

ORIGINAL

Decision No. 77255

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Michael A. and Deborah K. Dreiling, }
Complainants, }
vs. }
Inverness Park Water System, }
Mr. James Downey, Owner, }
Defendant. }

Case No. 9021
Filed February 6, 1970

Michael A. Dreiling, for himself, complainant.
James S. Downey, for Inverness Park Water System,
defendant.
W. B. Stradley, for the Commission staff.

O P I N I O N

After due notice, hearing on this matter was held by
Examiner Coffey in Inverness on April 10, 1970.

Complaint

This complaint, filed by Michael A. and Deborah K.
Dreiling, alleges that:

- a. Defendant Mr. James J. Downey, doing business
as the Inverness Park Water Company, refuses
to furnish water to complainants' residence.
- b. There exists no alternate source of water for
the complainants' residence.
- c. The water system owned by defendant serves
residences surrounding on four sides the resi-
dence of the complainants.
- d. Defendant can provide water to complainants'
residence without detriment to his system.

Complainants request an order from this Commission requir-
ing Inverness Park Water System to provide water to the residence of
complainants.

Answer to Complaint

Defendant, in a letter received by the Commission on February 16, 1970, stated that "the water company will extend service to the property of Mr. and Mrs. Dreiling under our filed Main Extension, Rule No. 15-C when they make application for such extension."

Presentations

Complainants testified that on March 19, 1968 they had received water service from a private water system owned by the late Mr. William Gardner. On August 1968, Mr. Gardner stated his unwillingness to continue service to complainants' property. Deterioration of the quality and quantity of water caused complainants to file a complaint against Mr. Gardner, Case No. 8926, on June 18, 1969. Decision No. 76268, dated October 15, 1969, ruled that the Gardner system was not dedicated to public use and therefore was not subject to regulation pursuant to the Public Utilities Code. Said decision noted that the community has had public utility water service at least since 1944 from defendant in the proceeding herein being considered. Complainants have made repeated verbal requests for service from defendant since August 1968, and made written application for service on March 9, 1970. Complainants testified that they have not received service to date and that defendant's stated objections to rendering the requested service were that complainants' property is not in his service area but is in an area which should be served by the Gardner system, that he has insufficient water for service to complainants without detriment to other customers, that a main of adequate size is not close enough to defendant's property, that to give complainants service a distribution line would have to be enlarged at a cost to complainants of from \$2,000 to \$4,000, and that the pressure at complainants' property is too great for service.

Complainants rebutted defendant's objections by reference to Decision No. 76268, by noting the recent new service by defendant to a customer, and by noting the service by defendant to customers to the north, east, south and west of complainants' property. Further, complainants testified that one of defendant's water mains is adjacent to complainants' property, that the main crosses a street within 100 feet of complainants' property, that defendant is not required to enlarge his main to serve one additional customer, that recent pressure tests indicated pressure less than that permitted by the Commission's General Order No. 103, that pressure to a service at a lower elevation near complainants' property has caused no damage and that the utility has the obligation to render service at prescribed pressures. Complainants argue that service to them will not be detrimental to the service of existing customers.

Defendant testified relative to the history of the Gadner water system from 1940 and the origin and location of the main serving seven customers to the south of complainants' property. The 2-inch main serving south from the intersection of Balboa and Buena Vista Avenues is alleged to be a transmission main paid for, and intended for use, by the people living south of Balboa Avenue. The main is alleged to be located out of public right-of-way. Defendant stated that he is not required by his rules to serve if he does not have access to a customer's property, that he is not required to obtain right-of-way over private property, and that he does not have right-of-way to cross Balboa Avenue to complainants' property. Defendant testified that service to complainants from the main in Portola Avenue would result in pressures from 125 to 150 pounds per square inch to complainants and could cause low pressure to other customers if large amounts of water were taken by complainants.

Defendant argues that he is required by his rules to serve only to the front of a customer's lot. Defendant, since 1960, has refused to serve customers of the Gadner water system since he was unable to purchase the Gadner water supply. Defendant testified he has a request for service from one adjacent neighbor of complainants and anticipates a request from another. Defendant, at the end of his testimony, indicated willingness to serve through meters to be located in Portola Avenue, the properties of complainants and their two adjacent neighbors, Tachouet and Franke, at 120 pounds per square inch if the customers provide rights-of-way for their connection to the meters set in the street.

Cross-examination of defendant disclosed that for a period of time his superintendent, without his permission, has permitted water to be taken from the main in or near Balboa Avenue to the Smith property. Defendant has not charged for the water since he does not consider it a water service inasmuch as the customer's right-of-way appears to be in question. The Smith residence is at a lower elevation than complainants. Defendant stated that the main in Portola Avenue is within 80 feet of complainants' property, and that he would not request an advance for the main extension, having on hand another request for service by complainants' neighbor, Tachouet.

The staff presented the results of its investigation of the complaint, Exhibit No. 3. From information available as to location of the utility's facilities, it appears to the staff that service can be furnished to complainants' property without extending a distribution main more than 50 feet and therefore an advance of funds is not required under the utility's filed main extension rule. The staff witness recommends that:

1. Defendant should be required to immediately provide water service to complainants' property without extension cost to complainant in accordance with tariffs on file with the Commission.

2. Defendant should be required to file as a part of his tariffs a tariff service area map as required by General Order No. 96-A.

Findings and Conclusion

We find that:

1. Defendant serves customers in the immediate vicinity and surrounding of complainants' property.

2. Complainants' property is located in the area to which defendant has dedicated his public utility property to serve.

3. Service to complainants can be effected within the standards of General Order No. 103.

4. Service to complainants will not unreasonably and adversely affect the service to defendant's other customers.

5. The staff recommendations are reasonable.

We conclude that defendant should be required to immediately provide water service to complainants' property and defendant should be required to file a tariff service area map.

O R D E R

IT IS ORDERED that:

1. Within ten days after the effective date of this order, James Downey, owner of the Inverness Park Water Company, shall provide water service to complainants' property without extension cost to complainants in accordance with tariffs presently on file with the Commission. ✓

2. James Downey, owner of the Inverness Park Water Company shall file within sixty days after the effective date of this order as part of his tariffs a service area map for the Inverness Park Water Company in accordance with the requirements of General Order No. 96-A. The tariff service area map shall become effective upon five days' notice to this Commission and to the public after filing as hereinabove provided.

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

Dated at San Francisco, California, this 22nd day of MAY, 1970.

William J. Synovitz
President
Augusta
J. P. Kahan
Thomas L. Stange
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.