

ORIGINAL

Decision No. 89708 DEC 12 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WINTON MANOR MUTUAL WATER COMPANY,
a nonprofit California corporation,
YOSEMITE GLASS COMPANY, a California
corporation, HOWARD McCULLOCH and
BUD RAYMOND,

Complainants,

vs

WINTON WATER COMPANY, INC.,

Defendant.

Case No. 10407
(Filed September 1, 1977)

Warren A. Palmer, Attorney at Law, for Winton
Manor Mutual Water Company, Yosemite Glass
Company, Howard McCulloch, and Bud Raymond,
complainants.

Sturgis, Ness & Brunsell, by Samuel A. Sperry,
Attorney at Law, for Winton Water Company, Inc.,
defendant.

Peter G. Fairchild, Attorney at Law, for the
Commission staff.

O P I N I O N

Complainants seek an order of the Commission redefining
the authorized and certificated service area of Winton Water Company,
Inc. (Winton) to exclude the area encompassed by Winton Manor
Units 2, 3, and 4 (Winton Manor), or such other order as the
Commission deems proper.

The complaint herein was consolidated for hearing with Case No. 10397, a Commission investigation of Winton. Public hearing in the consolidated proceeding was held in Winton on January 17 and 18, 1978. The complaint was submitted on May 30, 1978, the date of filing of complainants' closing brief. Case No. 10397 was continued for hearing and consolidated with Application No. 57771, the request of Winton for approval of a loan contract with State Department of Water Resources and for a rate increase. Official notice is taken of Interim Decision No. 88945 issued June 13, 1978, in Case No. 10397 and Application No. 57771.^{1/}

Background

Case No. 10009 was a complaint of Winton alleging that Yosemite Glass Company, Bud Raymond, and Howard McCulloch were operating a public utility water system in the certificated area of Winton without a certificate. That complaint requested the Commission to order the defendants to cease operations. Decision

^{1/} Decision No. 88945 found that Winton's water system is urgently in need of the improvements described in the application in order to assure an adequate supply of healthful drinking water to Winton's customers. That decision approved a loan of \$587,100 under the California Safe Drinking Water Bond Act of 1976 and authorized an increase in rates sufficient to repay the loan.

No. 86867 dated January 18, 1977, in Case No. 10009 contained the findings, conclusions, and order set forth below ^{2/}

2/ Decision No. 86867:

"Findings

"1. Winton holds a certificate of public convenience and necessity to operate as a water utility in the town of Winton, County of Merced.

"2. On October 2, 1975, Winton filed with the Commission a tariff map which showed its service area to include the area know as Winton Manor subdivision Units 2, 3, and 4.

"3. Defendants are the developers of Winton Manor.

"4. Defendants do not possess a certificate of public convenience and necessity to operate as a water utility.

"5. Winton and defendants, by Howard McCulloch, entered into a main extension contract on June 27, 1973, whereby Winton was to furnish public utility water to Winton Manor through water mains and service connections to be installed by defendants.

"6. The main extension contract provided that defendants were to install facilities to be used to provide public utility water service. The cost of the installed facilities, to be treated as an advance subject to refund, was not to exceed \$25,000. A well and pump were to be supplied by defendants. Complainant commenced furnishing water service to lot owners in Winton Manor in 1973.

"7. During the 1973-1975 period the complainant provided service to Winton Manor.

"8. The main extension contract was modified by oral agreement which provided that defendants were to purchase a larger storage tank to serve Winton Manor and complainant was to refurbish the tank.

"9. Complainant and defendants could not agree on who was to perform first under the oral modification.

"10. In April 1975 defendants commenced installation of a well. On September 2, 1975, after completion of the well, water service from Winton was terminated by defendants' physical disconnection of complainant's service.

"11. Until the defendants terminated service from Winton, the service area of Winton was interconnected with Winton Manor.

(Continued)

Decision No. 87108 dated March 15, 1977, denied rehearing and modified Decision No. 86867 as set forth below.^{2/}

2/ (Continued)

"Conclusions

"1. The Commission has jurisdiction over the issue raised in this proceeding.

"2. The filing of a tariff service area map or description for an area contiguous to the utility's certificated area which is interconnected with the utility's certificated area and for which a main extension contract has been executed has the effect of making the area a part of the utility's certificated area.

"3. Winton Manor is located in the Winton certificated area.

"4. The requested cease and desist order should be issued.

"O R D E R

"IT IS ORDERED that:

"1. Defendants Yosemite Glass Company, Bud Raymond, and Howard McCulloch shall cease and desist from furnishing water service to persons within the area known as Winton Manor Subdivision Units 2, 3, and 4.

"2. Further, said defendants shall cease and desist laying, maintaining, or furnishing water through pipes or lines laid for the Winton Manor Area."

3/ Decision No. 87108:

"IT IS ORDERED that Decision No. 86867 is modified to add the following findings and conclusions of law:

"FINDINGS

"12. Since September 2, 1975, the defendants have furnished water service to Winton Manor utilizing the well, pump and other facilities which were required under the main extension agreement or its oral modification.

"13. Winton Manor, the area at issue in this proceeding, consists of 15 buildings with three residences each (triplexes), 70 mobile home lots and 5 commercial lots.

"14. During October and November, 1975, after which the parties agreed to a trustee arrangement, defendants charged and collected for furnishing water service in Winton Manor at the rate of \$5.00 per month.

(Continued)

Evidence

Complainants presented six witnesses, including the president of the newly formed mutual water company and the developer that installed the water system in Winton Manor. Defendant presented evidence through its president. The evidence of the Commission staff was jointly introduced in this proceeding and in Case No. 10397.

Complainants' evidence showed that at the time of hearing the water pressure and water quality for residents of Winton Manor often was poor, and that water from the well installed by the developer for use by residents of Winton Manor was being diverted to other parts of defendant's system to the detriment of the residents located in Winton Manor.

Complainants also showed that on July 29, 1976, subsequent to the hearings in Case No. 10009, complainant Winton Manor Mutual Water Company (Mutual) was incorporated as a nonprofit mutual water

3/ (Continued)

"15. The water system used by defendants to furnish water service to Winton Manor has been dedicated to the public use.

"16. The actions of defendants in furnishing water service to Winton Manor are not exempted from the jurisdiction, control and regulation of this Commission by any provisions of Section 2704 of the Public Utilities Code.

"CONCLUSIONS

"Conclusion 2 is modified to read as follows:

'Plaintiff's filing a tariff service area map for an area contiguous to plaintiff's certificated area which is interconnected with plaintiff's certificated area and for which a main extension agreement has been signed by the parties, has the effect of making the area a part of the plaintiff's certificated area.'

"IT IS FURTHER ORDERED that the petition for rehearing filed herein be otherwise denied."

company in California by the lot owners in Winton Manor to provide water service exclusively to property owners in Winton Manor at cost through the purchase of the water system of the developers. The Board of Directors of Mutual, among other matters, authorized the filing of this complaint and the purchase of the Winton Manor water system from the developers. Complainants allege that the majority of the lot owners in Winton Manor desire that water service be provided by Mutual.

Defendant, among other things, presented evidence concerning Winton's ability to provide adequate water service in the future. The ability to improve that system hinged upon the acquisition of additional capital. We take official notice of the planned improvements to be installed as a consequence of our approval of the Safe Drinking Water Bond Act loan in Decision No. 88945, supra.

Issues Raised in this Proceeding

As outlined in complainants' opening brief, the issues in this proceeding are the following:

1. Whether the doctrine of res judicata is applicable to this proceeding;
2. Whether the Commission has jurisdiction to decide the issues raised by this proceeding;
3. Whether the utility has the legal capacity to serve Winton Manor;
4. Whether the utility has the physical capability of serving Winton Manor;
5. Whether the utility is financially qualified to serve Winton Manor; and
6. Whether the Mutual is a going enterprise.

As described in defendant's reply brief, the issues are the following:

1. Whether the Winton Manor development ought to remain a part of the service area of defendant.

2. Whether the in-tract water supply, storage, and distribution facilities installed in the Winton Manor development (by complainants Raymond, McCulloch, and Yosemite Glass Company [Yosemite Glass] should remain a part of Winton system, with service therefrom by Winton under the jurisdiction of this Commission.
3. Whether the 1973 main extension contract between Winton and complainant Yosemite Glass is null and void.

Complainants and defendant addressed those issues in their briefs. The briefs incorporate references to the evidence and argument presented in Case No. 10009 pursuant to rulings of the hearing officer (which rulings we affirm).

Decisions Nos. 86867 and 87108 contained findings as to the validity of the main extension contract between the developers and Winton but did not contain a finding or conclusion as to the total amount to be refunded to developers and the method of refunding, nor to the title to and ownership of the water facilities in Winton Manor. Counsel for complainant and defendant request that such issues also be resolved in this proceeding.

Statement of the Evidence

The evidence adduced herein, together with that previously adduced in Case No. 10009 and incorporated herein by reference, is briefly summarized below.

The facts are as follows: Yosemite Glass, Howard McCulloch, and Bud Raymond (collectively developers) in 1972 acquired and developed Winton Manor. In the fall of 1972, complainant Raymond initiated a discussion with defendant about water service to the proposed development in Winton Manor. The adjoining development of Winton Manor Unit 1 was also a joint venture of complainants Raymond and Yosemite Glass. Water service to that development was accomplished with funds advanced by developers.

In February 1973 Winton and Yosemite Glass entered into the main extension contract in issue (Exhibit 7 in Case No. 10009). The amount of \$25,000 set forth in that contract was an agreed amount based on an itemization of the in-tract water facilities necessary to provide service to Winton Manor as estimated in engineering studies prepared for developers by a consulting firm. The facilities were to be installed by developers and were to include the installation of a new well and a related storage tank within the tract, together with mains and service lines to each lot. The facilities installed by developers were to be used by Winton to furnish public utility water service to Winton Manor.

The facilities installed by complainants and turned over to Winton for operation did not include a well or a tank as initially contemplated when the main extension contract was signed.

The utility interconnected the Winton Manor water system with its existing system and furnished service to Winton Manor residents from 1973 to mid-1975. As occupancy levels increased in Winton Manor and summer levels of consumption occurred, Winton's wells were insufficient to provide adequate water to existing customers and to the new customers in Winton Manor. As confirmed by the parade of Winton Manor water users who testified in Case No. 10009, significant problems were experienced in terms of both water pressure and water quality (sand, in particular). This problem situation persisted through 1974 and 1975 as well, until October 1975, when the developers eventually put in the well and brought it on line. Developers' testimony shows that they drilled a much larger well on a larger well site and installed a higher capacity pump than originally contemplated and remodeled a used storage tank. The size of the well, pump, and well casings installed was a result of a unilateral

decision of developers and was made without consultation with Winton. The total cost to developers of the installed plant (including the acquisition and refurbishing of the used tank) was \$41,417.94 (Exhibit 15). That amount substantially exceeded the amount set forth in the main extension contract. After installation of the added facilities, complainant Raymond disconnected the Winton Manor System from the public utility facilities of Winton. Case No. 10009, filed by Winton on November 25, 1975, sought return of the Winton Manor system to it. Following hearing and the receipt of evidence, Decisions Nos. 86867 and 87108 were issued, which orders directed developers to cease and desist from furnishing water to persons in Winton Manor.

On September 1, 1977, following the issuance of the order of investigation in Case No. 10397, the complaint in Case No. 10407 was filed. The evidence introduced in that proceeding concerning the events that occurred through 1976 is as described above, and is substantially the same as that in Case No. 10009. Additional evidence was adduced concerning the current inadequacy of water service within Winton Manor, to the formation of Mutual and of Mutual's ability to maintain, operate, and furnish water service to residents of Winton Manor. Additional evidence also was offered by developers, Winton, and the staff concerning the main extension contract, which will be discussed hereinafter. Subsequent to the conclusion of the hearing in Case No. 10407, the Commission issued Decision No. 88945 (supra) approving the half-million dollar loan to improve Winton's facilities.

Discussion

We recognize that Section 1708 of the California Public Utilities Code expressly confers continuing jurisdiction upon the Commission, upon notice and after opportunity to be heard, to alter,

amend, or rescind a prior order and decision.^{4/} We have repeatedly held that under such statute we have continuing authority to change or alter the certificated area of a public utility as an exercise of our legislative or quasi-legislative authority. Such jurisdiction and authority has been confirmed by the California Supreme Court. (Sale v Railroad Commission (1940) 15 C 2d 612.)

We will normally adhere to a prior decision unless, in a subsequent proceeding, new facts are brought to our attention, conditions have undergone a material change, or the Commission acted upon a basic misconception of law or fact.

We have carefully reviewed the evidence introduced in this and in the prior proceeding. Two important situations have occurred which alter the facts underlying our prior decision. The first is that a mutual has been formed with the consent and support of the majority of the residents in Winton Manor. The mutual is ready and willing to operate a water service if complainants prevail.

The second important fact is the approval by this Commission of a half-million dollar loan to improve the entire system operated by defendant. Without the improvements made possible by that loan, defendant's water system would continue to be substandard. But with such improvements we fully expect defendant's system to meet all

^{4/} The statute reads as follows:

"1708. The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision."

the health, water quality and fire flow standards of both this Commission and the State Department of Health. When all facilities are installed, the entire system including Winton Manor should have good water pressure and no sand in the water supply.

We did not act upon a basic misconception of law or fact in Case No. 10009. The materially changed conditions referred to above serve to reinforce the result of our prior order and do not justify any change in the ultimate Findings 15 and 16 set forth in Decision No. 87108 and the conclusions set forth in that decision and in Decision No. 86867. (See Footnotes 2 and 3.)

Main Extension Contract

The remaining issues to be determined herein concern the main extension contract covering the water facilities installed by developers in Winton Manor.

Developers contend that the main extension agreement was improperly executed because it did not conform to Rule 15--Main Extensions of defendant's tariff.^{5/}

5/ Paragraphs 2(g) and (c) of Rule 15 of defendant's tariff read as follows:

"2. Limitation of Expansion"

* * *

- "b. Whenever the outstanding advance contract balances plus the advance on a proposed new extension would exceed 50 percent of total capital, as defined in Section A.2.a plus the advance on the proposed new extension, the utility shall not make the proposed new extension of distribution mains without authorization of the Commission.
- "c. Whenever the outstanding advance contract balances reach the above level, the utility shall so notify the Commission within thirty days."

Staff Financial Examiner Angerbauer testified as follows. Defendant's annual reports for the years 1972 through 1976 show the following ratios of advances for construction to total capital:

1972 - 45.33%
1973 - 49.30%
1974 - 47.30%
1975 - 54.19%
1976 - 55.80%

Mr. Angerbauer also testified that on June 29, 1973, Winton was directed in a letter from the Secretary of the Commission (Exhibit 10) as follows:

"In accordance with Section A.2.a. of your Water Main Extension Rule, you are prohibited from making any further extensions of distribution mains without authorization of the Commission. You are directed to so notify any applicants for water service. It is important that you immediately inform any subdividers who make inquiries about the availability of water of this prohibition before they start work on their subdivisions, so that they may avoid the losses that might otherwise occur as a result of your inability to supply water service."

On this issue, Decision No. 86867 (supra) states:

"With respect to the deviation from the utility's filed tariffs and the Commission's general orders, we note that such deviation was with the full knowledge of the Commission staff, as testified to by staff witness Allen, with the hope of strengthening a small utility in order that satisfactory service be afforded complainant's customers."

Developers raised the following points on this issue in their petition for rehearing of Decision No. 86867:

"The purported main extension agreement also deviated from the water utility's Main Extension Rule (Rule 15), in that at the time it was signed in 1973, the utility's

outstanding advance contract balances, plus the advance proposed under the main extension agreement (Exh. 7), exceeded fifty percent (50%) of the total capital of Winton Water Company (Exhs. 1-4). Under its rule 15-A-2-b, Winton Water Company was prohibited from making such extensions without prior authorization from the Commission, which was never obtained (Tr. 24-25). While the Commission Staff, Hydraulics Branch, may have condoned such violation, the fact remains that Winton Water Company ignored such deviation and violation, and proceeded to serve Winton Manor. Moreover, such extension and service was made contrary to the prohibition from the Commission Staff, Division of Finance and Accounts, by letter dated June 29, 1973 (Exh. 6) forbidding Winton Water Company from making further extensions without Commission authorization. Both Winton Water Company and Decision No. 86867 ignored this prohibition."

Decision No. 87108, which modified Decision No. 86867 and denied rehearing, considered the allegations in the petition for rehearing as set forth above, and on that issue, denied rehearing. No new facts have been presented herein on the issue, nor did we misinterpret or misapply the law on this issue in our prior decision. Thus, the issue was laid to rest in Decisions Nos. 86867 and 87108.

Developers allege that the main extension contract is not complete and therefore void because Exhibits A, B, and C referred to in the contract are missing from that document. The evidence of record shows that Exhibit A would have contained a map depicting the in-tract water facilities in detail, Appendix B was to be a list of facilities to be covered by a cash advance from Yosemite Glass, and Exhibit C was to be a list of facilities to be installed by Yosemite Glass at its own cost.

Winton urged that the exhibits were unnecessary for the following reasons:

Exhibit A - The map of in-tract water facilities was prepared by developers for the purposes of getting various county approvals for the subdivision and in conducting negotiations with Winton. Failure to attach the map is immaterial. If the map is, in fact, essential to the contract, the existing contract can be reformed by attaching the subdivision map at this time.

Exhibit B - Inasmuch as there was no cash advance by Yosemite Glass to Winton, and no facilities were constructed by Winton, this exhibit was irrelevant.

Exhibit C - Inasmuch as all in-tract facilities were installed by developers with their own funds, this list was unnecessary. A list of facilities and estimated costs was prepared for use in negotiations with Winton. Thus, developers and Winton were aware of those costs.

In our view, Exhibits A, B, and C referred to in the main extension contract would have added nothing to the contract, and therefore were unnecessary. Failure to include those exhibits does not invalidate the contract, which has as its sole effective provision, the agreement of Winton to repay developers for the facilities installed in Winton Manor in a sum not to exceed \$25,000.

Developers and Winton refer in their testimony and briefs to an oral agreement that exists to modify the main extension contract with respect to the purchase, refurbishing, and installation of a used tank that has a greater capacity than the tank originally

contemplated by those parties.^{6/} Witnesses for the parties did not agree as to the terms of that oral agreement. No facts exist in the record which would permit us to place a value on the total additional cost of the used tank over the total cost of the smaller new tank that was agreed to be installed. In its brief, Winton states that the issues concerning the oral amendment to the main extension contract have no relationship to the validity of the contract[✓] and such issues can be reserved for determination by the Superior Court. We also point out that the installation costs of the deeper well and the larger pump than originally contemplated is not part of the disputed oral agreement. Those issues also appear suitable for resolution by the Superior Court.

The main extension contract was issued pursuant to the provisions of Rule 15 of defendant's tariff. This Commission has authority under Sections 451, 453, 455, and 489 through 491 of the Public Utilities Code to adjudicate the issues presented herein with respect to the disputed main extension agreement, except that it has no jurisdiction to determine per se, title of real property (Colconda Utilities Co. (1968) 68 CPUC 296).

The main extension contract was dated February 8, 1973, and was signed by Irving Heppner, defendant's president, on February 8, 1973, and by Howard McCulloch, president of Yosemite Glass on June 27,

^{6/} Decision No. 36867 states as follows with respect to the oral contract:

"The defendants' argument regarding the validity of the main extension contract is not persuasive. During the 1973-1975 period when complainant was furnishing water to Winton Manor, both parties performed as though a valid contract existed. It was after agreement could not be reached on whether the storage tank purchased by defendants should be refurbished by complainant before the well drilling commenced and after this complaint was filed that defendants asserted that a valid contract did not exist. The oral amendment to the contract though not performed does not render the contract void and unenforceable."

1973. The main extension contract was duly executed and is a valid agreement under terms and conditions of defendant's tariff Rule 15.

According to the record no refund payments have been made to developers under the disputed agreement. Initial payments were refused, and no further attempt was made by defendant to make periodic refund payments. Developers and defendant ask that the Commission determine the total amount to be refunded pursuant to that agreement, and the method of refunding, and a determination of the entity that holds title and ownership of the water facilities installed in Winton Manor.^{7/}

Findings with Respect to Main Extension Contract

1. The main extension contract between Winton and developers covering the water system in Winton Manor was not issued in violation of Rule 15 of defendant's tariff and it is a valid agreement under the terms and conditions of Rule 15 of defendant's tariff.

^{7/} The Commission was advised by letter dated July 18, 1978, from defendant's counsel that:

"...the loan documents and related Deed of Trust conveyance to secure the loan obligation (to the Department of Water Services) do not purport to pertain to the subject well site, which we identify as well 9. The property covered by our Deed of Trust to the State Department of Water Resources to secure the approved loan pertains only to real property owned of record by Winton Water Company, and as stated by Mr. Palmer the well site in Winton Manor Units No. 2, 3 and 4 is not owned of record by the Winton Water Company."

2. That contract covers the facilities initially installed by developers. The maximum amount to be refunded under the terms of that contract is \$25,000.

3. A water system was installed by developers which was turned over by developers to defendant to operate in 1973. The record does not disclose the cost of the water facilities initially installed by developer. The water system installed by developers and turned over to defendant in 1973 did not include a well or tank.

4. An oral agreement was reached between complainant Raymond and Winton that a larger used tank would be purchased by developers and that such tank would be refurbished by Winton. Refurbishing and installation of that tank was accomplished by developers. The oral agreement concerning the refurbishing and installation of the used tank was never reduced to writing and was not incorporated in the main extension contract. The oral agreement is a separate agreement and is not a modification of the main extension contract.

5. No findings are made with respect to the responsibilities of the parties or monies due to any party under the oral agreement with respect to the used tank, except that defendant Winton could not lawfully enter into a new main extension contract after June 29, 1973, (the date of Exhibit 10) with respect to such tank.

6. In 1975 developers made improvements in the well, well site, tank, and pumping facilities installed in Winton Manor in order to satisfy complaints concerning inadequacy of water service. The total cost to developers of the original system and the 1975 improvements is \$41,417.94 (Exhibit 15). The main extension contract executed by developers and defendant in 1973 has not been amended to

incorporate the 1975 changes to the Winton Manor system, nor has a new written agreement been executed.

7. The well, well pump, and related changes in water facilities in Winton Manor installed by developers in 1975 were accomplished to satisfy complaints made to developers by water users who had purchased lots from developers, and also for the purpose of allowing developers to sell additional lots in an adjacent development. Such changes in the water system were made by developers solely for their own purposes and such changes were not made pursuant to any written or oral agreement between developers and Winton.

8. Any improvements in the Winton Manor system made by developers after the initial system was installed and turned over to defendant were done at developers' expense inasmuch as defendant could not lawfully enter into a main extension contract for such additional facilities. (Exhibit 10).

9. Initial periodic payments by Winton under the 1973 main extension contract were rejected by developers. After such rejection no subsequent periodic payments were proffered by defendant. The full amount of \$25,000 set forth in that agreement is due and payable to developers.

10. No finding is made as to the ownership of the property in which the Winton Manor well site is located.

Conclusions With Respect to Main Extension Contract

1. Defendant should be ordered to commence periodic payments to developers under the terms of the 1973 main extension contract.

2. Defendant is not obligated to repay to developers any costs of installation of the water facilities in Winton Manor Subdivision Units 2, 3, and 4 in excess of \$25,000.

3. No adjudication of property rights is made herein.

Findings with Respect to Complaint

11. The complaint herein seeks to have the Commission readjudicate matters considered and decided in Decisions Nos. 86867 and 87108 in Case No. 10009.

12. The facts presented in Case No. 10407 are substantially the same as those considered by the Commission in Case No. 10009; except that since that proceeding was decided, a mutual water company has been organized by the water users in Winton Manor, and the Commission has approved a loan by Winton from the State Department of Water Resources (DWR) in the amount of \$587,100, under the California Safe Drinking Water Bond Act of 1976.

13. The loan to Winton from DWR is for the purpose of replacing mains, drilling new wells, and otherwise bringing Winton's system up to the standards of this Commission's general orders and the requirements of the State Department of Health.

14. Upon completion of improvements to Winton's public utility water system made possible by the DWR loan, no water pressure, sand, or other service problems should exist in any portion of Winton's system; and water users in Winton Manor will have adequate service from the utility.

15. The main extension contract executed February 8, 1973, is valid and lawful; it was not an unlawful deviation from the utility's filed tariff schedules; that contract is enforceable and valid under contract law; that contract was executed; and it is within the physical and financial ability of the utility to serve Winton Manor.

Conclusions with Respect to Complaint

4. The Commission has the authority to alter, amend, or rescind its prior orders in Case No. 10009. (Sale v CRC, supra.)

5. The Commission will adhere to its prior orders in Case No. 10009 because in this proceeding it has not been shown that the material changes in factual conditions, i.e., the formation of a mutual water company and the approval of the DWR loan, require a reversal of the results in our orders in Decisions Nos. 86867 and 87108. The results of those orders should stand. ✓

6. The complaint in Case No. 10407 should be denied.

O R D E R

IT IS ORDERED that:

1. On the effective date of this order, Winton Water Company, Inc. shall commence payments to Yosemite Glass Company under the terms and conditions of the main extension contract dated February 8, 1973.

2. The complaint in Case No. 10407 is denied.

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

Dated at San Francisco, California, this 12th day of DECEMBER, 1978.

Robert Bakum
President
William J. ...
Vernon L. ...
Richard P. ...
Clare T. ...
Commissioners