

ORIGINAL

Decision No. 68020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JUANITA FINATTI,

Complainant,

vs.

Case No. 7975

CHUALAR WATER WORKS and
ALBERT J. BEESINGER,

Defendants.

Adrian Smeltzer, for complainant.

Albert J. Beesinger, 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. Complainant alleges that for one month preceding the filing of the complaint she had continuously requested separate meter water services to a duplex known as and consisting of Units Nos. 13-A and 13-B in Block No. 9 in the Town of Chualar, California. It is further alleged that defendant has failed and refused to furnish public utility water service to said units and still fails and refuses such service.

The complaint was filed on August 10, 1964. On August 18, 1964, the Commission ordered the defendant to satisfy the matters complained of or answer the complaint within ten days. Defendant neither satisfied the complaint nor filed an answer.

A duly noticed public hearing was held in the matter before Examiner Rowe, in Salinas, on September 24, 1964, at which time the matter was submitted for decision.

The record discloses that complainant owns dwellings in the Town of Chualar known as Houses Nos. 14, 15, 16 and 17 and a duplex known as Units Nos. 13-A and 13-B, all located in Block No. 9. Defendant's service area map filed with the Commission indicates that Block No. 9 is within his dedicated area.

The Commission takes official notice of its Decision No. 67415 in Case No. 7849, decided June 23, 1964, in which it is indicated that said Block No. 9 is in defendant's service area. There was testimony in the instant matter to the same effect and also to the effect that complainant in Case No. 7849 was the same person as the present complainant. The order in Decision No. 67415 required this defendant to cease and desist from attempting to collect excessive sums for service connections with respect to Houses Nos. 15, 16 and 17. Defendant is now found to have failed to provide service properly applied for and to have attempted to collect excessive charges against complainant with respect to duplex Units Nos. 13-A and 13-B.

Defendant admitted at the hearing that his only tariff charge for connecting service is \$2.50 per unit. This, however, is a reconnection charge and not for initial connections. He made no explanation for imposing the combined charges of \$100 which were unauthorized by his tariff. Except for the fact that the order in Decision No. 67415, enjoining defendant from collecting unauthorized and excessive charges from complainant, was limited to Houses Nos. 15, 16 and 17, he would now be in contempt of the Commission's order. The order to be entered herein, therefore, will include a restraining order expressly enjoining defendant from all unauthorized charges to this complainant, who, according to the evidence in this case, is a former wife of defendant.

The Commission takes official notice that defendant's tariff has no provision authorizing him to make connection charges herein asserted. 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 here attempted to be made. In order to reveal the aggravated nature of defendant's actions here shown and complained of, we will quote a paragraph in the opinion of Decision No. 67415, referring to this same duplex and the same parties:

"At the hearing complainant testified that defendant has threatened to deny water service to a duplex being constructed contiguous to the houses herein 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 specific findings and conclusions.

Findings of Fact

1. Defendant has attempted to levy a connection charge of \$50 per connection for providing individual metered services to Units Nos. 13-A and 13-B of complainant's duplex in Block No. 9 of the Town of Chualar, California, which is within defendant's dedicated service area.

2. Defendant, although properly requested, has refused and failed to install meters and connect service to Units Nos. 13-A and 13-B of complainant's said duplex, thereby causing complainant to suffer substantial inconvenience, expense and delay.

3. There is no provision in defendant's tariff authorizing him to levy any connection charge for a residential service connection or to refuse the service requested by complainant.

4. The mains are presently in place connecting with complainant's duplex units so that it will require only a few minutes to install the meters and connect service.

Conclusions of Law

1. The connection charges attempted to be levied by defendant against complainant for providing individual residential metered services to Units Nos. 13-A and 13-B of complainant's duplex in Block No. 9 in Chualar, California are not authorized by his tariff and are contrary to the provisions of General Order No. 103.

2. Defendant should be ordered to make the meter service connections requested by complainant and to cease and desist from attempting to assess or collect any unauthorized charges against this complainant.

3. The effective date of this order should be the date of its service upon defendant because of the inconvenience, expense and delay already caused complainant.

ORDER

IT IS ORDERED that:

1. Defendant, Albert J. Beesinger, shall forthwith install the meters and extend service as requested by Juanita Finatti to Units Nos. 13-A and 13-B of her duplex, located in Block No. 9 in the Town of Chualar, California.

2. Defendant, Albert J. Beesinger, shall forthwith cease and desist and in the future at all times cease and desist from levying or attempting to levy any charges for service against complainant Juanita Finatti which are or may at the time be unauthorized by his tariff filed with this Commission.

3. Defendant, Albert J. Beesinger, is permanently restrained from assessing unauthorized charges or disconnecting service because of the failure of complainant to pay any unauthorized charge levied by defendant for providing individual residential water service for complainant's duplex in Block No. 9, Chualar, California.

The Secretary of the Commission is directed to cause personal service of this order to be made upon defendant, Albert J. Beesinger. The effective date of this order shall be the date upon which defendant is so served.

Dated at San Francisco, California, this 13th day of OCTOBER, 1964.

Fredrick B. Holbeck
President
Robert W. Beag
William E. Burnett

Commissioners