

ORIGINAL

Decision No. 90497 JUL 3 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM P. & MARIE R. BUTRICA,)
et al.,)

Complainants,)

vs.)

DARRELL J. & RUTH E. BEASLEY,)
dba PHILLIPSVILLE WATER CO.,)

Defendants.)

Case No. 10129
(Filed June 23, 1976)

Marie R. Butrica, for herself and other
complainants.

Darrell J. Beasley, for himself and Ruth E.
Beasley, defendants.

Dick Lester, for Common Sense; and John Hagen,
for himself; interested parties.

Eugene M. Lill, for the Commission staff.

O P I N I O N

This proceeding is the third in the last two years regarding this 60-customer water utility near Garberville, in Humboldt County, California. The complaint was originally filed on June 23, 1976. It alleged that a well was removed from the utility water system without authority; that three fire hydrants were removed from service without notice; that defendants have refused to install meters; and that the system is in violation of Public Utilities Commission's General Order No. 103. The complaint was considered during a hearing scheduled on November 16, 1976; and Decision No. 87364 dated May 24, 1977, was issued by the Commission. The decision ordered defendants to complete nine requirements which were listed as ordering paragraphs. An order to show cause was filed on August 23, 1977, and a further hearing was held on September 9, 1977, which resulted in Decision No. 88933 dated

June 13, 1978. A second order to show cause re contempt was issued on October 31, 1978 and a hearing was scheduled in December and continued to March 7, 1979 by agreement of the parties.

During the March 1979 hearing, evidence was presented by the Commission staff, the defendants, and by three customers of the defendant utility. A staff engineer testified that defendants are still in contempt of the Commission due to a failure to satisfy five of the requirements of Ordering Paragraph 2 of Commission Decision No. 87364. Said omissions include: (1) a failure to repair leaks in the system's 10,000-gallon storage reservoir; (2) a failure to obtain and place in operation an additional source of water supply with a continuous capability of not less than 75 gallons per minute, and to notify the Commission in writing within ten days of acquiring this additional source of water; (3) a failure to reinstall the fire hydrants which were removed by defendants subsequent to the staff's March 1976 investigation, and to notify the Commission in writing when said fire hydrants have been reinstalled; (4) a failure to replace the combination of one-inch and two-inch distribution mains, which extend from the four-inch discharge line from the 10,000-gallon reservoir to the Anderson and Canady residences with a six-inch or larger main, and to notify the Commission when this work is completed; and (5) a failure to provide the Commission with an itemized list of costs involved in restoring the 60,000-gallon reservoir to service and an estimate of when the necessary repair work will be started. He further testified that the 10,000-gallon reservoir was overflowing during his last visit (March 6, 1979) and it was not possible to determine whether or not it was leaking. He estimated the cost of repair as approximately \$300, which would include a plastic liner for the interior of the tank. He stated that the present water supply is adequate as long as the Murray well (Decision No. 88933 dated June 13, 1978 requires that the Murray well remain connected to the system and not be sold or leased without prior Commission approval) flows at its present capacity. If a drought occurs, however, the well

may not be adequate to insure the proper water supply. The staff witness further testified that the three hydrants had not been replaced as ordered. Defendant Darrell Beasley noted that the local fire chief advised they are not needed and also those who originally contributed to their installation have apparently lost interest. Inasmuch as complainants Butricas contributed to the installation of one of these hydrants, it can be assumed that his statement is not entirely accurate. A staff engineer testified that it was questionable whether or not the system can provide fire protection in its present state of repair. He also advised that a recent inspection revealed that the 60,000-gallon reservoir had deteriorated and may not be salvagable.

He further advised that the water main ordered by Decision No. 87364 on May 24, 1977, to be replaced would be between 400 to 500 feet in length. The cost would be anywhere between \$6 to \$15 per foot depending upon who might perform the work and what requirements might be set forth by Cal-Trans, a Department of the State of California, for trenching, jetting, and backfilling. There would be no costs for easements if the pipe were to be installed in the highway right-of-way. Only two customers are now served by this water line as services for two other customers were transferred to other locations. The staff engineer concluded by stating that defendant utility needs a 60.8 percent rate increase to break even. Defendants currently are losing additional money every day they operate. The Commission staff has been processing a rate increase for defendants through the advice letter procedure. Defendants have repeatedly refused staff help in the past and have failed to file the forms necessary to obtain a rate increase. Defendant Beasley is still uncooperative, even when most of the work is being done by the staff.

Complainants advised that the original order in Decision No. 87364 dated May 24, 1977 required defendants to meter all services. This matter was addressed again by the Commission in its first contempt order in Decision No. 88933. The work still has not been completed and some customers have the advantage of a flat rate which permits them an unlimited supply of water. Complainants also noted that defendants have neglected to remove outlets from the bottom of its smaller storage reservoirs which eliminated the flow of spring water to the town system during periods of peak consumption as ordered by the original decision. The staff witness remarked that this action can be deferred as long as the well remains operative and water is plentiful.

Discussion

Defendant utility has today received a substantial rate increase. (Resolution No. W-2520.) ^{Defendant utility has been operating at a low.} It is now able to complete metering of all flat rate services and to repair the 10,000-gallon storage tank. The tank is the only storage facility now serving the town system. A leak-free reservoir is essential during periods of water shortage, along with metering of all services. Other requirements of the original order will either be deferred until defendants achieve more financial stability or rescinded in whole or in part.

A petition to reassign Case No. 10129 was filed on March 28, 1979 by Mrs. Marie R. Butrica. It requests that the present Administrative Law Judge be relieved and that the case be assigned to another Administrative Law Judge. It further requests that all ordering paragraphs of the original decision should be enforced without delay.

Findings of Fact

1. Defendants Beasley are husband and wife doing business as the Phillipsville Water Company, a public utility water corporation within the meaning of Section 241 of the Public Utilities Code.

2. A complaint was filed, hearing was held, and Decision No. 87364 was issued on May 24, 1977 in this proceeding, which ordered defendants to install meters on all customers' services, repair leaks, obtain an additional source of water, reinstall fire hydrants, replace certain mains, and provide an estimate of cost of the repair of a 60,000-gallon storage reservoir, as well as a few other items which have been complied with.

3. A staff engineer filed an affidavit on October 30, 1978 which alleged that defendants have not completed the work they were ordered to do.

4. An order to show cause was signed by the Commission on October 31, 1978 which ordered defendants to appear and show cause why they should not be punished for contempt of the Commission.

5. A hearing was held and testimony was received that defendant utility has operated at a loss since it started providing water service.

6. The requirements of the original Commission order have been partially completed. Further compliance has been impeded due to the defendant utility's lack of funds.

7. The rate increase granted to defendant in Resolution No. W-2520 will provide sufficient capital to repair the storage reservoir, reinstall the fire hydrants, and meter the remaining flat rate services.

8. Defendants' lack of cooperation with the staff and customers requires that the order to show cause remain in effect.

9. The rearrangement of the piping in the small reservoirs is not necessary at the present time as the Ellen B. Murray well is being kept in service. Decisions Nos. 87364 and 88933 ordered and reaffirmed that this well should remain in service.

10. The replacement of the one-inch and two-inch distribution mains extending from the 10,000-gallon tank discharge line northerly along the highway is no longer necessary at the present time as two services have been relocated.

11. The 60,000-gallon redwood reservoir may be beyond repair but before any new customers can be allowed to connect to the system either installation of a comparably sized reservoir or an additional source of supply of at least 75 gpm connected to the system is necessary.

Conclusions of Law

1. Defendants should be ordered to repair all leaks in the 10,000-gallon storage reservoir and in the water mains which supply or drain it.

2. Defendant should be ordered to meter all remaining flat rate service connections.

3. Defendants should be ordered to reinstall the fire hydrants.

4. This work herein ordered should be completed within six months of the date of this order.

5. Some of the previously issued orders are no longer appropriate and should be either rescinded or altered.

6. The request to reassign Case No. 10129 to another Administrative Law Judge should be denied.

O R D E R

IT IS ORDERED that:

1. Defendants Darrell J. and Ruth E. Beasley shall repair all leaks in the 10,000-gallon storage reservoir within six months after the effective date of this order. Defendants shall advise the Commission in writing when this work has been started and when it has been completed.

2. Defendants Darrell J. and Ruth E. Beasley shall comply with Ordering Paragraph 1.b. of Decision No. 87364 to install meters on all remaining flat rate service connections, and shall complete installation within six months after the effective date of this order and shall notify the Commission, in writing, within ten days after this has been accomplished.

3. Defendants Darrell J. and Ruth E. Beasley shall reinstall the fire hydrants which were removed within six months after the effective date of this order and shall notify the Commission, in writing, within ten days after this has been accomplished.

4. Ordering Paragraph 1.a. of Decision No. 87364 is no longer required at the present time and is rescinded.

5. Ordering Paragraph 2.d. of Decision No. 87364 is no longer required at the present time and is rescinded.

6. Ordering Paragraphs 2.b., 2.e., and 3 of Decision No. 87364 are dependent upon each other and are amended to read as one as follows:

Defendants shall serve no additional customers until either a reservoir of not less than 60,000 gallons is installed and connected to the town portion of the distribution system or an additional source of supply of not less than 75 gallons of water per minute is obtained and connected to the water system. Upon completion of either of these two measures defendant may apply to the Commission for relief from the restriction on new service connections.

7. The motion requesting that another Administrative Law Judge be assigned to this proceeding is denied.

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

Dated JUL 3 1979, at San Francisco, California.

John E. Byrne
President

William L. Sturgeon

Richard A. Cavalle

Clair P. Davis

James P. Smith
Commissioners