

ORIGINAL

Decision No. 77162

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EDWARD J. CODIGA AND DENISE A. CODIGA, Tahoe Park, Tahoe,

Complainants,

vs.

OLIVER HENRIKSON, subdivider, pipe line supplier, HAROLD FARR, manager and DON L. KAASTRUP and MARGARET H. KAASTRUP, owner of Tahoe Park Water Company,

Defendants.

Case No. 9011
(Filed January 8, 1970)

Edward J. Codiga and Denise A. Codiga, in propriae personae, complainants.
Oliver M. Henrikson, in propria persona, defendant.
Harold R. Farr, for Tahoe Park Water Company, defendant.
Ben Stradley, for the Commission staff.

O P I N I O N

Public hearing in this matter was held before Examiner Gillanders on February 20, 1970, at Tahoe City. It was submitted February 25, 1970 on receipt of complainants' late-filed Exhibit 6.

Complainants testified that on September 3, 1969 they purchased a home from a Mr. Thomas Hack of Thomas Construction Company. ^{1/} Water service was connected on that date and was also available when complainants returned one week later (September 10). Since September 10, 1969 water has not been available, consequently

^{1/} The County of Placer had issued a final inspection for the premises.

complainants cannot use the house themselves nor can they rent it. They request an order of this Commission requiring defendants to supply them with water.

Defendant Henrikson testified he was not the subdivider of the land in question but that he was the land developer who sold a parcel of land to the subdivider (Thomas Construction Company). He testified that he had agreed to construct a system to supply water to the parcel in return for \$6,750. The buyer of the parcel was to pay this amount prorating the cost between each parcel that the buyer decided to sell separately. Henrikson testified that he did build the system but has not received any payment for it nor has he sold any water. He believes that Section 2704 of the Public Utilities Code exempts him from regulation by this Commission.

Defendant Farr testified that he is the actual owner of Tahoe Park Water Company;^{2/} that he has supplied water to Henrikson's system on an accommodation basis as he now has plenty of surplus water; that in the spring he and Henrikson intend to enter into a main extension agreement according to his filed tariff to take over Henrikson's system; that he is willing to extend his service area to supply the Codiga residence as well as other land in the vicinity; and that he needs a tank located on Henrikson's property to supply adequate pressure to the upper levels of his existing water system. He believes that Section 1001 of the Public Utilities Code requires him to apply for a certificate of public convenience and necessity to extend his system beyond his existing service area.

2/ The records of this Commission list the Kaastrops as the owners.

Exhibit 1, a letter introduced by complainants, shows that Farr on behalf of Tahoe Park Water Company in May 1969 stated that it "will provide water for O. Hendrikson's subdivision^{3/} (County Assessor's Parcel 83-230-49) on a temporary basis until it is further approved by Public Utility Commission and then it will be served on a permanent basis."

We have taken official notice of the tariff of Tahoe Park Water Company. The service area map filed as part of said tariff shows that the Codiga property lies just outside of the dedicated service area. Defendant Farr testified that there are no distribution pipes near the Codiga property and that an extension from the existing plant would not provide water by gravity due to the elevation of the Codiga property above his existing system.

Examination of the witnesses disclosed that the main reason water service to the Codiga property is not now available is because Mr. Henrikson has not received a pro rata payment of \$750 from Mr. Hack. It appears that Mr. Henrikson is presently supplying a neighbor of the Codigas with water on the weekends and all that would be required to restore water service to the Codigas is the opening of a valve.

Mr. Henrikson testified that he owns two 5,000-gallon tanks interconnected to a 20,000-gallon tank owned by Tahoe Park Water Company, all located on Henrikson's property. He fills his tanks as required by pumping from another tank owned by Tahoe Park through a temporary 2-inch line laid on the ground.

^{3/} Henrikson maintains that he did not subdivide the land in question but that Thomas Construction Company has created an illegal subdivision.

In the spring, when Tahoe Park has the money and can install equipment, it plans on installing a 25-hp motor and the piping required to pump water from its existing tank at the lower elevation to its existing 20,000-gallon tank at the higher elevation, thus supplying Henrikson's installation and also improving service to its existing customers.

Findings of Fact

The Commission finds that:

1. Complainants purchased a home from a Mr. Thomas Hack on September 3, 1969.
2. The home was supplied with water service on September 3, 1969 and again on September 10, 1969.
3. Water was supplied through facilities owned by defendant Henrikson.
4. Defendant Henrikson has, since September 10, 1969, refused to supply water to complainants because Mr. Thomas Hack has not paid him \$750 allegedly due because of sale of property to the Codigas.
5. Defendant Henrikson currently supplies water service to a neighbor of the Codigas on weekends at no charge.
6. Henrikson has received no payment for water supplied from his system nor has he been paid for constructing said system.
7. Henrikson's water system receives water from facilities of Tahoe Park Water Company, a public utility subject to this Commission's jurisdiction.
8. Tahoe Park Water Company claims the water it supplies to Henrikson is surplus to its needs.
9. In the spring Tahoe Park Water Company and Henrikson plan on executing a main extension contract in accordance with Tahoe Park's filed main extension rule.

10. Tahoe Park, after the consummation of the main extension agreement and completion of required connections is agreeable to serving the Codigas.

Conclusions of Law

The Commission concludes that:

1. By supplying water to Henrikson on a temporary basis and representing that when construction is possible, it would supply the Henrikson development on a permanent basis through facilities to be acquired through a main extension agreement in accordance with its filed tariff, Tahoe Park Water Company has dedicated itself to serve without its presently designated service area.

2. Henrikson's reliance on Section 2704 of the Public Utilities Code is misplaced as the evidence shows, regardless of his intentions, that he is a public utility under the provisions of Section 216(c) of the Public Utilities Code.

3. The dispute between Henrikson and Hack is not a part of and has no bearing on this proceeding.

4. Having concluded that Tahoe Park has dedicated itself to serve the Henrikson development and having also concluded that Henrikson is a public utility who has dedicated his facilities to serve the same area, we further conclude that it would best serve the public interest if, when compliance with the following order is had, Tahoe Park Water Company becomes the sole purveyor of water to the Henrikson development.

O R D E R

IT IS ORDERED that:

1. Oliver Henrikson shall, within two days of the effective date of this order, restore water service to Edward J. Codiga and Denise A. Codiga.

2. Harold Farr, on behalf of Tahoe Park Water Company, shall furnish to Oliver Henrikson the amount of water required to service Henrikson's utility system. Such supply shall be furnished in accordance with Tahoe Park's filed tariff schedule 1-S as applicable.

3. Within ten days after the effective date of this order, Oliver Henrikson shall file the schedule of rates set forth in Appendix A to this order, including tariff service area maps, for service rendered to persons within his development, appropriate general rules and copies of printed forms to be used in dealing with customers. Rates for service after the date of filing.

4. Five days after receipt by this Commission of a copy of a main extension agreement, covering water facilities to be used in supplying water to Oliver Henrikson's development, executed by Oliver Henrikson and Tahoe Park Water Company in accordance with Tahoe Park Water Company's filed main extension Rule No. 15, Tahoe Park Water Company shall commence direct water service to Henrikson's development and Henrikson shall stand relieved of all of his public utility obligations in the area served by him.

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The Secretary of the Commission is directed to cause personal service of this order to be made upon each defendant. The effective date of this order shall be the date of completion of such service.

Dated at San Francisco, California, this 5th day of MAY, 1970.

William Synovay Jr.
President

August
J. M. Sherman

Vernon L. Stinson
Commissioners

Schedule No. 15

SUMMER METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on a summer seasonal basis.

TERRITORY

The unincorporated area immediately west of Washoe Way at Tahoe Park, approximately 1 1/2 miles south of the community of Tahoe City, Placer County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Monthly Quantity Rates:	
First 700 cu.ft. or less	\$ 6.05
Next 1,300 cu.ft., per 100 cu.ft.....	.33
Next 2,000 cu.ft., per 100 cu.ft.....	.28
Over 4,000 cu.ft., per 100 cu.ft.....	.22
Summer Minimum Charge:	
For the 5-month period, May 1 to September 30:	<u>Per Meter</u> <u>Per Summer</u>
For 5/8 x 3/4-inch meter	\$30.25
For 3/4-inch meter	41.25
For 1-inch meter	60.50
For 1 1/2-inch meter	88.00
For 2-inch meter	121.00

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

(Continued)

Schedule No. 1S

SUMMER METERED SERVICE
(Continued)

SPECIAL CONDITIONS

1. The summer minimum charge is due in advance.
2. The charge for water used in excess of the quantity allowed each month for the summer minimum charge may be billed monthly, bimonthly, or seasonally at the option of the utility on a noncumulative monthly consumption basis.
3. Customers who have paid the summer minimum charge may obtain service during the months of April and October of the same calendar year at the monthly quantity rates upon written notice to the utility stating the month or months in which such service is desired. The monthly minimum charge for such additional service shall be one-fifth of the summer charge.

Schedule No. 1W

WINTER METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on a winter basis.

TERRITORY

The unincorporated area immediately west of Washoe Way at Tahoe Park, approximately 1½ miles south of the community of Tahoe City, Placer County.

RATES

Monthly Quantity Rates:	<u>Per Meter</u> <u>Per Month</u>
First 700 cu.ft..or less.....	\$ 6.05
Next 1,300 cu.ft., per 100 cu.ft.....	.33
Next 2,000 cu.ft., per 100 cu.ft.....	.28
Over 4,000 cu.ft., per 100 cu.ft.....	.22

Winter Minimum Charge:

For the 7-month period, October 1 to April 30:	<u>Per Meter</u> <u>Per Winter</u>
For 5/8 x 3/4-inch meter	\$ 42.35
For 3/4-inch meter	57.75
For 1-inch meter	84.70
For 1½-inch meter	123.20
For 2-inch meter	169.40

The Winter Minimum Charge will entitle the customer to the quantity of water each month which one-seventh of the seasonal charge will purchase at the Monthly Quantity Rates.

(Continued)

Schedule No. 1W

WINTER METERED SERVICE
(Continued)

SPECIAL CONDITIONS

1. The winter minimum charge is due in advance.
2. The charge for water used in excess of the quantity allowed each month for the winter minimum charge may be billed monthly, bimonthly, or seasonally at the option of the utility on a noncumulative monthly consumption basis.

Schedule No. 2WR

WINTER RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all residential flat rate water service furnished on a winter basis.

TERRITORY

The unincorporated area immediately west of Washoe Way at Tahoe Park, approximately 1½ miles south of the community of Tahoe City, Placer County.

RATES

	<u>Per Service Connection</u> <u>Per Winter</u>
Winter Charge:	
For each single family residence, including premises, for the 7-month period October 1 to April 30	\$46.20

SPECIAL CONDITIONS

1. The winter charge is due in advance.
2. All service not covered by the above classification will be furnished only on a metered basis.
3. A meter may be installed at option of utility for above classification in which event winter service thereafter will be furnished only on the basis of Schedule No. 1W, Winter Metered Service.

Schedule No. 2SR

SUMMER RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all residential flat rate water service furnished on a summer basis.

TERRITORY

The unincorporated area immediately west of Washoe Way at Tahoe Park, approximately 1½ miles south of the community of Tahoe City, Placer County.

RATES

Per Service Connection
per Summer

Summer Charge:

For each single family residence,
including premises, for the
5-month period May 1 to
September 30

\$33.00

Monthly Rate:

Per Service Connection
per Month

For service during the months
of April and October of the
same calendar year

\$ 6.60

(Continued)

Schedule No. 2SR

SUMMER RESIDENTIAL FLAT RATE SERVICE

(Continued)

SPECIAL CONDITIONS

1. The summer charge is due in advance.
2. All service not covered by the above classification will be furnished only on a metered basis.
3. A meter may be installed at option of utility or customer for above classification in which event service thereafter will be furnished only on the basis of Schedule No. 1S, Summer Metered Service.
4. Customers who have paid the summer charge may obtain service during the months of April and October of the same calendar year at the monthly rate upon written notice to the utility stating the month or months in which service is desired.