amounts to compliance with the terms of Ordering Paragraph 7, of Decision No. 65777.

Conclusion of Law

Ordering Paragraph 7, of Decision No. 65777, should be deleted.

SUPPLEMENTAL ORDER

IT IS ORDERED that Ordering Paragraph 7 of Decision No. 65777 is hereby set aside and deleted from said decision. In all other respects Decision No. 65777 shall remain in full force and effect.

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

Dated at San Francisco, California, this 14th day of NOVEMBER, 1963.

William W. Brundage
President

George L. Trover

Frederick B. Hallock
Commissioners