

Decision No. 79046

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Appli-)
 cation of ANGORA WATER CO. and)
 TAHOE PARADISE WATER AND GAS CO.)
 for an order establishing a modi-)
 fied boundary line separating the)
 territories into which they may)
 extend their respective services,)
 pursuant to agreement between)
 said applicants; and an order)
 authorizing Angora Water Co. to)
 carry out the terms of a contract)
 with the County of El Dorado)
 deviating from the main extension)
 rule.)

Application No. 51517
 (Petition for Modification
 of Decision No. 78852,
 filed June 29, 1971)

OPINION AND ORDER

Angora Water Co. seeks modification of Decision No. 78852, dated June 22, 1971, so as to authorize petitioner to charge and collect compensation for seasonal residential water service and public fire hydrant service furnished to Tahoe Paradise Addition Units 4 and 5, near South Lake Tahoe, El Dorado County, during the season beginning January 1, 1971 and ending June 30, 1971.

Decision No. 78852, issued after hearing, authorized, conditionally, Angora and Tahoe Paradise Water and Gas Company to adjust their respective service area boundaries so as to permit Angora to extend water facilities and service to Units 4 and 5.

The decision notes that Angora had been using facilities in Units 4 and 5 to provide free water service to a growing number of customers in those tracts, in violation of previous restrictions (Decision No. 60328, dated June 28, 1960, Applications Nos. 41414, et al.) and in apparent violation of Section 453, Public Utilities Code, which forbids such discriminatory practices. The Commission stated, in Decision No. 78852 (sheet 6), that because of time consumed by the parties and the staff in prior proceedings involving Angora's accounting problems and previously conflicting requests by Angora and Tahoe Paradise to serve Units 4 and 5, it would not be disposed to initiate sanctions for Angora's past unauthorized extensions of service to those tracts.

Petitioner alleges that if Angora's tariff schedules had been applicable to Units 4 and 5 during the first six months of 1971, revenue from 83 services at the seasonal flat rate of \$36 would have been \$2,988, subject to proration for services connected during that period, and that revenue from 40 fire hydrants in the tracts, at \$3 each per month, would have been \$720. Petitioner alleges that the additional revenue would not result in an operating profit but would materially reduce operating deficits during the six-month period.

Petitioner suggests that it would be equitable and in the public interest that Angora be allowed to charge for service in Units 4 and 5 during the first six months of 1971, in that mitigating circumstances exist because of the eight-month time lapse between submission and decision of the application in addition to "the already unexpectedly long period since Angora gave the Real Estate Commissioner its commitment to extend the service". (Petition, p.2.)

We find no mitigating circumstances in this record, or in the petition, that would justify exercise of our discretion to modify Decision No. 78852 as requested by petitioner. Angora wilfully violated its tariffs and operating right restrictions by offering and providing free water service in areas to which it was not then authorized to extend. It should not now be permitted to recoup from its customers, by retroactive application of its tariff schedules, the operating losses suffered as a result of such violations.

Therefore, IT IS ORDERED that the petition for modification of Decision No. 78852, filed by Angora Water Co. in the subject proceeding on June 29, 1971, be and said petition hereby is denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California,
this 24th day of AUGUST, 1971.

[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners