

ORIGINAL

Decision No. 82179

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the status, rates,
rules, regulations, operations,
service, facilities, equipment,
contracts and practices of
NANCY C. JOHNSON and LUIS S. KING,
individuals, doing business as
PINE MOUNTAIN WATER COMPANY.

Case No. 9355
(Filed March 28, 1972)

Luis Shaw King, for Pine Mountain Water Company,
respondent.

Craig McManigal, Attorney at Law, for owners of
real property in Unit III and surrounding area,
interested parties.

Peter Arth, Jr., Attorney at Law, and J. E. Johnson,
for the Commission staff.

O P I N I O N

After due notice hearings on this investigation on the Commission's own motion were held on March 19 and September 4, 1973 before Examiner Coffey in San Francisco. The matter was submitted on September 7, 1973 upon the receipt of the transcript.

This investigation was instituted for the purpose of determining:

1. Whether respondents, or either of them, should be ordered to continue in the performance of public utility service until prior Commission authorization for acquisition of their public utility water company by another legal entity is granted pursuant to Section 851 of the Public Utilities Code.

2. Whether any such transfer as set forth above that may have already occurred should be declared void pursuant to Public Utilities Code Section 851.

3. Whether the operations, rates, rules, regulations, tariff schedules, service, facilities, equipment, contracts, and practices of respondents, or either of them, are unreasonable or inadequate and should be ordered corrected by respondents, or either of them.

4. Whether respondents, or either of them, should be ordered to cease and desist from any and all unauthorized practices, conduct, or operations, should they be found to exist.

5. Whether any other order or orders should be issued by the Commission in the lawful exercise of its jurisdiction.

Nancy C. Johnson, respondent, did not attend or have a representative attend either of the hearings in this proceeding. Her present address is in Tacoma, Washington, where she received notice of the initial hearing.

In a related case, Case No. 9255, filed by H. H. Morse against respondents, the staff investigation disclosed that respondents had not complied with many requirements of the Commission. Case No. 9355, the current proceeding, was ordered by the Commission to clarify the ownership, operating practices, and other utility obligations which the present owners appear to have been ignoring.

Scope of Staff Investigation

On September 12, 1972 a staff engineer made a field inspection of the area served. A staff letter dated September 18, 1972, addressed to Nancy Johnson, requested compliance with former Commission decisions, the status of Luis S. King, and the filing of annual reports for the years 1969, 1970, and 1971. By letter dated October 4, 1972 Luis S. King was asked to produce evidence that he was no longer a partner in Pine Mountain Water Company and if he had utility records in his possession. This letter was not answered.

On December 12, 1972, a staff engineer had a conference with Nancy Johnson and Luis S. King in Visalia. Mr. King states that he was no longer a partner in Pine Mountain Water Company. Nancy Johnson agreed to file the delinquent annual reports and to prepare an application requesting the Commission to authorize her to acquire the interest of Luis S. King in Pine Mountain Water Company. She stated that Pine Mountain Ranch Unit No. 3, Tract 486, had been refiled with the county as Tract 529 on August 11, 1971, and that this map filing was still in process.

Decision No. 80248

Decision No. 80248 in Case No. 9255 required respondents to install a hydropneumatic system on or before September 15, 1972. The staff witness testified the ordered system had not been installed as of December 13, 1972. The witness testified that the ordered hydropneumatic system would be useful as a standby device but is not presently necessary to supply water. We shall not attempt to enforce Decision No. 80248 in this proceeding, leaving to civil action or further complaint to this Commission by Mr. Morse the resolution of any differences between Mr. Morse and respondents, which arise from interpretation of the original agreement which sets forth the condition under which the Rainbow Ranch area developed by Mr. Morse would be supplied water service by respondents.

Service Conditions

The staff report indicates that the 37 customers of the utility are now being supplied with acceptable water service from Well No. 1 in conjunction with a 64,000-gallon storage tank. A second well has not been provided with a pump. The report stated that the utility's claimed water supply of 7 gallons per minute from a remote spring, which would require 1,400 feet of pipeline and water treatment under current health department standards, is not practical.

The water plant, as constructed, for Units Nos. 1 and 2 of Pine Mountain Ranch was changed from that proposed to the Commission when certification was requested. Furthermore, the staff is informed that the map filing acceptable to the county which is needed before the county will approve Unit No. 3 will be significantly different from that available to the staff in 1967. There is no elevation within the original Unit No. 3 which is compatible with the level of the present 64,000-gallon storage tank. It is suggested by the staff that these changed conditions require a new evaluation of water supply and water plant design before expansion beyond Unit No. 2 is allowed. While accepting that an unproven water supply of 60 gallons per minute is probably adequate for the 156 lots in the service area, the staff maintained that expansion should be based on a new source and simultaneous measured pumping tests of all sources for 72 hours.

Initial Staff Recommendation

After concluding that respondents have ignored the normal responsibilities of making annual reports to the Commission and have failed to comply with prior general and specific orders of the Commission, the staff recommended that respondents be ordered to file a new service area map deleting from its present map the area identified as Tract No. 486 as authorized in Decision No. 73312 dated November 7, 1969 in Application No. 49328 and that respondents should individually or jointly be subject to penalties provided by Division 1, Part 1, Chapter 11 of the Public Utilities Code.

Public Response

Various individuals own or have interest in property in the area of and including Tract No. 486. They are currently planning to develop these properties in hopes of recouping some of the money borrowed by Nancy C. Johnson. Counsel for these individuals requested that the staff recommendation be held in abeyance until they could arrange a new owner of the water system with financial responsibility and ability to operate the system.

This matter was continued pending resolution of system ownership.^{1/}

On September 4, 1973 counsel for the property owners reported that respondent Johnson was agreeable to relinquishing any interest in the water system to respondent King; that annual reports for 1966, 1967, 1969, and 1970 had been filed; and that the books and records of Pine Mountain Water Company were enroute to him from respondent Johnson.

Respondent King stated that he was willing and able to take over operation of the utility; that he would undertake to file annual reports for 1971 and 1972;^{2/} that he would advise the utility's customers of the change in management of the utility and where to remit payments; and that he would continue to operate the system until relieved of his public utility responsibilities by an order of this Commission.

It was agreed by the parties that in lieu of the staff recommendation to delete Tract No. 486 from the utility's service area that it would be acceptable to order that the utility not serve

^{1/} We note that King has not been relieved of his public utility responsibilities since no request therefor had been presented to this Commission.

^{2/} Pine Mountain Water Company annual reports for 1971 and 1972 were received by the Commission on October 12, 1973.

any area outside of Tracts 1 and 2 and Rainbow Ranch until such time as tests are completed which demonstrate the adequacy of the supply of water.

Findings and Conclusion

1. Mr. Luis S. King is the present operator of Pine Mountain Water Company.
2. Mrs. Nancy C. Johnson has not been relieved of her public utility responsibility for the water system known as the Pine Mountain Water Company.
3. Mr. Luis S. King has the financial resources and ability to operate the Pine Mountain Water Company.
4. There are 156 developed lots in Units Nos. 1 and 2 and in the Rainbow Ranch area of the Pine Mountain Water Company service area.
5. The present unproven water supply of 60 gallons per minute of the Pine Mountain Water Company is not adequate to serve lots other than the developed lots in Units Nos. 1 and 2 and in the Rainbow Ranch area.

We conclude that Pine Mountain Water Company should be limited to service Units Nos. 1 and 2 and to the Rainbow Ranch area until such time as tests are completed which demonstrate the adequacy of its supply of water to serve customers in its entire artificial area.

O R D E R

IT IS ORDERED that until further order of this Commission, the Pine Mountain Water Company shall not serve water to any lot

outside the 156 developed lots in Units Nos. 1 and 2 of the Pine Mountain Subdivision and in the Rainbow Ranch area of its presently certificated service area.

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

Dated at San Francisco, California, this 27th
day of NOVEMBER, 1973.

Vernon L. Sturgeon
President
William J. ...
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Commissioners