

**ORIGINAL**

Decision No. 74427

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESIDENTS AND WATER USERS OF EDGERLY ISLAND, NAPA, NAPA COUNTY, CALIFORNIA, )

Complainant, )

vs.

STANLEY D. MEYERS AND OPAL MEYERS, Owners of the water system serving Edgerly Island,

Defendants. )

Case No. 8724  
(Filed November 7, 1967)

Frayne L. Fennie, for complainants.  
John J. Quigley, for defendants.  
Leslie D. Hay, for Commission staff.

O P I N I O N

By complaint filed November 7, 1967, complainants seek to have the defendants (1) declared to be operating a public utility water system, (2) determine reasonable rates for the service being furnished and require such rates to be the lawful rates applicable in the indicated service area, and (3) require the defendants to provide sufficient and dependable facilities to provide adequate service to customers in accordance with the provisions of Public Utilities Commission's General Order No. 103.

Defendants in their answer filed November 28, 1967:

1. Admit that they reside at 1832 Milton Road, Napa, and are the owners of a water system.

2. Deny that the water system was constructed to serve the Edgerly Island Lots Subdivision, but allege that as an accommodation to owners of lots in the subdivision, surplus water was furnished to certain owners of subdivision lots.

3. Deny that the rates for water service are unreasonable.
4. Deny that the water system facilities are not sufficient to provide adequate service.
5. As a separate, distinct and affirmative defense, defendants allege that the Commission lacks jurisdiction to proceed in this matter by reason of the provisions of Section 2704 of the Public Utilities Code and allege that they sell or deliver surplus water for domestic purposes as a matter of accommodation to neighbors to whom no other supply of water for domestic purposes is available.

Public hearing was held before Examiner Porter at Napa on April 10, 1968.

The Edgerly Island Subdivision is about 10 miles south of the City of Napa and is situated along Milton Road on the west bank of the Napa River. The distance between the road and the river is generally the 120-foot length of the lots. The total area is about 16 acres subdivided into 110 lots, the majority of which are approximately 50 feet by 120 feet. There are presently 76 services connected to the water system and the subdivision has a potential development of 110 dwellings.

The California Division of Real Estate Public Report shows that James A. and Daisy M. Pritchett were the subdividers in 1950. The Public Report has the following note pertaining to water supply:

"The subdivider advises that he will supply water to this tract from a private system... Prospective purchasers should satisfy themselves regarding the permanency, adequacy, and quality of the water supply prior to purchase."

The staff was informed that Mr. Leigh V. Evans, a well driller in Napa, was given a lot on which to drill a well with the understanding that he would construct a water system and supply the purchasers of the lots. Mr. Evans sold his real property and the water system

in March, 1964, to Stanley D. and Opal Meyers, the present owners, for the sum of \$27,500. Of this amount, \$12,500 appears to represent the payment for the water system when it was acquired in 1964.

The complaint includes a copy of a letter dated July 25, 1964, wherein Mr. Meyers advised all lot owners of Edgerly Island River Lots Subdivision of his decision to dissolve the existing agreement pertaining to water supply. The staff has no other information about the so-called agreement. As an accommodation, he agreed to make available some water for domestic use from his existing well.

It appears that lot owners have not signed any agreements with Mr. Meyers concerning water supply.

Stanley D. Meyers testified that a bank loaned the defendants \$12,000 on the house, exclusive of the well and pump, and that Mr. Evans holds a note for \$12,000. Stanley D. Meyers further testified that the defendants did not intend to be a public utility but rather to sell a portion of such water supply as a matter of accommodation to neighbors to whom no other supply of water for domestic or irrigation purposes is equally available.

The Public Utilities Code defines a public utility in Section 216(a) as follows:

"216(a) 'Public Utility' includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof."

Public Utilities Code Section 2701 states:

"Any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water system within this State, who sells, leases, rents, or delivers water to any person, firm, corporation, municipality, or any other

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political subdivision of the State, whether under contract or otherwise, is a public utility, and is subject to the provisions of Part 1 of Division 1 and to the jurisdiction, control, and regulation of the commission, except as otherwise provided in this chapter."

The record shows and the Commission finds that:

1. The area in question has been subdivided into 110 lots, of which 76 have been improved and dwellings built thereon.
2. Defendants have been, and are, providing water service for compensation to the present 76 residences in the Edgerly Island subdivision.
3. A 1,000-gallon hydropneumatic tank in use until December 1967 was replaced by a 4,000-gallon pressure tank set to automatically maintain water pressures.
4. Defendants regularly bill consumers at a uniform flat rate per month.
5. A statement or billing form is used which contains the name, address and telephone number of Stanley D. Meyers at the top and below the name of the customer and the amount due.
6. The present rate of \$8 per month per customer is reasonable for a water company of this size under the circumstances which exist.
7. Defendants have not used the water supply primarily for their own domestic or irrigation purposes.
8. Defendants categorize the service as surplus sales of water.

The Commission concludes that the evidence shows a dedication of the water system to public use, that defendants are operating a public utility water system and are a public utility within the meaning of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Stanley D. Meyers and Opal Meyers, within thirty days from and after the effective date of this order, shall prepare and file with this Commission, in quadruplicate and in conformity with the Commission's General Order No. 96-A, appropriate general rules and the schedule of rates set forth in Appendix A to this order.

2. Within forty-five days after the effective date of this order, Stanley D. Meyers and Opal Meyers shall file a tariff service area map and sample copies of printed forms that are normally used in connection with customers' services.

3. Stanley D. Meyers and Opal Meyers shall prepare and keep current the system map required by paragraph I.10.a of General Order No. 103. Within ninety days after the effective date of this order, Stanley D. Meyers and Opal Meyers shall file with the Commission two copies of this map.

4. For the year 1968, Stanley D. Meyers and Opal Meyers shall apply for rate making a depreciation rate of 3 percent to the original cost of depreciable plant. Until review indicates otherwise, this rate shall be used. This rate shall be reviewed 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 remainder by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant. The results of each such review shall be submitted promptly to the Commission.

5. Until authorized by further order of this Commission, Stanley D. Meyers and Opal Meyers shall not extend service to any lot

or parcel of land on which no residential living accommodations existed on the effective date of this order.

6. Until authorized by further order of this Commission, Stanley D. Meyers and Opal Meyers shall not extend service to any lots or parcels of land not abutting upon the water system main as of the effective date of this order.

7. Within sixty days after the effective date of this order, Stanley D. Meyers and Opal Meyers shall file with the Commission a map showing the location of all existing service connections and the lots being served on the effective date of this order.

The Secretary of the Commission is directed to cause service of this order to be made upon defendants. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 22<sup>nd</sup> day of JULY, 1968.

William S. ...  
President

William L. ...

Aud P. ...  
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

Edgerly Island Subdivision and vicinity, about 10 miles south of the City of Napa, Napa County.

RATE

Per Service Connection  
Per Month

For a single-family residential unit, including premises not exceeding 10,000 sq. ft. in area.....	\$8.00
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SPECIAL CONDITION

The above flat rate applies to a service connection not larger than one inch in diameter.