

ORIGINAL

Decision No. 86549

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Theodore G. Ambrosio,

Complainant,

vs.

Temescal Water Co., a corporation,

Defendant.

Case No. 10090
(Filed April 26, 1976)

Theodore G. Ambrosio, for himself,
complainant.

Roy H. Mann, Attorney at Law, for
defendant.

Robert C. Durkin, for the Commission
staff.

O P I N I O N

Complainant, Theodore G. Ambrosio, seeks an order requiring defendant, Temescal Water Company, to grant irrigation water service to his approximately 6.4 acres of land located on Government Lot 3, Section 5, Township 4 South, Range 6 West, S.B.B.&M.

Public hearing was held before Examiner Johnson at Corona on July 28, 1976 and the matter was submitted. Testimony was presented on behalf of complainant by himself, on behalf of defendant by its general manager, and on behalf of the Commission staff by one of its engineers.

Complainant's Position

Testimony presented by complainant indicated that:

1. Defendant is currently selling irrigation water to two of his neighbors, one contiguous on the south and the other contiguous on the west.

2. The service area map filed by defendant in compliance with Decision No. 65115 dated March 19, 1963 in Case No. 6098 incorrectly indicated as areas being served land located outside the service area and omitted from the delineated service area land then being served by defendant.

3. If the service area map were corrected to conform to the actual area served his property would have been included within the dedicated service area.

4. A water meter located approximately 74 feet from the easterly boundary of an avocado grove on adjoining property was installed on January 27, 1954 and was still in service when the property was sold to the present owners in March 1959.

5. It would cost approximately 4.8 times as much to irrigate his property under the rate schedules of the city of Corona as it would under defendant's irrigation rates.

6. He presently receives water service from the city of Corona on its domestic rate schedule. Such water could be used for irrigating his land during those periods when irrigation water from Temescal Water Company is unavailable because of the closing of the Gage Canal.

Defendant's Position

Testimony presented by defendant's general manager indicated that:

1. The line crossing complainant's property is called the Arlington line and connects the end of Gage Canal to Corona.

2. The Arlington line consists of gravity feed sections of 30-inch non-reinforced concrete pipe and siphons of 24-inch steel pipe.

3. There are presently two irrigation services off of the Arlington line. These services are subject to interruption when the canal is shut down. Consequently water is supplied to a pond and is pumped from the pond to the irrigated land as needed.

4. With existing facilities service could only be rendered complainant on an interruptible basis from an existing siphon. Such service would require complainant to acquire a power source and a right-of-way from the siphon to his property.

5. Defendant has refused service to a rancher desiring irrigation for his ranch and a sand and gravel operation because of its inability to supply water under pressure on a continuous basis.

6. Before defendant was declared a public utility water was distributed to its stockholders on the basis of water to irrigate one acre of land for each two shares of stock owned by the person desiring service. There were 7 shares outstanding on the original property under discussion indicating that complainant was not holding itself out to provide irrigation service for the 11.56 acre parcel.

7. The shares of stock were issued under the condition that delivery of water under pressure was not guaranteed and that defendant had the right to discontinue delivering water from the Arlington line at any time that its Board of Directors determined that such delivery was not in the best interests of its stockholders.

8. Defendant's service area is steadily declining as subdivisions are built and served by the city of Corona water system.

Staff's Position

Testimony presented by one of the staff's engineers indicated that:

1. Irrigation service is currently provided by defendant to an avocado grove adjacent to complainant's 6.4-acre parcel.
2. Complainant acquired his parcel of land on January 21, 1963.
3. Complainant's parcel is contiguous to two parcels of land which receive metered irrigation service from defendant but there is no indication that complainant's property has ever been used for agricultural purposes or received irrigation service.
4. Complainant's property is within the service area and receiving domestic water from the city of Corona water system but is not within the irrigation service area of defendant.
5. Temescal Water Company was declared to be a public utility by this Commission in Decision No. 59443 dated December 29, 1959 in Case No. 6098. Service area maps filed pursuant to Decision No. 65115, dated March 19, 1963 in Case No. 6098 are not of sufficient detail to ascertain the precise location of isolated irrigation service customers.

Discussion

Case No. 6098 was an investigation into the status of Temescal Water Company and into the operation, rates, and practices of Temescal Water Company and Corona City Water Company. Decision No. 59443 dated December 29, 1959 declared Temescal to be a public utility subject to our jurisdiction. That decision was upheld by

the California Supreme Court (Corona City Water Co. v. Public Utilities Commission (1960) 54 Cal 2d 834). Decision No. 65115 dated March 19, 1963 stated: "It is difficult to define an existing service area inasmuch as Temescal apparently serves any entity owning land in the vicinity of Corona and Temescal Canyon and acquiring stock for such service, ..." (mimeo. page 3) and "...we concur in the staff's request that the outward limits of the service area be defined and that Temescal be required to serve all land within such outward boundaries. We find Temescal has dedicated its plant and water to serve the service depicted on Exhibits 18 and 19 herein." (mimeo. page 5). Exhibit 19 includes within its outward boundaries the land owned by the complainant.

The record shows that prior to becoming a public utility, water for irrigation was distributed to shareholders of Temescal on the basis of irrigation of one acre of land for each two shares.

It is obvious that only a three-acre portion of the original 11.56 acre parcel was being used for agricultural purposes. It is equally obvious that the amount of land being irrigated could have been increased by the simple expedient of purchasing more stock. It is axiomatic that the Decision No. 59443 finding that Temescal Water Company is a public utility subject to our jurisdiction was not intended to impose any restrictions on the expansion of irrigation service.

The record shows that defendant provides irrigation service to essentially the same area that the city of Corona provides domestic service. It is clear that there is a wide discrepancy in both the quality and cost of water provided by defendant and the city of Corona in the area near complainant's premises. The irrigation water provided by

defendant is untreated and subject to interruption whereas the water provided for domestic service by the city of Corona is treated and not subject to interruption. The difference in service is reflected in a difference in price. It would be inappropriate for us to require defendant to parallel the city of Corona's facilities to provide continuous service where such need can adequately be met by the city of Corona. It is equally obvious that a public utility should provide nondiscriminatory service within its service area. Complainant is within defendant's service area. The record contains no justification for defendant's refusal to provide the same type of irrigation service presently being provided to two of complainant's neighbors on contiguous property.

Findings

1. Complainant is presently receiving domestic water service from the city of Corona.
2. Complainant is desirous of obtaining irrigation service from defendant.
3. Defendant has the facilities and ability to provide irrigation service to complainant. Such service would be gravity feed and subject to interruption during such period as the Gage Canal is shut down.
4. Complainant would not be seriously inconvenienced during periods that defendant's irrigation service is unavailable because of his ability to meet his irrigation requirements with water provided by the city of Corona.

5. Complainant is within defendant's service area.
6. Defendant should provide similar service to complainant as is presently being provided to complainant's two neighbors on contiguous property.


The Commission concludes that the relief requested should be granted to the extent provided in the order which follows.

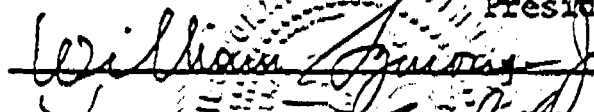
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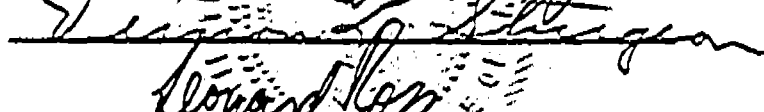
IT IS ORDERED that defendant, Temescal Water Company, provide irrigation service to complainant, Theodore G. Ambrosio, in accordance with its filed tariffs.

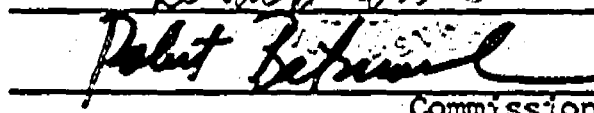
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 26th
day of OCTOBER, 1976.



President






Commissioners