Decision 87 11 020

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| GILBERT FOWLER and RICK ARNOLD,<br><br>Complainants,<br><br>vs.<br><br>HENRY GUENTHER and JAMES A. COLSEN, both dba CERES WEST MOBILEHOME PARK,<br><br>Defendants. | Case 86-03-008<br>(Filed March 6, 1986) |
| GILBERT FOWLER and RICK ARNOLD,<br><br>Complainants,<br><br>vs.<br><br>Ceres West Investors, a California Limited Partnership: Paul R. Olson; David H. Pitzen; Jennifer L. Pitzen; Henry Nishihara; Michael Sheehan; Shannon Sheehan, dba Ceres West Mobilehome Park, and Does I-X,<br><br>Defendants. | Case 87-03-017<br>(Filed March 10, 1987) |

California Rural Legal Assistance, by Ricardo Cordova, Attorney at Law, for Gilbert Fowler and Rick Arnold, complainants.
Biddle and Hamilton, by Richard L. Hamilton, Attorney at Law, for Henry Guenther and James A. Colsen, dba Ceres West Mobilehome Park, defendants.

## O P I N I O N

Gilbert Fowler and Rick Arnold (complainants) request an order finding that Henry Guenther and James A. Colsen dba Ceres West Mobilehome Park (defendants) are operating a water utility as

defined in Section 2701 et. seq. of the Public Utilities Code (PU Code) subject to the jurisdiction of the Public Utilities Commission and requiring that defendants file tariffs to cover their operations.

Defendants' answer filed April 6, 1987, admitted that defendant Guenther owns, controls, and operates a mobilehome park and sells and delivers water to complainants, but avers that he is not now operating under the jurisdiction, control, and regulation of the Commission and requests that the relief requested be denied and the complaint be dismissed. The answer states defendant Guenther acquired ownership of the Ceres West Mobilehome Park (park) in August 1982. Defendant Colsen's only interest in the park was as an employee manager, whose duties as manager ceased as of January 1, 1986.

The park consists of 43 mobilehome park spaces, a duplex, a frame house, and a common area laundry facility. Complainants each occupy a mobilehome space. Water is obtained from a well on the park premises and distributed to tenants through a newly metered distribution system. No water is provided nor is any water offered to non-tenants.

Prior to October 1, 1985, water was delivered to park tenants as part of their lease payments. On July 1, 1985, tenants received a 60-day notice that effective October 1, 1985, there would be a charge for water in addition to the monthly rent. Rates to be charged were set at $7.50 for the first 8,000 gallons and $1.00 for each additional 1,000 gallons. The notice stated that tenants with one-year leases on file would not be charged for water during the lease term ending July 3, 1986, and that beginning August 1, 1986, all tenants would be obligated to pay for water at the above rate.

Hearing on the complaint was held July 29, 1986, in San Francisco at which time the matter was submitted subject to the filing of concurrent briefs by August 12, 1986.

In Decision (D.) 86-11-075 the Commission found that the evidentiary record was incomplete in certain respects, and set aside submission and reopened the proceeding to determine:

a. The financial condition of defendants Guenther and Colsen.

b. The current condition of defendants' system.

c. Whether the facilities met the standards set forth in General Order (GO) 103.

d. The cost needed to bring the facilities and system up to GO 103 standards.

e. The effect the cost of meeting GO 103 standards would have on any rates should defendants be found to be a public utility.

On December 22, 1986, defendants Guenther and Colsen filed a petition for modification of D.86-11-075 alleging that the information sought by the Commission through the staff investigation is not relevant to the threshold issue of whether defendant Guenther is a public utility subject to the Commission's jurisdiction. Defendants argue that the uncontradicted evidence adduced at the hearing established defendant, as a landlord, in a landlord-tenant relationship with complainants. Defendants state the initial issue to be decided is whether defendant, in providing water service in a landlord-tenant relationship, is a public utility subject to the Commission's jurisdiction and that the evidentiary record is complete for making that determination. They state that only after the threshold issue of public utility status is decided could the information sought by the Commission in D.86-11-075 become relevant. Defendants also asserted that the complaint (Case (C.) 86-03-008) is moot since Guenther sold his interest in the park or about December 17, 1986.

agreement which states that water is to be provided by defendant and that (2) defendant has a statutory duty (Title 25 of the California Administrative Code Section 1270, Health and Safety Code Sections 17920.3(a)(5) and 17995, and Civil Code Section 1941.1 (c)) to provide a reasonable, efficient water supply to complainants. Complainants aver that no tenant is refused service and that the system is operated by and under the exclusive control of defendants; they argue that this is conclusive proof of dedication making the system a public utility.

Defendants in turn argue that they only deliver and sell water for domestic purposes to persons renting park space, the operation of which is governed by the Mobilehome Residency Law (Civil Code Section 798 et. seq.). Defendants state that the parties are in a landlord-tenant relationship with tenants subject to eviction, that entitlement to water is directly tied to the tenants' rental space, and the agreement to supply water is only a part of the overall lease agreement.

Defendants also argue that Section 2704 of the PU Code is applicable to the facts herein since there has been no dedication to public use. Section 2704 provides:

> "Any owner of a water supply not otherwise dedicated to public use and primarily used for domestic or industrial purposes by him or for the irrigation of his lands, who (a) sells or delivers the surplus of such water for domestic or school district purposes or for the irrigation of adjoining lands or (b) in an emergency water shortage sells or delivers water from such supply to others for a limited period not to exceed one irrigation season, or (c) sells or delivers a portion of such water supply as a matter of accommodation to neighbors to whom no other supply of water for domestic or irrigation purposes is equally available, is not subject to the jurisdiction, control, and regulation of the Commission."

# CORRECTION

THIS DOCUMENT HAS

BEEN REPHOTOGRAPHED

TO ASSURE

LEGIBILITY

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a. The financial condition of defendants Guenther and Colsen.

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Complainants responded to defendants' petition on January 1, 1987, asserting that the sale of the park by defendant Guenther does not make the action moot and requesting authority to amend the complaint naming the new owners as defendants.

On March 10, 1987, complainants filed complaint C.87-03-017 against Ceres West Investors, a California limited partnership and successors in interest to defendant Guenther in Ceres West Mobilehome Park. The complaint contained the identical allegations as those in complaint C.86-03-008. Complainants requested that the two complaints be consolidated since the facts are the same and Ceres West Investors are successors in interest in Ceres West Mobilehome Park. Ceres West Investors filed its answer on April 6, 1987, taking the same position as defendants Guenther and Colsen in C.86-03-008, i.e., that the landlord-tenant relationship exists and there is no public utility operation.

The sale of the park in December 1986 to Ceres West Investors, does render the complaint (C.86-03-008) against defendant Guenther moot since he no longer has any interest in the park and cannot be said to be operating a public utility. Further, defendant Colsen, only the manager of Ceres West Mobilehome Park, never had any financial or beneficial interest in the park. Accordingly, we will dismiss the complaint against Guenther and Colsen and consider the merits of C.87-03-017 to determine whether defendant Ceres West Investors is operating as a public utility.

We agree with defendants that the issue of public utility status must be resolved before the information ordered in D.86-11-075 becomes relevant.

Complainants aver that defendants have dedicated the system to the public, that they are operating as a water utility as defined in Section 2701 et. seq. of the PU Code and that the exemption from Commission jurisdiction provided in Section 2704 is not applicable. Complainants argue that dedication is shown by the fact that (1) each tenant is required to enter into a lease

agreement which states that water is to be provided by defendant and that (2) defendant has a statutory duty (Title 25 of the California Administrative Code Section 1270, Health and Safety Code Sections 17920.3(a)(5) and 17995, and Civil Code Section 1941.1 (c)) to provide a reasonable, efficient water supply to complainants. Complainants aver that no tenant is refused service and that the system is operated by and under the exclusive control of defendants; they argue that this is conclusive proof of dedication making the system a public utility.

Defendants in turn argue that they only deliver and sell water for domestic purposes to persons renting park space, the operation of which is governed by the Mobilehome Residency Law (Civil Code Section 798 et. seq.). Defendants state that the parties are in a landlord-tenant relationship with tenants subject to eviction, that entitlement to water is directly tied to the tenants' rental space, and the agreement to supply water is only a part of the overall lease agreement.

Defendants also argue that Section 2704 of the PU Code is applicable to the facts herein since there has been no dedication to public use. Section 2704 provides:

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Finally, defendants argue that though not obtaining water from a water corporation, the exemption from Commission jurisdiction for mobilehome parks provided in Section 2705.5 should apply to the circumstances herein. That section provides:

> "Any person, firm, or corporation, and their lessees, receivers, or trustees appointed by any court, that maintains a mobilehome park or a multiple unit residential complex and provides, or will provide, water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the Commission if each user of the submeter service system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation."

We have reviewed the record herein and have determined that a decision can be rendered without further pleadings or hearing.

The facts in this case are not in dispute. The park has its own well, which provides water that is sold only to the 43 park tenants under the terms of the lease agreement each tenant is required to sign. No water is delivered, sold, or offered for sale to anyone else. The well provides water only to tenants for domestic use.

By providing water to tenants of the mobilehome park, do defendants become the operators of a public utility? We think not.

By operating a water system and selling water to their tenants, defendants appear to be operating a public utility, as defined by PU Code Section 2701, which is subject to our jurisdiction unless it falls within the statutory exemptions set forth in the PU Code. In addition to falling within the statutory definition, however, an alleged public utility must be found to have held itself out as willing to supply service to the public or any portion thereof and have thus dedicated its property to public use before we can find it to be a public utility subject to our

jurisdiction (Richfield Oil Corporation v. Public Utilities Commission, 54 C.2d 419, (1960).

In S. Edwards Associates v. Railroad Commission, 196 C.62, at 70 (1925), the California Supreme Court applied this "dedication" principle to a case involving the Commission's determination that a water company was a public utility, and stated that: "The test to be applied...is whether or not those offering the service have expressly or impliedly held themselves out as engaging in the business of supplying water to the public as a class, 'not necessarily to all of the public, but to any limited portion of it, such portion, for example, as could be served from his system....'" A number of subsequent cases reaffirm the validity of this test of public utility status (see e.g., Yucaipa Water Company No. 1 v. Public Utilities Commission, 54 C.2d 823, at 827 (1960)).

The facts in this case lead us to conclude that defendant has not dedicated its property to public use.

First, it is evident that the provision of a water supply to tenants is incidental to the defendants' primary business of running a mobilehome park. In applying the statutory definitions of the Public Utilities Code and the Richfield Oil Company, supra, "dedication to public use" analysis over the years, "the Commission has consistently drawn the line short of persons who do not 'hold themselves out as providers of public utility service'" (D.85-11-057 (Slip Opinion at p. 76)). D.85-11-057, which authorized customer-owned pay telephone service, found that coin operated pay telephone operators who provide telephone service only as an incidental part of their principal businesses and do not hold themselves out as offering telephone service to the public will not be public utilities. At the same time, the decision acknowledged that those who operate pay telephones as more than an incidental sideline business would be public utilities (ID., at 79-81). D.85-11-057 relied heavily on the principles set forth in an

earlier Commission decision, California Hotel & Motel Association v. Pacific Telephone & Telegraph (CH&MA v. PT&T), 84 CPUC 352, (1978), which held that hotels and motels were not public utilities simply because they make telephone systems available to guests as an incidental part of the hotel or innkeeping business.

Rejecting staff arguments that hotels and motels were indeed public utilities, the Commission in CH&MA v. PT&T noted that:

> If the staff were correct in its assumptions, there would be many other "public utilities" in other areas never thought of as such before. Many apartment houses sub-meter electricity and gas to their tenants. While we have protected the tenants by requiring certain conditions and limitations in the electric or gas utility's sub-metering tariffs, we have never held such apartment houses to be public utilities, nor should we. Apartment houses are in the business of renting to tenants, and the furnishing of electricity and gas is simply part of the rental business.

The logic applied by the Commission in CH&MA v. PT&T with regard to hotel and motel provision of telephone service, and in D.85-11-057 with regard to incidental coin operated pay telephone service, is equally applicable to the issue of whether the incidental provision of water service by a mobilehome park landlord makes that landlord a public utility. On that basis we find here that the defendants' incidental provision of water service to the tenants of their mobilehome park does not by itself make their water system a public utility subject to our regulation. We note that if the provision of water service were a principal line of business, and not a minor element of the overall mobilehome park operation, the result might well be different (see, D.85-11-057, supra,).

Furthermore, while defendants were providing water to tenants as part of the monthly rental, complainants did not suggest there was any dedication to public use. Had the monthly rental

been increased to cover the cost of providing water to tenants, there would have been no suggestion of dedication. Only after meters were installed to cover increased costs associated with providing water did the argument of a public utility operation surface. Would removal of the meters transform the alleged public utility operation to that of a non-utility? Using complainants' logic, disconnection of the meters would return service to that prior to the connection, i.e. non-utility operation.

A finding of dedication to public use may be based on explicit statements or may be implied from the actions of an alleged public utility, but in any event such a finding requires evidence of an unequivocal intent to dedicate (California Water and Telephone Company v. Public Utilities Commission, 51 C.2d 478, (1959)). The facts of this case do not disclose such unequivocal intent. We therefore do not find that defendants have held themselves out as offering utility service to the public and therefore dedicated their property to a public use to the extent necessary to support a determination that they are operating a public utility subject to our jurisdiction.

Even if we found that defendants had dedicated their water system to public use, our assertion of jurisdiction would not be a foregone conclusion. We would first need to evaluate defendants' claims that PU Code Sections 2704 and 2705.5 provide them with an exemption from our regulation. Although a review of these claims is not essential to our resolution of the present case, we believe a brief discussion of the issues may nonetheless be useful to the parties.

PU Code Section 2704 provides that "[a]ny owner of a water supply not otherwise dedicated to public use and primarily used for domestic or industrial purposes by him or for the irrigation of his lands," is not subject to the jurisdiction of the Commission even though they sell water to others under certain circumstances. Here, defendants' water supply is not primarily

used for domestic or industrial purposes by defendants or for the irrigation of their lands, but rather is used primarily for domestic consumption by the tenants of the mobilehome park. Since defendants do not meet any of the fundamental "primary use" standards of Section 2704, we would not even reach the question whether their water sales are exempt under one of the circumstances set forth in Section 2704.

Under PU Code Section 2705.5, "[a]ny person...that maintains a mobilehome park...and provides...water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the commission if each user of the submeter system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation." There is nothing in the express language of the section that suggests that it would apply to a mobilehome park supplying water from its own well, rather than receiving it from a utility.

We note that PU Code Section 2705.5 would not have been necessary if the legislature felt there were no circumstances under which landlords of mobilehome parks or multiple unit residential complexes could be public utilities subject to the Commission's jurisdiction. We believe that those who drafted Section 2705.5 must have assumed that there were some circumstances under which landlords providing water service would be public utilities subject to our regulation. This section suggests, by negative implication, that the mere existence of a landlord-tenant relationship is not sufficient to prevent the Commission from asserting jurisdiction over a landlord who provides utility services.

Finally we note that even though we find that defendants' water system is not subject to our jurisdiction, the Mobilehome Parks Act (Health and Safety Code Section 18200 et. seq.) permits city or county authorities to regulate the "construction and use of equipment and facilities located outside of a manufactured home,

mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility..." (Health and Safety Code Section 18300(g)(2)). Thus, defendants' water supply operations are not entirely free from governmental scrutiny.

Because defendants have not dedicated their mobilehome park water system to public use, we conclude that the defendants' water system is not a public utility. The complaints should be dismissed.

Findings of Fact

1. Defendant Ceres West Investors owns and operates the Ceres West Mobilehome Park (Park). Defendant Colsen has never had a financial or other interest in the park. Defendant Guenther sold the park to Ceres West Investors in December 1986 and no longer has any interest in the park.

2. Complainants are tenants of the Ceres West Mobilehome Park.

3. Prior to October 1, 1985, water was delivered to Park tenants as part of their rental payment.

4. Tenants were notified that effective October 1, 1985, there would be a separate charge for water consumption.

5. Ceres West Mobilehome Park provides water from its own well only to its tenants.

6. The provision of a water supply to tenants is incidental to Ceres West Investors' primary business of running a mobilehome park.

7. There has been no dedication of the Ceres West Mobilehome Park water system to public use.

8. The remaining arguments of complainants and defendants do not require resolution.

Conclusions of Law

1. Defendant Ceres West Investors has not dedicated the Ceres West Mobilehome Park water system to use by the public or any portion thereof and is not operating a public utility.

2. The relief requested should be denied.

## O R D E R

IT IS ORDERED that the relief requested is denied; and the complaints, Cases 86-03-008 and 87-03-017, are closed.

This order becomes effective 30 days from today.

Dated November 13, 1987, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY.

Victor Weisser, Executive Director

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a. The financial condition of defendants Guenther and Colsen.

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We agree with defendants that the issue of public utility status must be resolved before the information ordered in D.86-11-075 becomes relevant.

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agreement which states that water is to be provided by defendant and that (2) defendant has a statutory duty (Title 25 of the California Administrative Code Section 1270, Health and Safety Code Sections 17920.3(a)(5) and 17995, and Civil Code Section 1941.1 (c)) to provide a reasonable, efficient water supply to complainants. Complainants aver that no tenant is refused service and that the system is operated by and under the exclusive control of defendants; they argue that this is conclusive proof of dedication making the system a public utility.

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Finally, defendants argue that though not obtaining water from a water corporation, the exemption from Commission jurisdiction for mobilehome parks provided in Section 2705.5 should apply to the circumstances herein. That section provides:

> "Any person, firm, or corporation, and their lessees, receivers, or trustees appointed by any court, that maintains a mobilehome park or a multiple unit residential complex and provides, or will provide, water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the Commission if each user of the submeter service system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation."

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By providing water to tenants of the mobilehome park, do defendants become the operators of a public utility? We think not.

By operating a water system and selling water to their tenants, defendants appear to be operating a public utility, as defined by PU Code Section 2701, which is subject to our jurisdiction unless it falls within the statutory exemptions set forth in the PU Code. In addition to falling within the statutory definition, however, an alleged public utility must be found to have held itself out as willing to supply service to the public or any portion thereof and have thus dedicated its property to public

use before we can find it to be a public utility subject to our jurisdiction (Richfield Oil Corporation v. Public Utilities Commission, 54 C.2d 419, (1960).

In Yucaipa Water Company No. 1 v. Public Utilities Commission, 54 C.2d 823, at 827 (1960), the California Supreme Court applied its Richfield logic to a case involving the Commission's determination that a water company was a public utility, and stated that: "The test to be applied ...is whether or not those offering the service have expressly or impliedly held themselves out as engaging in the business of supplying water to the public as a class, 'not necessarily to all of the public, but to any limited portion of it, such portion, for example, as could be served from his system...."

The facts in this case lead us to conclude that defendant has not dedicated its property to public use.

First, it is evident that the provision of a water supply to tenants is incidental to the defendants' primary business of running a mobilehome park. In applying the statutory definitions of the Public Utilities Code and the Richfield Oil Company, supra, "dedication to public use" analysis over the years,"the Commission has consistently drawn the line short of persons who do not "hold themselves out as providers of public utility service" (Decision D.85-11-057, (Slip Opinion at p. 76)). D.85-11-057, which authorized customer-owned pay telephone service, found that coin operated pay telephone operators who provide telephone service only as an incidental part of their principal businesses and do not hold themselves out as offering telephone service to the public will not be public utilities. At the same time, the decision acknowledged that those who operate pay telephones as more than an incidental sideline business would be public utilities (ID., at 79-81). D.85-11-057 relied heavily on the principles set forth in an earlier Commission decision, California Hotel & Motel Association v. Pacific Telephone & Telegraph (CH&MA v. PT&T), 84 CPUC 352, (1978),

which held that hotels and motels were not public utilities simply because they make telephone systems available to guests as an incidental part of the hotel or innkeeping business.

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Furthermore, while defendants were providing water to tenants as part of the monthly rental, complainants did not suggest there was any dedication to

public use. Had the monthly rental been increased to cover the cost of providing water to tenants, there would have been no suggestion of dedication. Only after meters were installed to cover increased costs associated with providing water did the argument of a public utility operation surface. Would removal of the meters transform the alleged public utility operation to that of a non-utility? Using complainants' logic, disconnection of the meters would return service to that prior to the connection, i.e. non-utility operation.

A finding of dedication to public use may be based on explicit statements or may be implied from the actions of an alleged public utility, but in any event such a finding requires evidence of an unequivocal intent to dedicate (California Water and Telephone Company v. Public Utilities Commission, 51 C.2d 478, (1959)). The facts of this case do not disclose such unequivocal intent. We therefore do not find that defendants have held themselves out as offering utility service to the public and therefore dedicated their property to a public use to the extent necessary to support a determination that they are operating a public utility subject to our jurisdiction.

Even if we found that defendants had dedicated their water system to public use, our assertion of jurisdiction would not be a foregone conclusion. We would first need to evaluate defendants' claims that PU Code Sections 2704 and 2705.5 provide them with an exemption from our regulation. Although a review of these claims is not essential to our resolution of the present case, we believe a brief discussion of the issues may nonetheless be useful to the parties.

PU Code Section 2704 provides that "[a]ny owner of a water supply not otherwise dedicated to public use and

primarily used for domestic or industrial purposes by him or for the irrigation of his lands," is not subject to the jurisdiction of the Commission even though they sell water to others under certain circumstances. Here, defendants' water supply is not primarily used for domestic or industrial purposes by defendants or for the irrigation of their lands, but rather is used primarily for domestic consumption by the tenants of the mobilehome park. Since defendants do not meet any of the fundamental "primary use" standards of Section 2704, we would not even reach the question whether their water sales are exempt under one of the circumstances set forth in Section 2704.

Under PU Code Section 2705.5, "[a]ny person...that maintains a mobilehome park...and provides...water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the commission if each user of the submeter system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation." There is nothing in the express language of the section that suggests that it would apply to a mobilehome park supplying water from its own well, rather than receiving it from a utility.

We note that PU Code Section 2705.5 would not have been necessary if the legislature felt there were no circumstances under which landlords of mobilehome parks or multiple unit residential complexes could be public utilities subject to the Commission's jurisdiction. We believe that those who drafted Section 2705.5 must have assumed that there were some circumstances under which landlords providing water service would be public utilities subject to our regulation. This section suggests, by

negative implication, that the mere existence of a landlord-tenant relationship is not sufficient to prevent the Commission from asserting jurisdiction over a landlord who provides utility services.

Finally we note that even though we find that defendants' water system is not subject to our jurisdiction, the Mobilehome Parks Act (Health and Safety Code Section 18200 et. seq.) permits city or county authorities to regulate the "construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility..."(Health and Safety Code Section 18300(g)(2)). Thus, defendants' water supply operations are not entirely free from governmental scrutiny.

Because defendants have not dedicated their mobilehome park water system to public use, we conclude that the defendants' water system is not a public utility. The complaints should be dismissed.

Findings of Fact

1. Defendant Ceres West Investors owns and operates the Ceres West Mobilehome Park (Park). Defendant Colsen has never had a financial or other interest in the park. Defendant Guenther sold the park to Ceres West Investors in December 1986 and no longer has any interest in the park.

2. Complainants are tenants of the Ceres West Mobilehome Park.

3. Prior to October 1, 1985, water was delivered to Park tenants as part of their rental payment.

4. Tenants were notified that effective October 1, 1985, there would be a separate charge for water consumption.

5. Ceres West Mobilehome Park provides water from its own well only to its tenants.

6. The provision of a water supply to tenants is incidental to Ceres West Investors' primary business of running a mobilehome park.

7. There has been no dedication of the Ceres West Mobilehome Park water system to public use.

8. The remaining arguments of complainants and defendants do not require resolution.

Conclusions of Law

1. Defendant Ceres West Investors has not dedicated the Ceres West Mobilehome Park water system to use by the public or any portion thereof and is not operating a public utility.

2. The relief requested should be denied.

O R D E R

IT IS ORDERED that the relief requested is denied; and the complaints, Cases 86-03-008 and 87-03-017, are closed.

This order becomes effective 30 days from today.

Dated NOV 13 1987, at San Francisco, California.

STANLEY W. HULETT
President
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.