

**ORIGINAL**

Decision No. 73705

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the contracts, transactions, operations, practices, and rates of BYRON J. WALTERS, doing business as TAHQUITZ LAKE WATER COMPANY; COACHELLA VALLEY SAVINGS AND LOAN ASSOCIATION, a corporation; CEDAR GLEN DEVELOPMENT ASSOCIATION, a corporation; HELEN B. NELSON; DONALD MENG; and CHARLES A. HOFFMAN

Case No. 8556  
(Filed October 25, 1966)

Application of BYRON J. WALTERS, DBA TAHQUITZ LAKE WATER CO., for Certificate of Public Convenience and Necessity to Operate a Water System, for Authorization of Water Rates, and for Establishment of Rules and Regulations.

Application No. 41904  
(Filed January 29, 1960)

Byron J. Walters and Donald M. Meng  
for Byron J. Walters doing business as Tahquitz Lake Water Company;  
O. P. Ladd, and Reid, Babbage & Coil  
by Donald F. Powell, for Cedar Glen Development Association; Schlesinger, Schlecht & McCullough, by John R. Simon, for Coachella Valley Savings & Loan Association; and Mary B. Nelson, in propria persona; respondents.  
Edward F. Koenig; protestant.  
William D. Miller, for Idyllwild County Water District; Lyle Wheeler, J. L. McSwiggen and Wenzel E. Pyster, for Pine Cove County Water District; and J. H. Ranner; interested parties.  
William C. Bricca, Counsel, and Jerry J. Levander, for the Commission staff.

INTERIM OPINION

An investigation on the Commission's own motion, Case No. 8556, was instituted on October 25, 1966 into the water company operation of Byron J. Walters, doing business as

Tahquitz Lake Water Company. Coachella Valley Savings and Loan Association (Coachella), Cedar Glen Development Association (Cedar Glen), and Mary B. Nelson,<sup>1</sup> each of whom may hold an interest in a parcel of land upon which is situated a portion of the Tahquitz Lake Water Company system necessary or useful in rendering public utility water service, and Donald Meng and Charles A. Hoffman, each of whom may have managed or operated said system, were joined as respondents.

Concurrently, the Commission reopened the proceeding in Application No. 41904, for the purpose of determining whether the certificate of public convenience and necessity granted to Byron J. Walters, doing business as Tahquitz Lake Water Company, by Decision No. 60879 dated October 11, 1960 should be revoked, suspended or modified, and whether any other order or orders should be issued by the Commission in the exercise of its jurisdiction.

Both matters were heard on a common record before Examiner Main at Idyllwild on April 4, 1967 and on July 27 and 28, 1967. On the latter date, after arriving at what appeared to be a satisfactory arrangement for water service during the pendency of these proceedings, and in anticipation of the filing of a formal complaint by Walters concerning certain unauthorized loans, encumbrances of utility plant and related foreclosures on real property, the hearing was adjourned and continued to a date to be set.

---

<sup>1</sup> Erroneously identified as "Helen B. Nelson" in Order Instituting Investigation, Case No. 8556.

The area in which Tahquitz Lake Water Company was granted a certificate of public convenience and necessity for the construction and operation of a public utility water system consists of Forest Lake Estates Tracts Nos. 1, 2 and 3. A customer, representing himself and several other customers, testified that the water service provided is inadequate and unreliable, and that the lack of water company operating personnel borders on abandonment. The engineer of the Commission staff assigned to this investigation reported similar findings. His investigation into operating costs, reasonableness of present rates, and application of tariff schedules of this utility was rendered ineffective because he was unable to gain access to the operating records and to the books and accounting records of Tahquitz Lake Water Company. The staff recommends that Walters consider transferring the Tahquitz Lake water system to the Pine Cove County Water District.

Forest Lake Estates Tracts Nos. 1, 2 and 3 lie wholly within the boundaries of the aforesaid water district and are subject to ad valorem taxes which help support the district. According to the testimony of the president of the board of directors of the district, it is unwilling to purchase the Tahquitz Lake water system; its service, however, would be provided to Forest Lake Estates Tracts Nos. 1 and 2 if the water system presently installed in said tracts were conveyed to the district at no cost and certain other conditions which usually govern tracts to be served by the district are met.

In or about 1961, it appears that Walters executed and issued to Coachella a promissory note payable to Coachella, evidencing a loan made to Walters by Coachella, and that as security therefor Walters executed and delivered to Coachella a deed of trust conveying a parcel of land upon which are situated the water-producing facilities and a transmission main of Tahquitz Lake Water Company; Walters did not seek or obtain the necessary authorizations to issue said note and to encumber used and useful utility plant. The deed of trust was foreclosed and Coachella caused said parcel of land to be sold to Cedar Glen in December, 1965.

In or about 1963, Walters, again without seeking or obtaining the required authorizations from the Commission, executed a deed of trust in favor of David S. Perry to secure an indebtedness to Perry. Said deed of trust also encumbered, in addition to other real property, the aforesaid parcel of land upon which a portion of the water system of Tahquitz Lake Water Company is situated. In addition, Walters encumbered a 26-acre parcel of land, upon a portion of which the storage tank of Tahquitz Lake Water Company is situated, without seeking and obtaining the necessary authorization from the Commission.

Walters' failure to carry out during the pendency of these proceedings the water service arrangements agreed upon make this interim decision necessary.

Findings of Fact

1. Byron J. Walters, doing business as Tahquitz Lake Water Company, has the duty and obligation to operate and maintain a public utility water system presently installed to serve Forest Lake Estates Tracts Nos. 1 and 2 containing 78 lots near Idyllwild, Riverside County. At the existing level of development in these tracts, about 14 customers require service from this water system.

2. Walters is failing to fulfill said duty and obligation in many respects, a number of which will be specified herein at this time, to wit:

a. Walters does not employ anyone on a permanent basis to operate and maintain this water system;

b. The system runs out of water because the pump at Well No. 4, which is the only well in service, is not started when needed to supply system requirements including the replenishment of storage;

c. Customers are unable to reach Tahquitz Lake Water Company when they are out of water or when other service problems arise;

d. Well No. 4 is not properly sealed to prevent surface contamination;

e. The electric motor-driven deep well turbine pump installed at Well No. 4 operates at about 25 percent efficiency and the electric motor overheats. In its present condition, this installation cannot be counted upon to provide a reliable water supply; and

f. The water supplied to customers is contaminated by oil.

3. Public convenience and necessity require:

(a) A local operator of this water system who is to be available on a part-time basis as needed.

(b) A reliable source of supply for this water system. For this purpose the pump on Well No. 1 should be rebuilt or replaced and other necessary steps taken to place Well No. 1 in service.

(c) An inspection of the water distribution system to determine its condition and the repairs needed to put it in proper working order.

4. On July 28, 1967, Walters stated under oath that he has the ability to carry out the requirements set forth in paragraph 3 above and requested an opportunity so to do; however, Walters has failed to provide the local operator and to make the required water system improvements.

5. The annual report of the operations of Tahquitz Lake Water Company for calendar year 1966 has not been filed with the Commission and is overdue.

6. The books and accounting records of Tahquitz Lake Water Company are not being properly maintained.

7. In violation of Sections 818 and 851 of the Public Utilities Code, Walters obtained loans and encumbered used and useful utility plant without first having secured from the Commission orders authorizing him so to do.

8. Most of the service deficiencies and the problems of ownership of utility plant, which have plagued Tahquitz Lake Water Company, have been created by Walters' failure to follow procedures prescribed by Sections 817, 818 and 851 of the Public Utilities Code. (Before the Commission authorizes the issuance of promissory notes or the encumbrance of utility plant, it exercises great care to assure that the proceeds are for necessary and proper utility purposes and that continuity of service by the utility is not jeopardized.)

9. Walters' failure to remedy the serious service inadequacies requires resolution; certain other issues within the scope of this proceeding are not ready for decision at this time.

Based on the foregoing findings the Commission concludes that an interim order should issue as set forth below and that, subject to evaluation by the Chief Counsel of the Commission, appropriate legal action to enforce the provisions of Sections 826, 2107, 2108 and 2110 of the Public Utilities Code should be taken against Walters for his violations of Sections 818 and 851 of said code.

INTERIM ORDER

IT IS ORDERED that Byron J. Walters, doing business as Tahquitz Lake Water Company, shall:

1. Provide forthwith a local operator to operate and maintain the water system presently installed to serve Forest Lake Estates Tracts Nos. 1 and 2. The Commission and each customer of Tahquitz Lake Water Company shall be notified in writing of the name, address and telephone number of the system operator within 48 hours of service of this order.

2. (a) Keep henceforth a log of system operations showing:

- (1) Time and date pump turned on;
- (2) Water level in tank when pump turned on;
- (3) Time and date pump turned off;
- (4) Water level in tank when pump turned off.

(b) Mail to the Commission, on or before each Tuesday, a copy of the log of operations for the week ending the preceding Saturday.

(c) Report to the Commission emergency interruptions to service. Such reporting shall comply with General Order No. 103.

3. (a) Rebuild or replace the pump and take other steps necessary to make Well No. 1 operational, seal Wells 1 and 4 from surface contamination, and place Well No. 1 in service or on standby, within thirty days of service of this order.

(b) Direct a letter at the time of completion of the work on Wells Nos. 1 and 4 to the Riverside County Health Department requesting an inspection of said source of supply installations and furnish a copy of the letter to the Commission.

4. Have the water system inspected by a water works consultant, or someone equally qualified, to determine its condition, the repairs needed and the extent of and the means of eliminating the contamination by oil of the water supplied to customers. This inspection, together with the results thereof reported in writing to the Commission, shall be accomplished within thirty days of the service of this order.

5. File with the Commission the annual report of the operations of Tahquitz Lake Water Company for calendar year 1966 within thirty days of the service of this order. Such filing shall comply with General Order No. 104 in all respects other than the date of filing.



