

ORIGINAL

Decision No. 73805

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

W. DONALD WEIDLEIN,

Complainant,

vs.

CLEAR CREEK WATER COMPANY, INC.,
George S. Smith, President
John H. Convery, Vice President,

Defendants.

Case No. 8684
Filed September 11, 1967

CLEAR CREEK WATER COMPANY CUSTOMERS,

Complainants,

vs.

CLEAR CREEK WATER COMPANY, INC.,
George S. Smith, President
John H. Convery, Vice President,

Defendants.

Case No. 8693
Filed September 25, 1967

W. Donald Weidlein, for himself and Redding
Ranchettes (customers of Clear Creek
Water Company), complainants.

George S. Smith, for Clear Creek Water
Company, Inc., defendants.

Robert A. Rehberg, County Counsel, Redding,
California, for County of Shasta, inter-
ested party.

W. B. Stradley, for the Commission staff.

O P I N I O N

After due notice public hearing on these complaints were held before Examiner Coffey, on December 19, 1967, in Redding. The matter was submitted on January 12, 1968, upon the expiration of the period allowed defendants to file two exhibits.

These complaints make substantially the same allegations and request the same order of this Commission. Case No. 8684 was originated by a customer of the defendant utility, while 77 consumers signed the complaint in Case No. 8693.

Complaint Allegations

Complainants allege the following:

1. That the utility has not provided an alternate water supply as required by ordering paragraph 6.a of Decision No. 69809, dated October 19, 1965, Application No. 47288, for a certificate of public convenience and necessity, even though the utility is and has been for some time serving more than 40 customers.¹

2. That the utility did not serve water on part or all of the following 13 dates in 1967 due to noncompliance with the order of this Commission:

May 27, May 28, May 29, June 10, June 11,
June 12, June 13, June 14, July 29, August 10,
August 11, September 6, September 7.

3. That the existing water system does not supply an adequate amount of water for the Redding Ranchettes Subdivision.

4. That the quality of the water delivered by the utility from time to time has excessive odors and turbidity.

5. That the water system has not been operated in an efficient, businesslike and professional manner.

¹ Ordering paragraph 6.a of Decision No. 69809 provides:

"Prior to the date that applicant serves 40 customers, applicant shall have installed either a standby source of water supply of approximately 160 gpm or an additional storage tank of approximately 50,000 gallons or a combination of these to provide for the reasonable continuation of an adequate supply of water to customers in case of the failure of the present single source of supply."

Relief Requested

Complainants request an order that:

1. The utility will augment in timely fashion its water supply facilities to comply both with ordering paragraph 6.a of Decision No. 69809 and with the water system specifications on which said order was based.

2. No more lots shall be sold and no more new homes shall be constructed in the Redding Ranchettes Subdivision until the utility complies with the above request to the satisfaction of the California Public Utilities Commission.

3. The utility shall take all reasonable measures necessary to insure the delivery of water which is at all times potable, pure, and wholesome.

4. The utility shall insure either by its own actions or by contract with a responsible water agency that the water system is operated and maintained in a businesslike manner.

Defendants' Answer

Defendants admit in their answer to the complaint the first allegation of complainants, but deny each of the other allegations. As a separate defense to the first allegation, that defendants have not complied with the order to install additional facilities, defendants allege that it has been only within the last three months that they became aware of the fact that the utility has been serving more than 40 customers, that they have since this time been attempting to obtain \$10,000 in order to provide an alternate water supply, and that they have been attempting to ascertain the possibility of the Cascade Community Services District taking over the operation of the utility.

As a defense to the complaint that the water supply is inadequate, defendants allege that the capacity of the pump is 225 gallons per minute² and that the system was accepted by the County of Shasta as adequate to supply the needs of the subdivision.

As a defense to the complaint regarding water quality, defendants allege that on July 15, 1966, the County of Shasta conducted a laboratory analysis of the water and did not find any objections to the water.

As a defense to the complaint regarding the manner of operating the water system, defendants allege that they have had an employee available in event of an emergency who lived in the subdivision served by the water system, but that the employee had been ill and that the utility has not found a suitable replacement.

On October 10, 1967, in their answer to the complaint, defendants requested a period of two months in which to comply with the order requiring additional facilities and that the complaint otherwise be dismissed.

Staff Presentation

The Commission staff, on October 17 and 18, 1967, made a field investigation of the utility's facilities and operations; and it presented testimony and a report on its investigation, Exhibit No. 3.

Service Area. The defendant water corporation was certificated by Decision No. 69809 to serve a tract known as Redding Ranchettes, Tract 1054, between Anderson and Redding in Shasta County. The subdivision consists of 116 residential lots which range in size from 1/3 to 5.8 acres.

² We note that the rated capacity of an installed pump does not establish the amount of water which actually may be produced from a well.

Rates and Tariffs. As of October 18, 1967, approximately 54 customers were being furnished service at the minimum charge for 1-inch metered service. The filed tariffs do not provide for the furnishing of flat rate service. One-inch meters were installed at each lot at the time the water system was constructed in 1964.

The utility's filed tariffs are not readily available to its customers. As of November 10, 1967 the utility had not filed its 1966 annual report.

Description of Water System. Water is obtained from one well 500 feet deep located within the subdivision. This well delivers water into a 24,000-gallon storage tank and directly into the distribution mains. The well is equipped with a 30-hp submersible pump with a rated capacity of 225 gallons per minute installed at a depth of about 339 feet below ground surface. Water service within the subdivision is furnished primarily by gravity from the storage tank. There is a 500-gallon hydropneumatic tank installed to be used only when the storage tank is being cleaned.

Summary of Service Difficulties. Following is a list of service difficulties involving this water system:

- a. In August 1966 the utility's water had a strong odor and a bitter taste caused primarily by iron bacteria. As a result of an order by the Shasta County Health Department the utility corrected the condition by the installation and operation of chlorination facilities.
- b. From May 27, 1967 to June 14, 1967 the service was interrupted by the failure of the pumping equipment. Approximately 60,000 gallons of water was trucked to the storage tank.
- c. On August 10, 1967 and August 11, 1967 service was interrupted by an unknown person or persons who jammed shut a valve between well and tank.

- d. On September 6, 1967 and September 7, 1967 the service was interrupted by an electrical failure in pump control equipment.

Results of Field Investigations. In the course of the filed investigation pressure readings were taken at a lot located at the highest elevation and one located at the lowest elevation in the subdivision. Pressure readings varied between 40 psi at highest lot to 81 psi at the lowest lot. On October 18, 1967, a staff engineer determined that the well, as presently operated, was producing approximately 75 gallons per minute. On October 11, 1967, the staff requested Mr. John H. Convery, Vice President of the utility, to make arrangements for Pacific Gas and Electric Company to test the pump. As of the time of the hearing this had not been done.

Conclusions of Staff. The causes of the utility's service deficiencies in 1967 appear to be:

- a. Inadequate source of water supply and lack of standby supply.
- b. Breakdown of equipment.
- c. Vandalism and inadequate security of facilities.
- d. Poor quality of water until chlorine facilities were installed.
- e. Neglect of management and inability of customers to communicate with management.

Complainant Presentation

Complainant Weidlein agreed with the staff conclusions with the reservation that water quality is improving only because of the advent of colder weather.

A customer of the utility testified that from August 23 to September 21 his home, at the highest elevation in the tract, was without water for a portion of each day and that complaint had

been made to the president of the utility three or four times, to the vice president once, and to the local representative 10 or 12 times.

A customer testified that observation of the equipment disclosed that the water had not been chlorinated from October 21 through December 16, 1967, and that on September 6, 1967 there was no chlorine in the tanks. Another customer testified that in August he had observed the tanks were without chlorine.

A fourth witness testified relative to excessive sediment in the water.

The Director of Sanitation for Shasta County testified that the taste and appearance of the water was objectionable but that the water was not dangerous since, on November 29, 1967, no organisms of the intestinal or "coliform" group were found in a water sample tested. The witness stated that the well pumped 220 gallons per minute during initial tests, and that he had given the utility the criteria of 250 gallons per minute as the amount of water required.

A summary of complainants' allegations on the manner of water system operation follows:

1. Noncompliance with Commission's order.
2. Local representative has not had adequate authority.
3. Handles on unlocked valves permitted vandals to cause a service interruption.
4. Chlorination of system not continuously maintained.
5. Bill not paid for trucking water.
6. Local representative not paid for an extended period.
7. Storage tank cleaned only once.
8. Local plumber not maintaining system.

9. Utility does not answer correspondence.
10. Difficult to contact utility by telephone.
11. Utility did not request water conservation during water shortage.

The president of the utility admitted that the utility had not complied with ordering paragraph 6.a of Decision No. 69809, dated October 19, 1965, Application No. 47288, having 41 customers at the time of the first breakdown. He stated that the utility, which is wholly owned by Prudential Investors, a limited partnership, and subdivider of the area served by the water system, has not been able to obtain additional financing; that the water system will be sold if additional financing cannot be obtained, and that the California Division of Real Estate, in September 1967, ordered that selling of lots be stopped due to inadequate water service. Further, the utility has not paid all of its current bills and as of August 1967 stopped paying \$25 per month to its local representative. The president testified that he could be contacted at his home at Oak Run, California, that he was presently working away from his home much of the time, and that the vice president could be telephoned collect in Walnut Creek, California.

The president of Clear Creek Water Company, Inc., was directed by the presiding examiner to file with the Commission on or before 5:00 p.m., December 26, 1967, as Exhibit No. 1, a copy of the order from the Division of Real Estate which was alleged to stop sales. In addition, the same individual was directed by the presiding examiner, on or before January 12, 1968, to have the capacity of the well tested and to file as Exhibit No. 2 a report of the well test. Defendants were advised by the staff that this test would be performed without charge by the serving electric utility. Defendants were permitted to include in Exhibit No. 2 any

results of negotiation which defendants may have with the Cascade Community Services District, together with such financial data as desired relative to the utility and Prudential Investors. To date, neither Exhibit No. 1 nor Exhibit No. 2 have been furnished as ordered.

On January 11, 1968, a letter was received from defendants "as late filed Exhibit #2" which did not contain the ordered well test report, but did report on possible sale of the water utility to an individual or to the Cascade Community Services District. The letter did not contain any substantial financial data other than to allege that the financial condition of the utility had not improved. Said letter will be included in this record as Exhibit No. 4.

During this hearing the presiding examiner directed the attention of the president of the Clear Creek Water Company, Mr. George Smith, to Sections 2107 through 2113, inclusive, of the Public Utilities Code. Mr. Smith stated that he now understands that there are substantial penalties for failure to comply with orders of this Commission.

Findings and Conclusions

The Commission finds that:

1. Defendant utility on May 27, 1967 was serving 41 customers.
2. On and after May 27, 1967 defendant utility and its officers have not complied with ordering paragraph 6.a of Decision No. 69809, dated October 19, 1965, of this Commission.
3. On May 27, 28, 29, June 10, 11, 12, 13, 14, July 29, August 10, 11, September 6, 7 and other dates, 1967, defendant utility failed to supply water to its customers due to an inadequate water system and water supply.

4. Defendant utility's present well production capability is approximately 75 gallons per minute.

5. Defendant utility's present well production capability is inadequate to serve its present customers.

6. Defendant utility's present standby storage facilities are inadequate to serve its present customers.

7. Defendant utility does not have a qualified and responsible local representative accessible to its customers.

8. Defendant utility does not properly maintain and operate its chlorine facilities.

9. Defendant utility has not adequately provided for safety and continuity of its service by fencing and locking its equipment.

10. Defendant utility has cleaned its storage tank only once prior to December 19, 1967.

11. Defendant utility has not charged rates prescribed by its filed tariffs.

Decision No. 69809 pointed out the various problems which result from assessment bond financing of public utility water systems. The abnormally low rate base which results from the lot purchasers' contribution of most of the cost of the system does not justify water rates producing more than a token amount of net revenue. Here the utility has had so little interest in its revenue that it has not bothered to read its meters and collect all of the revenue provided by its filed tariffs. At a low level of investment and earnings, as predicted in Decision No. 69809, the interest of the utility in providing adequate water service waned as soon as most of the affiliated land developer's lots were either sold or found not to be readily marketable.

It was with reluctance and foreboding that the Commission permitted the establishment of this public utility with no financial stability and little hope for economical feasible future operations. The establishment would have been denied were it not that the then majority stockholders, which include the named defendants in this proceeding, alleged they were willing to finance the cost of additional production or storage facilities through their purchase of additional common stock. This, we now find, they are unwilling to do.

Adequate solutions to the problem of water service to Redding Ranchettes may be either the formation of a mutual water company owned and financed by customers to take over and operate the system, or by operation of the system by a utility district. The sale of the system to private investors will not solve the problems herein encountered. Any prospective private investor considering purchase of this system should be advised not to expect to be permitted to earn a return on plant financed by assessment district funds.

We conclude that:

1. The utility should be restricted from serving any new or additional premises until satisfactory improvements are made to the system.
2. The utility and its officers should be required to arrange for an adequate supply of potable water as herein ordered.
3. The utility should be required to improve its service as herein ordered.

O R D E R

IT IS ORDERED that:

1. The Clear Creek Water Company, Inc., until further order of this Commission, shall not supply water to any new or additional premises which is not being served water by it on the date hereof.

2. The Clear Creek Water Company, Inc., and its officers shall on or before May 1, 1968 arrange for additional storage capacity of 80,000 gallons and provide a supplemental and standby source of water supply of at least 160 gallons per minute.

3. On or before May 3, 1968, the Clear Creek Water Company, Inc., and its officers shall have advised this Commission in writing of its compliance with the foregoing ordering paragraph 2, including therewith all reports of efficiency tests made by the Pacific Gas and Electric Company on any of defendants' pumps since December 19, 1967.

4. On or before March 15, 1968, the Clear Creek Water Company, Inc., shall report to this Commission in writing the name and address of each of its officers and shareholders, together with the number of shares each owns.

5. The Clear Creek Water Company, Inc., and its responsible officers shall report in writing to this Commission the proposed sale or transfer of any stock of the Clear Creek Water Company, Inc., thirty days before such sale or transfer is effected on the records of said utility. Included with this report shall be a certificate by an officer of the utility that a copy of this decision has been provided the prospective stock purchaser.

6. The Clear Creek Water Company, Inc., shall read its water meters and bill its water customers in accordance with its filed schedule of meter rates.

7. On or before April 1, 1968, the Clear Creek Water Company, Inc., and its officers shall employ a local representative with responsibility to operate and maintain the water system. This representative shall maintain, have in his possession and keep available for customers a copy of the filed tariffs of the Clear Creek

Water Company, Inc. On or before April 1, 1968, said utility and officers shall report in writing to the Commission compliance with this ordering paragraph.

8. On or before April 1, 1968, the Clear Creek Water Company, Inc., in its own name shall subscribe to telephone service in Redding, California, and obtain a telephone number with a prefix of 241, 243, or 246 for the convenience of customers reporting service problems and transacting other business with the local representative of the utility. On or before April 1, 1968 said utility and officers shall report in writing to the Commission compliance with this ordering paragraph.

The effective date of this order shall be the date hereof,

Dated at San Francisco, California, this 5th
day of MARCH, 1968.

William G. Bennett President
Augustin
William J. Sweeney
Paul P. Morrison Commissioners

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