

ORIGINAL

Decision No. 74699

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Clear Creek Water Company, Inc., a corporation, to acquire and operate a water system, for order approving rates and for authority to issue stock in exchange for cash.

Application No. 47288
(Filed January 25, 1965)

W. Donald Weidlein,

Complainant,

vs.

Clear Creek Water Co., 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 Co., Inc.
George S. Smith, President
John H. Convery, Vice President,

Defendants.

Case No. 8693
(Filed September 25, 1967)

Investigation on the Commission's own motion into the status, operation, service, rates and facilities of Clear Creek Water Company, Inc.; of George S. Smith, John H. Convery and Calvin S. Partridge, Directors of Clear Creek Water Company, Inc.; of Prudential Investors, a partnership; and of George S. Smith, John H. Convery, Ruth Cornell, Roy G. Wittington, Lloyd F. Scott, Calvin S. Partridge, and W. S. McPherson, individuals.

Case No. 8813
(Filed June 7, 1968)

George S. Smith and John H. Convery, for
Clear Creek Water Company, Inc., applicant
and respondent.

W. Donald Weidlein, appearing for himself and the other customers of Clear Creek Water Company, Inc., complainants.
Robert A. Rehberg, County Counsel, appearing for Shasta County; Archer F. Pugh, for Daniel Deeney, a utility user; interested parties.
Timothy E. Treacy, Counsel, Tedd F. Marvin, W. B. Stradley, David K. Wong and Edward J. Prando, for the Commission staff.

O P I N I O N

The Clear Creek Water Company, Inc., hereinafter called Clear Creek, applied for a certificate to operate as a public utility water corporation on January 25, 1965 (Application No. 47288). A hearing was held on May 13, 1965 in Redding and the certificate was granted on October 19, 1965 by Decision No. 69809. The decision reveals that the area to be served consists of 200 acres in Shasta County, which have been divided into 116 lots of approximately a half acre. The area is located about five miles south of Redding just west of U. S. Highway 99. It is called Redding Ranchettes. The water system for Redding Ranchettes was sold by the county to Clear Creek for \$1.00. The system cost \$108,111 to construct and was to be paid for by an assessment on each lot sold. The decision also authorized Clear Creek to sell \$5,000 worth of stock to provide sufficient funds for operating expense.

Cases Nos. 8684 and 8693 were filed in September of 1967 by the customers of Clear Creek to complain of inadequate water supply, poor quality water, low pressure, inefficient operation and failure to comply with the ordering paragraphs of Decision No. 69809, especially in regard to providing an alternate source of water. A hearing was held in Redding on December 19, 1967 and the matters were submitted on January 12, 1968. Decision No. 73805 was issued on March 8, 1968. The decision noted that the water

system was already constructed when the utility received it and was to be paid for out of separate assessments on each lot sold. It further commented that since the utility had constructed none of its own plant it had no real basis on which rates could be computed and its rates would bring in only a token revenue. The decision ordered Clear Creek to provide an alternate source of water, to provide storage capacity for 80,000 gallons, to provide the name and address of its shareholders, to properly bill and collect from its customers and to provide a Redding representative with a Redding phone number for the convenience of its customers.

The Commission received numerous complaints during April (1968) when it became apparent that Clear Creek had not complied with most of the ordering paragraphs of Decision No. 73805. A further hearing was scheduled and held on May 9, 1968 in Redding before Examiner Fraser.

During this hearing Clear Creek stipulated that no standby source of water was provided and that no storage tank was provided. It was further stipulated by Clear Creek that no local (Redding) representative was provided as ordered and that a Redding phone number was not provided. The president of Clear Creek testified that he lived about thirty miles from Redding and had a telephone. He stated that although a long distance call was required to get him from Redding, someone was available to answer the phone most of the time. He noted that Clear Creek had 53 customers who were charged a flat minimum rate of \$5.50 a month; 21 of these customers owed for past water service; some were 16 months in arrears. He testified that Clear Creek owed \$6,700 in past due bills which could not be paid due to a lack of funds and that what money was received paid current bills and real property taxes. He

further testified that Clear Creek had suffered from some vandalism, consisting of the closing of valves and turning off the pump. He stated that the California Division of Real Estate ordered the developers to stop selling lots in September 1967 until the water system could provide adequate service. The witness stated this order probably caused most of Clear Creek's trouble because selling the lots is the only means it has of obtaining sufficient money to pay for the water system and to satisfy its creditors. An individual who lived in the tract testified that the water was dark in color and had a peculiar odor; that many residents hauled their drinking water in from service stations and that the water in the system was not used to wash diapers or children's clothes. He further testified that occasionally the chlorinator was turned off for varying periods without warning or explanation. The witness stated he thought the best solution was for Clear Creek to be taken over by the Cascade Community Services District, which had indicated that the Clear Creek system could be annexed. The matter was continued for a further hearing, to be held in Redding on July 11, 1968 before Examiner Fraser. On June 6, 1968 the Commission issued an order of investigation on its own motion into the operations of Clear Creek, its shareholders and a closely allied partnership.

During the July hearing all parties were notified that the Cascade Community Services District, hereinafter called the District, had voted to annex the Clear Creek system on July 9, 1968. It was agreed by representatives of the county, Clear Creek and the customers that the Clear Creek system should be annexed as soon as possible. On August 9, 1968 Clear Creek and the District filed a joint application (A.50467) with this Commission requesting that the

Clear Creek system be annexed to the District. The application alleges that the system is to be transferred without charge to the District and that the latter will guarantee to pay the liabilities of Clear Creek.

Discussion:

Clear Creek was presented with an expensive water supply and distribution system by the county for a charge of \$1.00. No effort was made to incorporate an alternate source of water supply when the system was constructed. The shareholders who were to manage the system were primarily concerned with selling the lots and could have thought their worries were over when the system was completed. The rates to be charged for the water service had to be minimal since the water company had spent no money prior to starting operations. Everything except current operating expenses was to be paid for out of assessments levied on the individual lots sold. Funds to pay operating expenses were to have been provided by the shareholders. The system may have prospered if an adequate supply of water could have been maintained. An early pump failure and other difficulties caused a shortage of water and low pressure in the system. Water then had to be transported by truck and there were no funds to pay for it or for the pump repair. Customers became dissatisfied and complaints were made to various county and state officials. The resulting publicity discouraged prospective purchasers and Clear Creek was in trouble. If lots could not be sold no money would be available to pay the assessments, current operating expenses and taxes. The shareholders lost interest in the company as soon as the sale of lots was curtailed and were unwilling to contribute their personal funds to pay expenses; judgments and liens remained unpaid. The State Division of Real

Estate was drawn into the controversy and ordered Clear Creek to cease and desist selling lots until water could be provided on all lots sold. This action was justified, but it eliminated the last chance to save Clear Creek. The record indicates that even before the order was issued it would have taken about ten thousand dollars to pay all bills and retain some cash reserve on hand until the lots started to sell. An additional eight thousand dollars would have been required to provide an acceptable alternate source of water in addition to the single well which supplied the system.

Where a small company has too large a financial burden for its shareholders and customers the recommended solution is for it to become part of a larger water system which is capable of assuming the smaller unit's financial burdens. This is now being done by Clear Creek. It has applied to this Commission to become a part of the Cascade Community Services District. The application was granted by Decision No. 74639, dated September 4, 1968.

There is no evidence to show that officers or shareholders of Clear Creek were involved in any unlawful acts. Certain orders of the Commission were not obeyed but the required actions necessitated the expenditures of funds beyond the ability of Clear Creek to collect.

Findings:

Based on the evidence the Commission makes the following findings of fact:

1. Clear Creek was certificated as a public utility water company on October 19, 1965 to provide water service to the 116 lots in Redding Ranchettes, five miles south of Redding on U. S. Highway 99.

2. Its water system had already been financed by assessment bonds and constructed when the certificate had been granted. It was turned over to Clear Creek by the county on payment of \$1.00.

3. The system was supplied by a single well. A pump failure shut down the system and water had to be trucked to the site. A new pump was installed but the system continued to experience a lack of water, a lack of pressure, and complaints from customers about discolored water that had a disagreeable odor.

4. Clear Creek had insufficient funds on hand to provide the extra facilities necessary to eliminate these complaints and soon had difficulty paying current operating expenses. It became evident that Clear Creek would not become financially stable through its own resources.

5. Clear Creek started operating without stable financial reserves but this is not unusual in a small water company. There were possible errors in management but no evidence of unlawful acts or that any shareholder profited from the company.

6. Redding Ranchettes has already been annexed by the Cascade Community Services District which is now providing all water service.

7. The transfer of Clear Creek to the District will eliminate its customer problems and satisfy the Clear Creek creditors.

Based upon the findings herein we conclude that Cases Nos. 8684 and 8693 should be dismissed and that Case No. 8813 should be discontinued.

O R D E R

IT IS ORDERED that:

1. Case No. 8684 is dismissed.
2. Case No. 8693 is dismissed.
3. Case No. 8813 is discontinued.

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

Dated at San Francisco, California, this 17th day of SEPTEMBER, 1968.

William L. ...
President
Ed ...
William ...
...
...
Commissioners