

ORIGINAL

Decision No. 67415

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JUANITA FINATTI,  
Complainant,

vs.

CHUALAR WATER WORKS and  
ALBERT J. BEESINGER,  
Defendant.

Case No. 7849  
(Filed February 27, 1964)

Juanita Finatti, complainant, in propria persona.

O P I N I O N

This is a complaint by Juanita Finatti against Albert J. Beesinger, doing business as the Chualar Water Works. The complaint alleges that the defendant has assessed certain improper charges against the complainant and has threatened to shut off water service unless these charges are paid.

The complaint was filed on February 27, 1964. On March 9, 1964, the Commission ordered the defendant to satisfy the matters complained of or answer the complaint within ten days. Defendant did not satisfy said matters and did not file an answer to the complaint. A duly noticed hearing was held in this matter before Examiner Jarvis at Salinas on May 20, 1964, and the matter was submitted on that date. Notice of the hearing was served on defendant by registered mail on May 2, 1964. Defendant did not appear at the hearing.

The record discloses that complainant owns dwellings in the Town of Chualar known as Houses Nos. 14, 15, 16 and 17. These houses are approximately 40 years old. In May of 1963, all of these houses

were on a single meter. At that time defendant insisted that the houses have individual service connections. Complainant furnished the pipe, suitably entrenched, to connect to defendant's service connection for the houses. Complainant furnished all the labor to install the connections on her property, except that in the case of House No. 15 defendant fastened together certain lengths of pipe. Thereafter, defendant billed complainant the sum of \$100 as a connection charge for each of the connections for a total charge of \$300. Complainant protested and refused to pay the connection charges. Defendant then proceeded to add a \$10 a month "late payment charge" to the requested connection charges. On January 16, 1964, defendant sent complainant a "last notice" which indicated that, unless the amount of \$340 was paid by January 22, 1964, complainant's water service would be discontinued. This complaint followed. At the time of hearing, defendant had not discontinued water service to the houses.

The Commission takes official notice that defendant's tariff has no provision authorizing him to make connection charges. Furthermore, Section V 2a(1) of General Order No. 103 provides as follows:

"2. Service Connections.

a. Ownership of Service.

(1) Charge for Service Connections. The utility shall make no charge to a customer for making a service connection except in case of connections for private fire protection service, connections for temporary service, or where for irrigation service additional connections are requested for the convenience of the customer or because of divisions of land ownership when the land before division was receiving irrigation service."

In the circumstances, there is no legal basis upon which defendant may levy the connection charges or late payment charge.

At the hearing complainant testified that defendant has threatened to deny water service to a duplex being constructed contiguous to the houses here involved on Block No. 9 in the Town of Chualar. Defendant's service area map filed with the Commission indicates that Block No. 9 is within his dedicated service area. Defendant is placed on notice that he is under a legal obligation to render water service within his dedicated service area in accordance with his tariff and the rules of this Commission.

The Commission makes the following findings and conclusions.

Findings of Fact

1. Defendant has attempted to levy a connection charge of \$100 per connection for providing individual services to Houses Nos. 15, 16 and 17 in Chualar, California.
2. Complainant refused to pay said connection charges, and defendant has attempted to levy against complainant an additional late payment charge of \$40, which complainant has also refused to pay.
3. Defendant has threatened to shut off the supply of water to Houses Nos. 15, 16 and 17 unless said connection charges and said late payment charge are paid.
4. There is no provision in defendant's tariff authorizing him to levy any connection charge for a residential service connection or any late payment charges.

Conclusions of Law

1. The connection charges levied by defendant against complainant for providing individual residential services to Houses Nos. 15, 16 and 17 in Chualar, California, are not authorized by defendant's tariff and are contrary to the provisions of General Order No. 103.

2. The late payment charge levied by defendant against complainant for failure to pay said connection charges is not authorized by defendant's tariff and is contrary to law.

3. Defendant should be ordered to cease and desist from attempting to collect either said connection charges or said late payment charge.

4. Defendant should be ordered not to disconnect water service to Houses Nos. 15, 16 and 17 for failure of complainant to pay either said connection charges or said late payment charge.

O R D E R

IT IS ORDERED that:

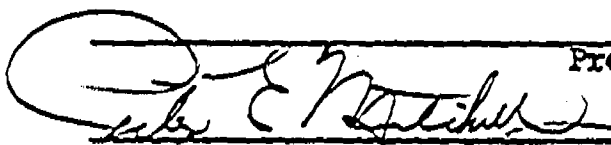
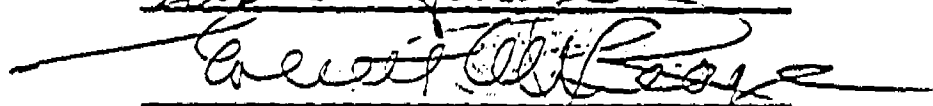
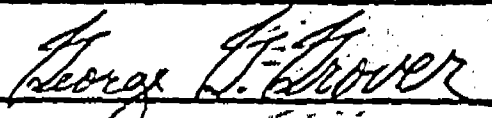

1. Defendant, Albert J. Beesinger, shall forthwith cease and desist from attempting, in any manner, to collect the connection charges levied against complainant, Juanita Finatti, of \$100 per house for providing individual residential water service connections to Houses Nos. 15, 16 and 17 located in Chualar, California.

2. Defendant, Albert J. Beesinger, shall forthwith cease and desist from attempting, in any manner, to collect the late payment charge of \$40 levied against complainant, Juanita Finatti, for her refusal to pay the connection charges levied by defendant against complainant for providing individual residential water service connections to Houses Nos. 15, 16 and 17 located in Chualar, California.

3. Defendant is hereby permanently restrained from discontinuing water service to Houses 15, 16 and 17 located in Chualar, California, because complainant has not paid either the connection charges or late payment charge levied by defendant for providing individual residential water service connections for said houses.

The Secretary of the Commission is directed to cause personal service of this order to be made upon defendant. The effective date of paragraph 3 of this order shall be the date upon which defendant is so served. The effective date of paragraphs 1 and 2 of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 23rd day of JUNE, 1964.

  
 \_\_\_\_\_ President  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_ Commissioners

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