

ORIGINAL

Decision No. 81132

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN W. HICKS,

Complainant,

vs.

TEHACHAPI MOUNTAIN WATER
COMPANY,

Defendant.

Case No. 9431

(Filed August 23, 1972)

W. P. BOLES, EDNA M. BOLES,
GLENDO L. BROWN &
JEAN M. BROWN,

Complainant,

vs.

COOK & SONS, INC.,

Defendant.

Case No. 9438

(Filed September 7, 1972)

John W. Hicks, in propria persona,
complainant in Case No. 9431.

William Paul Boles and Glendol L.
Brown, complainants in Case
No. 9438.

Oran W. Palmer, Attorney at Law,
for defendant in each matter.

Reginald H. Knaggs, for the
Commission staff.

O P I N I O N

The above matters were consolidated for hearing which
was held before Examiner Rogers in Tehachapi on January 4, 1973.

Background

By Decision No. 78094, dated December 15, 1970, in Case No. 9073, Tehachapi Mountain Water Co. (Tehachapi),^{1/} with a total of 22 customers, was found to be a public utility water corporation, and Charles E. Cook and Charles E. Cook and Sons, Inc., were found not to be such.

Decision No. 78094 included the following findings:

"1. Tehachapi Mountain Water Service, hereinafter Tehachapi, is a public utility water corporation providing water service to approximately 22 customers in a portion of the unincorporated area of Kern County, California, approximately five miles west of the City of Tehachapi. The complaint, as related to Charles E. Cook, Charles E. Cook II, Charles E. Cook III, George Cook, Arthur Cook, and Charles E. Cook and Sons should be dismissed."

"4. Tehachapi should be restricted from extending its service area without further order of the Commission because its potential water supply and Brite Basin water rights are insufficient for ultimate development of its service area."

"5. Outages in 1969 were caused by pumping equipment failures. Low pressure problems in Tehachapi's service area were caused by insufficient sources of water supply to meet the peak domestic and irrigation demands. Tehachapi should re-equip and connect Well No. 3 to the water system, and restrict irrigation usage during periods of peak demand."

"7. Some of the system-wide service interruptions in water were caused by lack of valves in Tehachapi's distribution system. Tehachapi should be required to install additional valves as required by Section IV.3.c. of General Order No. 103."

"8. No additional services should be supplied from the undersized 2-inch plastic pipe which is approximately 700 feet long."

^{1/} Tehachapi's articles of incorporation show the official name of Tehachapi to be Tehachapi Mountain Water Co. Decision No. 78094, for some unexplained reason, changes the name to Tehachapi Mountain Water Service.

"12. Tehachapi should not extend its service area without demonstrating its financial ability to do so."

The Commission concluded that the complaint should be dismissed as to Charles E. Cook, Charles E. Cook II, Charles E. Cook III, George Cook, Arthur Cook, and Charles E. Cook and Sons, Inc., and that Tehachapi should be required to furnish water service as a public utility water corporation, subject to certain terms and conditions.

C. 9431 - John W. Hicks

This complainant commenced using the water service in June 1971. He purports to represent other consumers, none of whom signed the complaint.

His complaints are:

1. The schedule of rates should be revised.
2. Leaks in the system should be repaired and the defendant required to keep the system in good working order.
3. Service outside the service area should be prohibited.
4. Additional shutoff valves should be installed.
5. A company-owned well (No. 3) should be connected to the system.
6. The company's billing form should comply with the Commission's requirements.

The Rates

The greater portion of Mr. Hicks' complaint related to the rates. It was pointed out to him that he, individually, had no standing to complain about the level of rates (Rule No. 9, Order Revising Rules of Practice and Procedure) and he appeared to be satisfied. The staff engineer pointed out that the rates being charged are those defendant was ordered to file by Decision No. 78094.

The staff engineer stated that electrolysis has caused leaks from time to time and they have been repaired. He said he discussed problems relating to leaks in the mains with the defendant and that there were no visible leaks in November 1972, but the defendant stated that leaks had occurred and had been repaired as material and equipment were available. The engineer said that for the first ten months of 1972 defendant had gross operating revenues of \$4,383 and gross operating expenses, excluding depreciation, of \$4,994.

The engineer said there were no employees retained on a full-time basis by defendant, and that operations and repairs are carried out by the defendant or by local contractors on an individual job basis.

The engineer stated that shutoff valves have been installed at four locations (Attachment B to Exhibit No. 1), so repairs may be made without shutting down the entire system.

The complainant also objected to the billing form as it fails to include the statement required by defendant's tariff (Rule 5-B) relative to time of payment and deposit with the Commission in the event of dispute. The defendant admitted this omission and agreed to change the billing form.

The controversy regarding the apple orchard outside the service area and served from Well No. 3 is unclear. The record shows that Well No. 3 has been used to serve the orchard with surplus water. We are not disposed to discontinue such service. The well is presently not connected to the system. The staff engineer recommended that Well No. 3 be connected to Well No. 2 through a 6-inch line (Exhibit No. 1, Attachment B). This appears to be a reasonable solution and surplus water can still be supplied to the orchard.

C. 9438 - William P. Boles

The complaint names Cook and Sons, Inc. as the defendant. The Commission has heretofore held that Cook and Sons, Inc., is not a public utility water corporation. The water purveyor for the complainant's area is the Tehachapi Mountain Water Co., as the Commission found on December 15, 1970.^{2/} Prior to that date, Cook and Sons, Inc., had agreed to furnish water to four parcels of land in defendant's service area (Attachment A to Exhibit No. 2) on conditions which violated main extension agreement requirements. Such main extension agreements are a basic part of all public utility water corporations' tariffs, whether filed or not, and defendant has such a tariff. Any agreements not in accordance therewith are illegal.

The staff engineer filed a report (Exhibit No. 2) which shows the following:

By Decision No. 78094, the Commission required that the defendant file "a tariff service area map clearly indicating the area actually being served, ... The service area map should include Tracts Nos. 2359 R/S and 2439 R/S and seven adjacent parcels."

In compliance with the decision, the defendant filed Tariff Sheet S-W showing the service area (Attachment A to Exhibit No. 2). Complainant's property is Parcel Map No. 151 thereon, is inside the service area, and is one of the seven adjacent parcels specified in Decision No. 78094, Ordering Paragraph 5.

^{2/} Inasmuch as the complaint in the Boles case covers essentially the same matters as the Hicks case, we will substitute Tehachapi Mountain Water Co. as the defendant in Case No. 9438. We find no prejudice to the utility as a result of this substitution.

The homes now on complainants' property are served through a 2-inch plastic pipe, 700 feet long, extending along Banducci Road from a pump station on the south to the southwest corner of complainants' property which consists of four lots with a total of 13.02 acres (map attached to complaint). The complainants allege that defendant agreed to furnish water to all of the four parcels but has refused to do so. Defendant relies on ordering paragraph 9 of Decision No. 78094 which provides that defendant "...shall not extend its mains to serve additional customers without further order of the Commission nor shall it serve additional customers off the existing 2-inch plastic pipe which is approximately 700 feet long."

The staff engineer stated that an inspection of the distribution system shows that the complainants' property can be served by the extension of approximately 1,100 feet of 4-inch main in an existing street and easement, and that this extension can be connected to an existing 4-inch main as shown on Attachment A to Exhibit No. 2. The engineer recommended that the connection be made.

Findings

1. Defendant, Tehachapi Mountain Water Co., is a public utility water corporation. Cook and Sons, Inc., is not a public utility and is not subject to the jurisdiction of this Commission. The records of this Commission should be corrected by changing reference to Tehachapi Mountain Water Company or Tehachapi Mountain Water Service to Tehachapi Mountain Water Co., the true name. In both Case No. 9431 and Case No. 9438, the defendant is Tehachapi Mountain Water Co.

2. Defendant is charging and collecting the rates authorized by this Commission.

3. Defendant maintains its water system in good condition and repairs any leaks within reasonable times.

4. Defendant has an appropriate number (four) of shutoff valves in place and can shut off small portions of the system without affecting the remaining portions of the system.

5. Defendant is operating at an out-of-pocket loss without including depreciation. It has sufficient water. It also has an unconnected well (No. 3) which it has been ordered to connect to the system. As soon as funds are available, but not later than December 31, 1973, Well No. 3 should be connected to Well No. 2 by a 6-inch main.

6. Defendant should include the statement contained in its Rule 5-B in its billing forms.

7. Defendant should be permitted to continue selling surplus water to customers contiguous to Well No. 3 and outside its service area, but should advise such customers that the water so delivered is surplus water and the delivery may be terminated at any time without notice. Such notice should be served at least annually on each surplus water customer and a copy, with affidavit of service, filed with the Commission.

8. Defendant should be required to serve the property described as Parcel Map No. 151 on Attachment A to Exhibit No. 2 through a 4-inch main as shown on said attachment pursuant to defendant's filed main extension rule. At the time service is extended as stated defendant should disconnect the 2-inch line from the pump station along Banducci Road to the southwest corner of the property described on Parcel Map No. 151.

Conclusions

1. The records of the Commission should be corrected to show that the true name of the defendant in each case herein considered is Tehachapi Mountain Water Co. The Tehachapi Mountain Water Co. should be substituted as defendant in Case No. 9438 in place of Cook and Sons, Inc.

2. Defendant is charging the lawful rates authorized by this Commission. These rates are inadequate to give defendant a reasonable rate of return; defendant should file for a rate increase at the earliest practicable time.

3. Defendant should be required to connect Well No. 3 to Well No. 2 as soon as funds are available.

4. Defendant should revise its bill form to include the information required by its Rule 5-B.

5. Defendant should be required to extend a 4-inch main to serve complainant's property described on Parcel Map No. 151, the expenses of such extension to be advanced by complainants in accordance with defendant's main extension rule.

6. The 2-inch line from the pump station on Banducci Road to the property described on Parcel Map No. 151 should be physically removed.

O R D E R

IT IS ORDERED that:

1. All references in Decision No. 78094 dated December 15, 1970 in Case No. 9073 to Tehachapi Mountain Water Service are changed to Tehachapi Mountain Water Co.
2. Tehachapi Mountain Water Co. shall connect Well No. 3 to Well No. 2 by a 6-inch main no later than December 31, 1973.
3. Tehachapi Mountain Water Co. shall amend its billing forms to include a copy of its Rule 5-B.
4. Tehachapi Mountain Water Co. annually shall advise, in writing, those customers outside its service area who are being furnished surplus water that the water they are receiving is surplus water and that delivery thereof may be terminated at any time without notice. Copies of such notices, together with an affidavit or affirmation of mailing to each such surplus water user, shall be filed with the Commission within thirty days after mailing.
5. Tehachapi Mountain Water Co. shall extend service to the property described as Parcel Map No. 151 on Attachment A to Exhibit No. 2 through a 4-inch main, as shown on Attachment A, pursuant to its filed main extension rule. At the time such service is extended, Tehachapi Mountain Water Co. shall disconnect the 2-inch line for the pump station along Banducci Road to the southwest corner of the property described on Parcel Map No. 151.

6. Except as modified herein, Decision No. 78094 shall remain in full force and effect.

The effective date of this order shall be twenty days after the date of personal service of a copy of this decision on the Tehachapi Mountain Water Co.

Dated at San Francisco, California, this 13th day of MARCH, 1973.

Vernon L. Stinson
President
William J. Young
W. J. Moran
Commissioners

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