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ORIGINAL

Decision No. 77019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Residents and water users of  
Ponderosa Sky Ranch, Tehama County,  
Paynes Creek, California 96075,

Complainant,

vs.

Orville A. Figgs and Kathleen Figgs,  
owners of the water system serving  
Ponderosa Sky Ranch,

Defendants.

Case No. 8970  
(Filed September 23, 1969)

Fred C. Copeland, in propria persona and for  
Shell Gilkey, Franck Dow, Fred Fluke and  
Clare Simmons, complainants.

John Sharrah, for M. Orville Figgs, defend-  
ant.

Tedd F. Marvin, for the Commission staff.

### O P I N I O N

This complaint, filed by Fred C. Copeland, Shell Gilkey, Frank Dow, Fred Fluke, and Clare Simmons, and supported by 24 members of the Ponderosa Home Owners Association and residents of Ponderosa Sky Ranch, Tehama County, alleges that:

- a. Orville A. Figgs and Kathleen Figgs are owners of the water system constructed to serve the Ponderosa Sky Ranch Subdivisions 1 and 2.
- b. Water system facilities are not adequate to provide adequate service.

Complainants request an order from this Commission to:

- a. Declare defendants to be operating a public utility water system and exercise regulatory jurisdiction over the operations of this water system.
- b. Determine reasonable rates for service furnished.

- c. Require defendants to provide sufficient and dependable facilities to provide adequate service to customers in accordance with provisions of the Commission's General Order No. 103.

Defendant Orville A. Figgs in a letter filed with the Commission on October 8, 1969 stated that:

- a. His impression is that he is furnishing water service under Section 2704 of the Public Utilities Code, but if he was wrong he stands corrected.
- b. For the past several years he has been working with the State of California Health Department along with the County of Tehama. He has a long-range plan worked out with the Health Department and the county and at the present time has been living up to his agreements with them.
- c. At the present time he is working to put in a standby pumping system.

Public hearing was held on December 2, 1969, in Red Bluff before Examiner Gilman.

Two customers testified on behalf of complainants, covering the history and cause of various service problems including outages, and the history of customer-utility relationships and the development of the subdivision and its water system.

A staff engineer testified concerning the result of a staff investigation of defendant's system and operations.

Defendant Orville Figgs was called by complainants as an adverse witness. Upon further questioning by the staff representative, concerning his plans for upgrading the system, defendant declined to answer further without the advice of counsel.<sup>1/</sup>

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<sup>1/</sup> At hearing, defendant offered to supply as late filed Exhibit No. 12 a list of real property owned by him, in place of a staff offered exhibit claimed by him to be inaccurate. The late filed exhibit has not been received. However, the matters at issue can be resolved without this evidence, and the matter is hereby declared submitted.

Defendant's engineer was called without objection as the Commission's witness to explain defendant's plans for improving the system.

#### General Discussion

Ponderosa Sky Ranch is located 10 miles east of the community of Paynes Creek immediately south of State Highway 36, at about 3,400-feet elevation above sea level. Paynes Creek is located on State Highway 36, about 20 miles east of Red Bluff. Unit 1 of the subdivision consists of about 34 acres subdivided into 93 lots. Unit 2 of the subdivision contains 28 acres and has been subdivided into 109 lots. Typical lot sizes are 8,000-10,000 square feet. There are presently about 44 active services connected to the system. Of these, 27 customers are considered all-year users and 17 part-time. Many of the part-time users have trailers or campers parked on their property for their occasional use.

Mr. Figgs apparently owns several acres of land surrounding the subdivided area, has no firm plans for the development of this acreage, and told the staff representative that he probably would engage in no further subdivision activity. However, investigation by the staff shows that preliminary plans have been prepared for Unit 3 of Ponderosa Sky Ranch Subdivision. Streets have been rough graded and some water distribution pipes have been installed.

#### History

Unit 1 of Ponderosa Sky Ranch was originally subdivided in 1958 by parties other than defendants. According to the California Division of Real Estate Public Report issued July 28, 1959, water service was to be furnished by the Lassen Pines Mutual Water Co., Inc. Apparently, this mutual water company never became an

operating entity and the corporation was suspended by the Secretary of State on October 3, 1960. Upon subdivision of the land in Unit 2 in 1963, the Division of Real Estate issued its report, dated February 14, 1964, indicating that water would be supplied by a "private water company." Sometime prior to the development of Unit 2, defendants acquired an interest in and took over the subdivision development and water system operation.

Records of cost of the subdivision development were acquired by the present owners upon their acquisition of the properties. However, detailed records of the original cost of the installed water system facilities were not maintained by type of facility construction, and the records are not in such form as to permit a ready segregation of costs into accounts as prescribed by the Commission's Uniform System of Accounts for Class D Water Utilities.

A rate of \$5 per month presently is being charged for water service and a management fee of \$1 per month per lot is being charged nonusers. A flat rate of \$5 per month is at a level comparable to other like utilities operating under generally similar conditions. The Commission heretofore has not authorized a charge to lot owners before an application for water service has been received by the utility and service furnished. Within the recent past, meters have been installed in about 12 water services; however, no billings have been made under such a schedule.

The source of water for this system is Paynes Creek, a small year-round stream running in a deep canyon adjacent to the area served.

The water is pumped to a storage tank with a capacity of approximately 50,000 gallons. Water is chlorinated immediately prior

to entering the storage tank. A hydropneumatic system is part of the system, designed to raise pressures to between 30 and 60 psi. The system is constructed so that the storage tank can supply water directly to the distribution system under reduced pressure conditions, if for any reason the hydropneumatic system becomes inoperative.

The distribution system includes approximately 250 feet of 6-inch and 1,400 feet of 4-inch Class 150 asbestos-cement pipe, and approximately 9,500 feet of 2-inch and 1,900 feet of 1½-inch polyvinyl chloride pipe. The pressure rating of the plastic pipe is unknown. All the existing dead ends in the distribution system are equipped with flush valves.

A water supply permit has been issued to Orville A. Figgs by the Tehama County Health officer. Recent results of bacteriological analysis indicate that water quality has been consistently good. Customer testimony indicated that the water was sometimes murky. This apparently occurs primarily when water in the creek is murky.

Some of the complainants told the staff engineer that there are times in the summer when pressure is inadequate. They also stated that there have been occasional outages of water in the past, apparently due to pump breakdown, freezing and breaking of the transmission main or sanding up of the source. Some of the people interviewed reported that such outages had been remedied without undue delay.

Until recently, all water delivered to the system was distributed through a 1½-inch pipe in Unit 1. Recently, however, applicant paralleled this pipeline with a 2-inch pipe for about 1,200 feet. The record indicates that this recent installation has considerably improved pressures available.

Findings

1. Defendant Orville A. Figgs' (hereinafter defendant) predecessor offered and sold lots to the general public in Ponderosa Sky Ranch Subdivision. Some of the said offers were accompanied by a representation that a water system would be installed to supply said lots.

2. Said water system was installed. Defendant acquired said water system and is now the owner and operator thereof.

3. Defendant has offered and sold, to the general public, lots in the Ponderosa Sky Ranch Subdivision under the representation the lots could receive water service from the system in question.

4. Defendant in some instances has represented that the water is provided by a "private water company." In other instances he has represented that lot purchasers acquire an undivided share in certain riparian water rights which run with the property purchased. In some instances he has represented that the water service provided is governed by an agreement with either the California Real Estate Commission or the California Department of Public Health.

5. None of said representations has been proven true.

6. Defendant sells water delivered by the water system in question, to members of the public owning lots or living in Ponderosa Sky Ranch Subdivision and immediate vicinity.

7. Defendant charges and receives \$5 per month for water service.

8. Defendant claims the right to charge \$1 per month management fee for unoccupied lots, and \$18 for a hookup charge.

9. There is not sufficient evidence in the record to justify the charges for management and hookup.

10. Each of the below described segments of defendant's system exceeds the maximum length allowed by paragraph III.2.a. of General Order No. 103:

- a. approximately 3,600 feet of 1½- and 2-inch main from storage tank to Unit No. 2;
- b. 330 feet of 1-inch main serving lots facing Vanguard and Jupiter Avenues; and
- c. 2,300 feet of 2-inch main serving lots facing Jupiter Avenue and Ponderosa Way, continuing on Cessna Avenue to near its westerly end.

11. The plastic pipe included in the system has broken, causing service outages.

12. There is evidence of intermittent pressures far below that required by the Commission's General Order No. 103; however, 1,200 feet of 2-inch pipe has recently been installed near the tank, and there is no evidence of insufficient pressure since that time.

13. Defendant plans to replace or parallel the 1½-inch and the 2-inch mains from the storage tank to Unit 2, with 6-inch diameter pipes.

14. The existing water supply is adequate to serve present and prospective customers which could be expected to be served in the near future in Units 1 and 2. When applicant's planned system modifications are completed, the system will be adequate for such service.

15. Official notice is taken that no tariffs, general rules, copies of printed forms, or tariff service area map governing the service offered by defendant are on file with the Commission.

16. There is insufficient evidence to determine the boundaries of the area within which defendant Orville A. Figgs has held himself out to provide, or is providing residential water service.

17. There is insufficient evidence to connect defendant Kathleen Figgs to any of the allegations of the complaint.

Conclusions

1. Defendant Orville A. Figgs has dedicated property, comprising a water system, to supply domestic water to that portion of the public residing in Ponderosa Sky Ranch Units 1 and 2.

2. Defendant Orville A. Figgs is a water corporation and a public utility subject to the jurisdiction, control and regulation of the Commission and the provisions of Division 1, Part 1, of the Public Utilities Code and of Article XII, Section 23 of the California Constitution.

3. The water supply for the system has been dedicated by defendant Orville A. Figgs to the service of said portion of the public and is not primarily used by him for domestic purposes or the irrigation of his lands; the water supplied is not surplus nor is it delivered as an accommodation nor in an emergency for a limited period.

4. The staff recommended orders should be adopted with certain modifications.

5. The rates presently charged for service have not been shown to be unreasonable and should be continued with modifications urged by the staff. A tariff for metered rates as proposed by the staff should also be authorized. The hookup charge and charges for non-users have not been justified and should be discontinued.

6. It is not material for the relief sought by the complaint to determine whether the water system is the community property of Orville A. Figgs and Kathleen Figgs.



O R D E R

IT IS HEREBY ORDERED that:

1. Defendant Orville A. Figgs shall commence and complete, as soon as practicable, a program to replace or parallel undersized mains to bring the system into compliance with the standards of General Order No. 103, and to install facilities which will deliver 200 gallons per minute into the distribution system at not less than 30 psi to all service connections.

2. Until such time as the improvements ordered in ordering paragraph 1 are completed, defendant Orville A. Figgs shall not furnish water service to any lots not now served within Units 1 and 2 of the Ponderosa Sky Ranch. Until authorized by order of this Commission, defendant shall not render nor hold himself out to render any services to new customers located outside of Ponderosa Sky Ranch Units 1 and 2. Defendant may, without further approval of this Commission, reconnect temporary customers.

3. Defendant is authorized and directed to file, within thirty days after the effective date of this order, 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, 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, and the tariff schedules shall become effective on the fourth day after the date of filing.

4. Defendant 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, defendant shall file with the Commission two copies of such map.

5. For the year 1970, defendant shall apply a depreciation rate of 3% to the original cost of depreciable plant. Defendant shall review his 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.

6. Defendant shall file with this Commission, within one hundred eighty days after the effective date of this order, 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 requirements 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.

7. Defendant shall set up formal books of account in conformity with the Uniform System of Accounts for Class D Water Utilities as prescribed by this Commission.

8. The complaint is dismissed as to Kathleen Figgs.

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

(230) <sup>day</sup>  
~~day~~ of \_\_\_\_\_ Dated at San Francisco, California, this 21st  
MARCH, 1970.

William J. Lyons, Jr.  
President.

Augusta  
J. P. Tabarin, Jr.

James H. Lee

Yasun L. Sturgeon  
Commissioners

APPENDIX A  
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## Schedule No. 1A

ANNUAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service furnished on an annual basis.

TERRITORY

Ponderosa Sky Ranch and vicinity located 10 miles east of Paynes Creek adjacent to State Highway 36, Tehama County.

RATES

Monthly Quantity Rates:		Per Meter Per Month
First	500 cu. ft. or less .....	\$ 4.50
Next	1,000 cu. ft., per 100 cu. ft.	.50
Next	4,500 cu. ft., per 100 cu. ft.	.40
Over	6,000 cu. ft., per 100 cu. ft.	.30

Annual Minimum Charge:		Per Meter Per Year
For	5/8- x 3/4-inch meter .....	\$ 54.00
For	3/4-inch meter .....	69.00
For	1-inch meter .....	129.00
For	1 1/2-inch meter .....	174.00
For	2-inch meter .....	252.00

The Annual Minimum Charge will entitle the customer to the quantity of water each month which one-twelfth of the annual minimum charge will purchase at the Monthly Quantity Rates.

(Continued)

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Schedule No. 1A

ANNUAL METERED SERVICE

(Continued)

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated minimum charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods for water used in excess of the monthly allowance under the annual minimum charge. When meters are read bimonthly or quarterly, the charge will be computed by doubling or tripling, respectively, the number of cubic feet to which each block rate is applicable on a monthly basis except that meters may be read and quantity charges billed during the winter season at intervals greater than three months.

2. The opening bill for metered service, except upon conversion from flat rate service, shall be the established annual minimum charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ( $1/365$ ) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

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Schedule No. 2RA

ANNUAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service furnished on an annual basis.

TERRITORY

Ponderosa Sky Ranch and vicinity located 10 miles east of Paynes Creek adjacent to State Highway 36, Tehama County.

RATES

	<u>Per Service Connection</u> <u>Per Year</u>
For a single-family residential unit, including premises . . . . .	\$60.00

SPECIAL CONDITIONS

1. The above flat rates apply to a service connection not larger than one inch in diameter.
2. For service covered by the above classification, if the utility so elects, a meter shall be installed and service provided under Schedule No. 1A, Annual Metered Service, effective as of the first day of the following calendar month. Where the flat rate charge for a period has been paid in advance, refund of the prorated difference between such flat rate payment and the minimum meter charge for the same period shall be made on or before that day.
3. The annual flat rate charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated flat rate charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods.
4. The opening bill for flat rate service shall be the established annual flat rate charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth (1/365) of the number of days remaining in the  
(Continued)

Schedule No. 2RA

ANNUAL RESIDENTIAL FLAT RATE SERVICE

SPECIAL CONDITIONS - Contd.

calendar year. The balance of the payment of the initial charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.