

Decision No. 70523**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the status, oper-  
ations, service, rates and  
practices of MRS. P. R. MURRAY  
and JOSEPH E. BLOOMBERG, operating  
a water system at Tahoe Vista,  
California, known as Tahoe Estates  
Water Service. )

Case No. 8213  
Filed June 29, 1965

Dudley J. Goul, for Mrs. P. R. Murray, and  
Philip C. Wilkins, for Mr. Joseph E.  
Bloomberg, respondents.  
Carl Applebaum, for Tahoe Estates Home Owners  
Association, interested party.  
Elinore C. Morgan, for the Commission staff.

O P I N I O N

This investigation on the Commission's own motion was instituted to determine the possible public utility status of the owners and operators of the water system serving Tahoe Estates Unit No. 1 near Tahoe Vista, Placer County.

Public hearing in this matter was held before Examiner Catey at Tahoe City on October 13, 1965. Testimony was presented by a Commission staff engineer, by both respondents and by the manager employed by respondents to operate the water system. The matter was submitted on October 13, 1965, with the understanding that decision would be deferred for a reasonable period to enable respondents to complete their proposed application to transfer the water system to a nearby public utility already operating under this Commission's jurisdiction. It was further understood that, if the transfer application were not filed within a reasonable period, the parties could request reopening of the proceeding for receipt

of concurrent briefs. Neither the transfer application nor any request for authority to file briefs has been received.

History and Present Operations

A Commission staff report received as Exhibit No. 1 shows the history and present operations of the subject water system.

Tahoe Estates Unit No. 1 is in portions of Sections 11 and 14, T.16 N., R.17 E., M.D.B.& M. It was subdivided by P. R. Murray, Alice Murray, Homer LeBallister, Lena LeBallister, A. J. Ketman and Dorothy L. Ketman, in June of 1946. On July 6, 1946, these parties entered into an agreement in which (1) the Ketmans granted the Murrays and the LeBallisters a right-of-way to construct, erect and operate a water pumping plant, power lines and pipelines; (2) the LeBallisters granted the Murrays a right-of-way for a storage tank, a pump control circuit and a pipeline; and (3) the Murrays and the LeBallisters agreed to furnish "surplus" water for domestic purposes to homes to be constructed by the Ketmans in Section 14, on as favorable terms as such water is provided to homes to be built by the Murrays and the LeBallisters in the east and west halves, respectively, of Section 11. A copy of that agreement is Exhibit No. 3.

On October 5, 1948, those parties entered into another agreement whereby the Ketmans deeded to the other parties the pump site consisting of the southernmost portion of the previously granted right-of-way, located between the State highway and the shore of Lake Tahoe. The other parties reiterated their stipulation to furnish water to the properties subdivided by the Ketmans. A copy of that agreement is Exhibit No. 4.

Respondent Murray inherited her husband's portion of their joint interest in this water system. Respondent Bloomberg and

unnamed associates acquired the LeBallister interests in Tahoe Estates Unit No. 1 when they purchased 295 acres of adjacent land also then owned by the LeBallisters.

For the last eight summers, respondent Murray has lived at Tahoe Vista and has directed the operation and maintenance of the water system. During this period, the staff has corresponded with respondent Murray and her attorney several times. Communications usually indicated that the water system was in the process of being sold.

Predecessors in Tahoe Estates Unit No. 1 and respondents have provided water service during only a 5-month summer season from about May 15 to October 15. Winter service has never been provided and respondents would have great difficulty with much of the system if they were to operate during freezing weather. For the seasonal service during the last two seasons, respondents have collected \$35 from each homeowner who desired water service.

During the early years of this operation, few, if any, customers sent letters of complaint to the Commission. In the spring of 1965, several customers who had been notified by respondent Murray that she might not be able to resume operations as usual that year advised the Commission staff of this development. Informal discussions between the staff and the system's owners resulted in increased participation by respondent Bloomberg and the hiring of a manager to operate the system for the summer of 1965.

#### Public Utility Status

The two agreements, Exhibits Nos. 3 and 4, referred to "surplus" water. The first agreement, in which the Ketmans, the

Murrays and the LeBallisters were, respectively, the parties of the first, second and third part, also stated:

"The parties of the second part and the parties of the third part do not desire to become a public utility or public utilities in supplying water to the owners of homes on their respective properties in Section 11, or to the owners of homes on the property of the parties of the first part, and said water is to be supplied under agreements designed to accomplish the objects and purposes of the parties of the second part and parties of the third part to avoid becoming a public utility or public utilities."

When the California Division of Real Estate issued its inspection report on Tahoe Estates Unit No. 1, a copy of which report is Exhibit No. 5, it advised the public that only surplus water would be available. Respondent Murray's late husband directed a letter to the Division of Real Estate, a copy of which is Exhibit No. 6, alleging that the term "surplus water" was only technical and that it was not his intention ever to declare a lack of surplus water and to refuse to supply water.

Respondents have been, and are, providing water service for compensation to some 60 residents of Tahoe Estates Unit No. 1, and to a few customers outside that tract. Respondents have not used the system primarily for their own domestic or irrigation purposes. Regardless of respondents' categorizing the service as "surplus", their actions clearly constitute dedication of the system to public use.

The evidence presented by the Commission staff was not denied nor refuted by respondents. At the request of the attorney for North Tahoe Public Utility District, who was unable to appear, the presiding examiner read into the record a letter from the District objecting to the Commission's declaring respondents to be a public utility. The letter offered no evidence, however, that respondents were not a public utility.

The Commission staff recommends in Exhibit No. 1 that if respondents are found to be a public utility, they be required to file tariffs retaining the present rates and establishing appropriate rules, and that they be required to make certain improvements to the system to conform with acceptable standards. The staff recommendations are reasonable and will be adopted.

Findings and Conclusions

The Commission finds that:

1.a. Respondents' operation of their water system in and near Tahoe Estate Unit No. 1 constitutes dedication to summer season public use, respondents are operating a public utility water system, and respondents are a public utility "water corporation" within the meaning of Section 241 of the Public Utilities Code.

b. No showing has been made to warrant any change in the rates now charged by respondents.

c. Respondents do not now have tariffs on file with the Commission.

2. Respondents do not have an up-to-date water system map.

3. A straight-line depreciation rate of 3 percent is reasonable to apply to respondents' plant for the year 1966.

4. Respondents have not maintained plant records in accordance with the system of accounts prescribed by this Commission.

5. Additional details of size, kind and condition of certain mains and valves are necessary to determine the adequacy of those facilities.

6. A cover is needed on respondents' tank to provide protection from contamination by small animals and birds.

7. A second pump is needed to provide continuous service in the event of shutdown of respondents' present single pump for repairs or maintenance.

8. Additional storage facilities, covered to provide protection from contamination by small animals and birds, is needed to provide adequate storage capacity for the dedicated service area.

The Commission concludes that respondents should be required to file tariffs, keep records required of public utilities and make system improvements as set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. Within thirty days after the effective date of this order, Mrs. P. R. Murray and Mr. Joseph E. Bloomberg (respondents), doing business as Tahoe Estates Water Service, shall file the schedule of rates set forth in Appendix A to this order, a tariff service area map clearly indicating the boundaries of the service area, including all areas served as of October 13, 1965, appropriate general rules, and copies of printed forms to be used in dealing with customers. Such filing shall comply with General Order No. 96-A. The tariff schedule shall become effective on the fourth day after the date of filing.
2. Respondents shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within six months after the effective date of this order, respondents shall file with the Commission two copies of such map.
3. For the year 1966, respondents shall apply a depreciation rate of 3 percent to the original cost of depreciable plant. Until review indicates otherwise, respondents shall continue to use this rate. Respondents shall review their depreciation rates at intervals of five years and whenever a major change in depreciable plant occurs.

Any revised depreciation rate shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant; (2) dividing the result by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant. The results of each review shall be submitted promptly to this Commission.

4. Within four months after the effective date of this order, respondents shall file in this proceeding 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 it shall show the basis upon which any such estimates were made.

5. Within six months after the effective date of this order, respondents shall file in this proceeding a report setting forth in detail the size, kind and condition of the pipelines and valves (a) on Sierra Drive above the connection with the 4-inch supply line and (b) on Donner Road. If these pipelines are no larger than 2 inches in diameter, this report shall also include a plan and a schedule for the replacement of the main on Sierra Drive and a plan and schedule for replacing all or a portion of the pipeline on Donner Road to conform with the requirements of General Order No. 103.

6.a. On or before May 13, 1966, respondents shall install a cover on their existing 5,000-gallon tank to provide protection from small animals and birds.

b. Within ten days after installation of a cover on their 5,000-gallon tank, respondents shall file in this proceeding written notice of the date of installation.

7.a. On or before July 1, 1966, respondents shall install and place in operation a second pumping unit equipped with not less than a 10-hp electric motor.

b. Within ten days after installation of the second pumping unit, respondents shall file in this proceeding written notice of the date of installation.

8.a. On or before July 1, 1967, respondents shall install and place in operation an adequately covered storage tank of not less than 50,000-gallon capacity at or above the location of the present 5,000-gallon tank.

b. Within ten days after installation of the 50,000-gallon or larger tank, respondents shall file in this proceeding written notice of the tank storage capacity and the date of its installation.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of APRIL, 1966.

Fredrick B. Holcomb  
President

George H. Hoover

Augusta

William L. Bennett  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.



APPENDIX A

Schedule No. 2S

SEASONAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate seasonal water service.

TERRITORY

The unincorporated area known as Tahoe Estates in the community known as Tahoe Vista, Placer County.

RATE

Per Season  
May 15 to October 15

For each single-family dwelling ..... \$35.00

SPECIAL CONDITION

The seasonal flat rate charge is payable in advance.