

ORIGINAL

Decision No. 78364

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GADSDEN CORPORATION, a Corporation, for an Order to exclude area from the service territory of Antelope Valley Water Company, a Corporation, and to modify prior Decisions of the Commission and Antelope Valley Water Company's Tariff filings in this regard.

Application No. 52154
(Filed August 24, 1970)

Waugh and Waugh by Sanford Waugh,
Attorney at Law, for applicant.
Gibson, Dunn and Crutcher, by
Raymond L. Curran, Attorney at Law,
for Antelope Valley Water Co.,
protestant.
L. M. Van Zandt, for the Commission
staff.

O P I N I O N

Applicant Gadsden Corporation, a land developer, seeks an order of this Commission deleting approximately ten acres of unincorporated land in the vicinity of Palmdale, Los Angeles County, from the claimed service area of the Antelope Valley Water Company, hereinafter referred to as Antelope.^{1/}

^{1/} The correct corporate name appears to be Antelope Valley Water Co.

On August 24, 1970, the applicant filed the above application with this Commission.

The application contains a certificate of service stating that on August 21, 1970, a copy of the application was mailed to Antelope at 40200 107th Street West, Leona Valley, California. This is the address of Antelope listed in the General Telephone Company's Palmdale directory.

On or about October 13, 1970, the Commission set the application for hearing at 10:00 a.m. in the Commission's Courtroom, 107 South Broadway, Los Angeles, California, on Friday, November 13, 1970, before Examiner Rogers. On October 13, 1970, notice of the hearing was mailed to Antelope at 40200 107th Street West, Leona Valley, California 93550. This notice has not been returned to the Commission.

The matter was called for hearing before Examiner Rogers in the Commission's Courtroom in Los Angeles at 10:00 a.m. on Friday, November 13, 1970. There was no appearance by or in behalf of Antelope, and the Examiner recessed the matter until 10:20 a.m. the same day to give Antelope ample time to appear. At 10:25 a.m., there being no appearance by Antelope, the applicant was permitted to proceed with its showing, and evidence was presented and the matter was submitted. Thereafter, on November 18, 1970, Antelope advised the Commission that it had not received notice of the hearing. By Decision No. 78088 dated December 15, 1970, the Commission set aside the submission and set the matter for hearing on January 11, 1971. On the latter date a public hearing on the application was held before Examiner Rogers in Los Angeles, and the matter was argued and submitted. It is ready for decision.

Antelope's Authority

The only certificated authority held by Antelope in the vicinity of Palmdale is that granted by Decision No. 54854, dated April 16, 1957, in Application No. 38284. By said decision the Commission granted Antelope authority to acquire and operate a public utility water system in Section 32, Township 7 North, Range 12 West, and the North 1/2 of Section 4, Township 6 North, Range 12 West, S.B.B. and M. By virtue of subsequent extensions to contiguous territories (Public Utilities Code Section 1001, Public Utilities Commission General Order No. 96-A), as of November 13, 1970, Antelope had on file with this Commission a tariff containing Sheet 94-W (Exhibit No. 6 herein) which was filed on March 2, 1966, and showed its service area to include what appears to be the Southwest 1/4 of Section 28, Township 7 North, Range 12 West, S.B.B. and M, an area of 160 acres. The same service area map, however, shows that the service area comprised five specific tracts containing a total of approximately 40 acres, specifically, an unnumbered tract in the southwest corner plus Tracts Nos. 28313, 29587, 29588 and 26992.

The Applicant's Request

Applicant's president placed in evidence copies of the 1963 service area map of Antelope (Exhibit No. 4) and the accompanying advice letter (Exhibit No. 5). The advice letter states that the service area map (Exhibit No. 4) was revised to include contiguous areas, the owners of which had requested water service under the main extension rule. The service area map purports to show that

Antelope served the entire South 1/2 of the Southwest 1/4 of Section 28. This area is bounded by 20th Street West on the west, Avenue L on the south, 15th Street West on the east, and West Avenue K-12 on the north. It appears that, in reality, at the time Exhibit No. 4 was filed, service in the Southwest 1/4 of Section 28 was rendered only to a portion thereof, comprising approximately 40 acres.

The applicant's president testified that it developed a total of six housing subdivisions in Section 28; that these subdivisions include Tracts Nos. 26499 and 30299 in addition to those hereinbefore listed; that Antelope furnishes water to the said tracts; that that portion of Section 28 lying east of Tract No. 30299 and bounded by Avenue L on the south, 15th Street West on the east and West Avenue K-12 on the north comprises approximately ten acres and is unimproved; that applicant intends to develop said area with approximately 150 rental units^{2/}; that Los Angeles County Water Works District No. 4 furnishes water in the area immediately east of 15th Street West and is ready, willing and able to extend service to the said ten acre parcel of land if the Commission gives its approval; and that the District's water rates are approximately 1/2 of Antelope's. Gadsden desires that the District furnish water to it in the said parcel.

Antelope's Evidence

The president of Antelope testified that it has filed a tariff area map for the entire Southwest 1/4 of Section 28 (Exhibit No. 6); that it has ample water; that the source of supply is from

^{2/} See Exhibits Nos. 1 and 3 herein.

the Southwest corner of Section 28; that in contemplation of serving all of the Southwest 1/4 of Section 28, it has constructed a grid which includes a ten-inch main along Avenue L to the eastern edge of Tract No. 30299, and an eight-inch main along West Avenue K-12 to the eastern edge of Tract No. 30299; that six-inch lines would have been sufficient to provide service to the existing tracts in Section 28 if expansion into the entire area of Section 28 west of 15th Street had not been contemplated; and that the smaller mains would have reduced the cost of the mains by approximately \$12,000. The witness further testified that if the service area is reduced to exclude the ten-acre parcel, the cost of service per customer will be increased as there will be a smaller area over which to spread the costs of operation. He further testified that Antelope always intended to serve the entire Southwest 1/4 of Section 28. The witness conceded that Antelope's rates are much higher than the District's, i.e. the Los Angeles County Water Works District No. 4 charges \$3.25 for the first 1,000 cubic feet or less per month and 24 cents per 100 cubic feet for the next 2,000 cubic feet per month (Exhibit No. 7), while Antelope charges \$3.60 for the first 300 cubic feet or less and 42 cents per 100 cubic feet for the next 700 cubic feet, making the cost for 1,000 cubic feet from Antelope \$6.54. The witness stated, and it was not disputed, that the District levies assessments to pay for its costs of operations not covered by its revenues, and, in addition, charges for meters.

Findings

On the record herein the Commission finds that:

1. Gadsden Corporation owns approximately ten unimproved acres of land located between Tract No. 30299 on the west and 15th Street West on the east in Section 28 near Palmdale in Los Angeles County. Gadsden Corporation has authority to, and intends to, improve said acreage with rental units.

2. Gadsden Corporation owns several subdivisions immediately west of said ten-acre parcel, including said Tract No. 30299. All of said tracts are furnished domestic water by Antelope Valley Water Co. Antelope Valley Water Co. furnishes water to said tracts by virtue of main extensions constructed pursuant to Section 1001 of the Public Utilities Code and the Commission's General Order No. 96-A, and has on file a tariff service area map showing that it offered to serve the entire Southwest 1/4 of Section 28. The water company's service area map, Cal. P.U.C. Sheet No. 94-W, is incorrect in that it purports to show service presently being rendered by it to the entire Southwest 1/4 of Section 28. In fact, Antelope renders no service in the North 1/2 of the Southwest 1/4 of Section 28, and renders no service in, and has no mains in the ten-acre parcel owned by Gadsden in the Southwest 1/4 immediately west of 15th Street West. Antelope has a ten-inch main and an eight-inch main each of which terminates immediately west of the ten-acre parcel owned by Gadsden, and has an ample water supply. Antelope is ready, willing and able to furnish water to Gadsden's ten-acre parcel.

3. Los Angeles County Water Works District No. 4 furnishes water to the property immediately east of 15th Street West at lower rates than the rates of Antelope Valley Water Co. The District is ready, willing and able to furnish water to Gadsden Corporation's ten-acre parcel of land.

We conclude that the application should be dismissed. There is no legal impediment to the area in question being served by either District or Antelope, and either is at liberty to extend service to Gadsden's ten-acre parcel of land referred to herein if requested. Gadsden has the opportunity to make arrangements for its water supply in its own best interests without further order from this Commission.

ORDER

IT IS ORDERED that the application is dismissed.

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

Dated at San Francisco, California, this 2nd day of MARCH, 1971.

Chairman

James L. Sturgeon

Commissioners

Lobster

J. Robinson Jr.

Chairman

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.