

Decision No. 80921

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ROBERT P. CRISWELL, dba CRISWELL WATER )  
SYSTEM, for authority to discontinue )  
water service in Santa Clara County. }

Application No. 53514  
(Filed August 10, 1972)

Robert P. Criswell, for himself, applicant.  
Sid Piexotta, Attorney at Law, for Mrs. Clara  
May, protestant.  
George and Anita Lorraine, for themselves,  
interested parties.  
William D. Figg-Hoblyn, Attorney at Law,  
for the Commission staff.

O P I N I O N

Applicant Robert P. Criswell seeks authority to discontinue water service.

Public hearing was held before Examiner Catey at Los Gatos on November 9, 1972. Notice of hearing had been published and mailed to all customers, in accordance with this Commission's rules of procedure. In addition to the five existing customers, the only known additional potential customer<sup>1/</sup> and his last known attorney were each advised by letter of the hearing. The matter was submitted on November 9, 1972.

Applicant presented testimony in his own behalf and also adduced testimony from a sanitarian of the Santa Clara County Health Department, from the manager of three small local water systems, and from an individual living in the general vicinity but at a considerably lower elevation than applicant's service area, which individual is in the process of having service extended by San Jose Water

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<sup>1/</sup> Complainant in Case No. 9194.

Works. The Commission staff presentation was made through a staff engineer. Various witnesses were cross-examined by representatives of two of the customers but none of the customers testified.

Service Areas and Water Systems

Applicant's five customers are located in three separate areas, served by four water systems which are not interconnected. The service areas are on the east slope of the Santa Cruz mountains, above Los Gatos, Santa Clara County.

The first service area is located near Summit Road. One customer (Posner) is served in this area. Applicant owns a spring and about 100 feet of small pipe which delivers the spring water to the customer's storage tank.

The second service area is located near Black Road, about one mile north of the Posner property. One customer (Moran) is served in this area. Applicant owns property on which are located two springs and applicant's own residence. Water from one of the springs is used for the lawn on applicant's premises and water from the other spring is used for domestic purposes at applicant's own premises and also is piped some 1,200 feet along Black Road to the customer's storage tank.

The third service area is located along Gist Road and Old Gist Road, about one-third of a mile northeast of the Posner property. Three customers are served in this area and an additional potential customer may be served in the future. Water from three springs is piped some 700 feet to applicant's Upper Tank which, when not bypassed, supplies a nearby tank of one of the customers (May). Water from three other springs is piped some 1,000 feet to applicant's Lower Tank, from which two separate lines supply tanks about 400 feet away owned by two other customers (Lorraine and Mullen), and from which a third line about 1,000 feet long would supply the potential additional customer (Behan).

### History

By Decision No. 9152 dated June 24, 1921 in Case No. 1478, applicant's parents were found to be conducting a public utility water system. They were ordered to file rates, rules, and regulations governing the furnishing of water to their three customers. The three customers had previously purchased their homesites from applicant's parents.

Decision No. 71768 dated December 29, 1966 in Application No. 48923 authorized the transfer of the water system to applicant. At that time the system served eight customers.

Decision No. 79250 dated October 19, 1971 in Case No. 9194 required applicant to reinstitute service to property which had not been served for seven years. The order required the owner (Behan) of the property to pay for the pipeline needed to extend from applicant's Lower Tank, and to install adequate facilities for receiving and storing water on his premises. The potential customer has not provided the funds for the extension. Applicant therefore has not yet installed the pipeline from the Lower Tank to the Behan tanksite.

### Requested Abandonment

Applicant alleges that, although the water system has been in operation for over a half century, it is no longer feasible to continue that operation.

One reason cited by applicant is the diminished supply of water from the springs which are the source of water for Upper Tank and Lower Tank. Private wells drilled during recent years on nearby property apparently divert some of the underground water away from the springs. The combined flow from those springs has averaged as low as 430 gallons per day and did not exceed 760 gallons per day during any of the past eighteen months. If the 430 gallons per day were rationed equally to the three existing customers in the area,

each would receive about 142 gallons per day, or a flow of less than one-tenth gallon per minute. If and when Behan becomes a customer the prorated flow would be reduced to about 108 gallons per day per customer.

Even if the trickle of water from those springs were adequate, extensive reconstruction would be required at the spring collection tunnels. A sanitarian from the Santa Clara County Health Department testified that any major reconstruction would necessarily be subject to more stringent requirements than existed when the original structures were built. More elaborate design would be needed to prevent contamination of the spring water by surface water and to keep animals out of the collection tunnels. Applicant estimates that tunnel reconstruction would cost at least \$1,000.

Most of the water lines from the springs to the Upper and Lower Tanks and some of the lines to customers' tanks which were installed on the surface of the ground, are subject to damage by falling rocks and trees, and are deteriorated and patched in many places. To avoid continual repairs and outages, most of the 4,300 feet of pipelines needs replacement. Applicant estimates that replacement with one-inch transmission mains would cost \$4,300.

Additional water could presumably be produced to supplement the spring supplies to the Upper and Lower Tanks by drilling a well and installing a pump and additional storage facilities. Applicant estimates this would cost \$5,000.

Another factor which has made the present sources of water inadequate is the change from weekend use to steady occupancy of customers' residences. In prior years, when some of the residences were vacant during the week, even a small flow into the Upper and Lower Tanks would fill them in readiness for the next weekend.

Applicant contends that continuing to operate the water system would cause an unreasonable financial hardship. He points out that, even with the rate of \$66 per year per customer which went into effect January 1, 1967, the net loss from the utility operations for the past five years was \$1,509.

In addition to the financial burden of the system, applicant claims that the operation causes a physical burden. As he advances in years, he is less capable of the strenuous effort needed to patrol the transmission lines and effect necessary repairs. If he were to hire the work done, it would add to his financial losses. The manager of several small water systems in Santa Clara County testified that even routine weekly inspection of the water system would cost \$36 per week.

#### Alternatives to Public Utility Service

Applicant recognizes that his customers cannot be left without any sources of water. In the single-customer (Posner) southernmost service area, applicant is willing to sell the customer the spring and 100-foot pipeline now supplying that customer's tank. Applicant's proposed price is \$1,000, based upon the capitalized value of the present annual water rate of \$66, assuming a 6.6 percent interest rate.

In the single-customer (Moran) northernmost service area, applicant is willing to sell the customer a right to a portion of the water from springs now supplying both that customer and applicant's own premises, together with the 1,200-foot pipeline to the customer's own tank. Applicant's proposed price here also is \$1,000, on the same basis as in the Posner area.

In the three-customer central service area, applicant suggests several alternatives. He is willing to sell to the customers the 13-acre parcel where the springs are located and give them the tanks and pipelines to operate as a mutual water system. Because of the extremely low yield of the springs, this does not appear to be a good solution. Applicant is willing to donate to the customers a small portion of the 13-acre parcel near Gist Road for use as a well site, and give them the tanks and pipelines to operate as a mutual system. This would require a cooperative effort on the part of the customers and the potential customer in the area. A third

possibility is the drilling of smaller, individual wells by each customer. Wells with adequate yields have been drilled on other property in the general vicinity and on the property of at least one of the customers.

Staff Investigation

A Commission staff engineer investigated the operation of applicant's system and presented testimony and a report relating to his investigation. He concluded, among other things, that the source of supply for the central service area is inadequate, that the system is too small to be economically feasible and that applicant's present water rate is inadequate to compensate the utility for all reasonable operating and maintenance expenses.

The staff engineer recommended that applicant be required to continue service for a period of one more year to give the customers time to acquire or develop their own independent sources of water. He further recommended that, prior to the expiration of the year, the proceeding be reopened to evaluate the progress of all customers in obtaining alternative supplies. If the customers have succeeded by that time, permission for applicant to discontinue public utility service could become final. If not, the staff engineer recommends that the reopened proceeding include a review of applicant's earnings to determine and recommend a new rate schedule which will be adequate to meet the utility's expenses and also provide a reasonable rate of return on applicant's investment in utility plant in service. Applicant concurred in these staff recommendations.

The staff engineer testified that he considered applicant's estimate of \$1,000 reasonable for an extension if it is installed to serve the potential additional customer (Behan). That individual is not a party to this proceeding, nor was he present at the hearing. Under these circumstances, it would not be appropriate to amplify the requirements of Decision No. 79250 (supra) to place a specific dollar value on the amount required to be paid by the potential

customer pursuant to that decision. Further, if applicant does discontinue public utility service and a functioning mutual water company is not formed, each customer might drill a well on his own premises and the long pipeline to the potential customer's property would be useless.

Findings and Conclusions

The Commission finds that:

1. Applicant's sources of supply are not adequate to provide reasonable water service to applicant's customers.
2. Applicant's present rates are inadequate to cover operating and maintenance expenses.
3. Major additions and replacements would be required to provide reasonable service to applicant's customers, thereby increasing the revenue requirement.

The Commission concludes that applicant's customers and potential customer should be given an opportunity to avoid significant water rate increases by obtaining their own sources of supply and, when this is accomplished, applicant should be permitted to discontinue public utility service.

O R D E R

IT IS ORDERED that:

1. Applicant Robert P. Criswell is authorized to discontinue public utility water service near Los Gatos, Santa Clara County, provided he files in this proceeding on or before December 31, 1973, verification from his five existing customers and one potential customer, discussed in the foregoing opinion, that they no longer need public utility water service from applicant.
2. If the verification required by paragraph 1 of this order is timely filed, the effective date of discontinuance of public utility service will be established by supplemental order.

3. If the verification required by paragraph 1 of this order is not timely filed, this proceeding will be reopened for appropriate further consideration.

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

Dated at San Francisco, California, this 9<sup>th</sup>  
day of JANUARY, 1973.

Veronica L. Sturgeon  
President  
William Symons, Jr.  
John A. [illegible]  
[illegible]  
Commissioners

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