

ORIGINAL

Decision No. 91741 MAY 6 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

O. B. Olsen, Jr., et al.,  
 )  
 Complainants,  
 )  
 vs.  
 Graeagle Water Company  
 and Harvey E. West, Jr.,  
 )  
 Defendants.

Case No. 10762  
(Filed July 16, 1979)

O. B. Olsen, Jr., for himself, complainant.  
L. Thomas Henix, Jr., Attorney at Law, for  
 Graeagle Water Company, defendant.  
Arthur Andreas, Attorney at Law, for Feather  
 River Park Homeowners Association, Inc.,  
 complainant in intervention.  
Ellen Levine, Attorney at Law, for the  
 Commission staff.

O P I N I O N

I. Introduction

Graeagle is a small community located in the Sierra Nevada~~s~~ 55  
 on Highway 89, about 50 miles north of Truckee. The town is  
 recreation oriented, featuring an 18-hole golf course, with two  
 9-hole courses nearby. Water service is provided by the Graeagle  
 Water Company (Graeagle Water) to 430 customers (408 residential,  
 22 commercial) on a flat rate basis. Graeagle Water is authorized  
 to charge metered rates, and some meters have been installed. Graeagle  
 Water is a partnership; the partners are Harvey E. West, Jr. (West),  
 his brother, his mother, and the estate of his father.

The Graeagle Land and Water Company (Graeagle Land) is a major land owner in the area. It owns residential and commercial properties, as well as the 18-hole golf course, Graeagle Meadows. Graeagle Land is a closely held corporation, owned by the West family. Graeagle Water is operated in conjunction with Graeagle Land, using Graeagle Land personnel and equipment when necessary.

By Resolution No. W-2429 dated September 19, 1978, the Commission authorized a 50 percent increase in the Graeagle Water rates, the first increase since March 1, 1973.

On July 16, 1979, this complaint was filed by O. B. Olsen, Jr. (Olsen) as a customer of Graeagle Water and signed by more than 50 other customers. The complaint alleges in substance that the 50 percent rate increase was unreasonable, the installation of meters is not justified, and the authorized metered rates are unfair. By petition dated August 15, 1979, the Feather River Park Homeowners Association (FRP) intervened, raising essentially the same issues as Olsen. Public hearing was held in Graeagle on September 20 and 21, 1979, before Commissioner Claire T. Dedrick and Administrative Law Judge Patrick J. Power. The matter was submitted subject to opening briefs due October 15, 1979, and reply briefs due November 1, 1979.

## II. Public Participation

The two days of hearing were well attended by the public, demonstrating the interest of the community in the issues raised by the complaint and petition. A number of people made statements on the record.

Gordon Nesvig testified that he supported the rate increase and the installation of meters. He considers the water system to be the best in the area and the rates to be reasonable. He expects meters to benefit the individual homeowners and to be beneficial in times of water shortages.

Russell Reid stated that he was concerned with the long-term future of the water company and the effects on the system if revenues are not sufficient. He is concerned that service will deteriorate and the system will not be efficient.

John Pardee spoke on behalf of the Graeagle Meadows Homeowners Association, which he characterized as supporting the rate increase, but opposed to metering of any kind. His opposition to metering is based on his opinion that metering in Graeagle is not cost-effective.

Bernice Slater stated that she objects to metering because in the winter she must keep her water running at all times in order to keep the pipes from freezing.

Paul Flury expressed his opposition to the rate increase and the installation of meters. He also runs his water in the winter to avoid frozen pipes. He raised an issue regarding Graeagle Land's use of water without charge.

Cecil Judah stated that he did not object to the rate increase, but that meters should not be allowed. He plans to run his water throughout the winter, when meters are difficult or impossible to read. He expressed his concern that winter rates properly reflect these conditions.

Bob Britton spoke as the owner of a trailer park, stating that he has no objection to water meters. He considers a meter rate to be fair and equitable and to be to his advantage, as it aids his business relation with the water company.

Carter Judah spoke as the president of the Graeagle Property Owners Association, claiming membership comprising about 65 percent of Graeagle homeowners. He reported on the results of a survey of the members that turned out to be overwhelmingly in opposition to meters.

Henry Haberman stated that in his opinion the water rates are fair and just. He suggests that metering be left to the discretion of the water company because of its expertise in these affairs.

III. Showings of the Parties

Olsen and FRP cooperated in presenting evidence in support of the complaint and petition. Much of the evidence was offered to support both parties' positions and it will be discussed herein as a single showing.

Jack Garrison, manager of FRP, testified regarding the history of the Feather River Park Resort owned by FRP and its water service. The resort consists of 35 rental cabins, a 9-hole golf course, swimming pool, tennis courts, and clubhouse. Several years ago the property was subdivided and the cabins sold to individuals who continue to operate the property as a resort by way of the homeowners association. Water service has been provided by Graeagle Water on a flat rate basis - \$2,000 per year prior to the increase, \$3,000 per year under present rates. The rate is considered to be half applicable to the golf course, half applicable to the cabins and grounds. The golf course rate was set at one-half of the amount charged Graeagle Land for water served to its 18-hole course, on the basis that FRP's course is half the size of Graeagle Meadows.

Mr. Garrison testified with respect to the effect on FRP if metered rates are charged. He obtained water usage figures from Graeagle Water and extrapolated from the data to determine that the application of the meter rates to FRP would produce charges in excess of \$13,000 per year, more than \$10,000 more than the revenue yielded by the flat rate. He stated that the nature of golf course operations is such that there is little conservation potential.

He further testified with regard to various improvements to its water system made by FRP, and as to the practices of Graeagle Water with respect to providing irrigation service to nearby meadows.

FRP next called Steve O'Neill, office manager for Graeagle Land. He testified as to the length of the Graeagle Meadows golf course and the relative volumes of water used by the Meadows and FRP courses. The information indicates that if metered rates were applied, the charge for water for the Meadows course would be about three times the charge to FRP. Mr. O'Neill also testified regarding the number of customers of various types and the practice of Graeagle Water to not charge Graeagle Land for water furnished for agricultural purposes.

FRP next called Mr. West who confirmed the historic basis for the charge to FRP and described the integrated operation of Graeagle Land and Graeagle Water. He testified in detail as to the particular uses by Graeagle Land of water furnished by Graeagle Water without charge. He discussed the Graeagle water supply, particularly as it was affected by the drought, and the reasons why Graeagle Water had decided to proceed with metering. He recognized that the frozen pipe problems and the resulting need to run water through the winter requires further consideration before meter rates are applied.

Mr. Olsen testified that he opposes the installation of meters on the basis that metering is not cost-effective anyway, and not reasonable in light of the frozen pipe problems. He furnished photographs of water running unrestricted from pipes to indicate the abundance of water in the area and Graeagle Land's use without charge.

Mr. Garrison resumed the stand to testify as to the extensive improvements made by FRP in its water system and its reliance on Graeagle Water for service. He indicated that the improvements were made at the suggestion of Mr. West and to meet county requirements.

Mr. Olsen called Virginia Marshall, who testified that when she bought her property years ago she understood that water service would be provided on a flat rate basis.

Frank Lindskoog testified on behalf of the Commission staff. He described the staff review prior to the Commission action on Resolution No. W-2429, with particular emphasis on the revenue requirement and the meter rate design. He indicated that the authorized rate increase was calculated to yield a 6 percent rate of return, as requested. He addressed the assumptions and policy considerations surrounding the rate design, which he described as inverted. He stated that he had not been aware of the frozen pipes/running water problem in winter or the large consumption patterns of the golf courses, and had not fully taken into account the revenue effect that would result from the application of the authorized meter rates in these circumstances.

Graeagle Water first called Dan West, who testified as to a comparison between Graeagle rates and water rates in other nearby communities. Harvey West resumed the stand and testified again about the relationship between Graeagle Water and Graeagle Land, and about the land company's uses of water for which no charge has been made. He offered a calculation of proposed charges for such services with a resulting annual revenue effect.

He further stated that the rate increase application had been based on declining block rates, not the inverted rate structure that was adopted. He discussed the meter readings obtained from the customers who have been metered and the wide disparities between users. He further elaborated on the reasons why Graeagle Water has proceeded with metering, based on its understanding of PUC and health department policy. He supplied the record with data regarding the expenses and investment associated with meters.

#### IV. Contentions of the Parties

Olsen and FRP both contend that metering has been shown to be unnecessary and that the rates for metered service are unreasonable. They point to the relative abundance of water in the area and the problems of frozen pipes and unreadable meters in the winter as reasons why meters should not be allowed. They cite the excess revenue resulting from the authorized meter rates as support for the proposition that the rates are unreasonable. They also complain of the uncompensated for use of water by Graeagle Land at various locations around and about Graeagle, which Olsen styles as a conflict of interest. In addition, FRP asks that its flat rate be adjusted to recognize that its golf course has been shown to use only about one-third of the amount used by Graeagle Meadows and that it be found to be within the service territory of Graeagle Water.

The staff witness, Mr. Lindskoog, and staff counsel, Ms. LeVine, take conflicting positions as to metering and the uncompensated for use of water. Mr. Lindskoog recommends that the Commission allow metering to proceed, but that the meter rates be adjusted to recognize the effects of the inverted rates and the problem of frozen pipes/running water. Ms. LeVine recommends that the installation of meters and the application of metered rates be suspended until the water company demonstrates that metering is

prudent. She further recommends that water furnished by Graeagle Water to Graeagle Land at no charge should instead be rated and that the resulting revenues should be recorded. Both staff members recommend that the Commission find reasonable the 50 percent increase in rates authorized by Resolution No. W-2429 and that no change in flat rates be made.

Graeagle Water recommends that the presently authorized flat rates be allowed to remain in effect and that the Commission review the authorized meter rates to determine a reasonable rate. In this regard it proposes certain specific changes such as a rate for untreated water, off-peak rates for large users, and declining blocks. It asks that meter rate schedules be authorized and points out that in the event water treatment facilities are required by the State Department of Public Health meter rates should be charged.

#### V. Discussion

This case presents a fact situation that is not typical of small water company operations in California. Water is abundant and service is good. The issues arising in this proceeding must be evaluated in light of the unique circumstances in Graeagle.

As to metering, this Commission generally supports metering of utility services as essential to promote conservation and to fairly recover revenue based on customer usage. But based on the record in this proceeding we cannot find that metering is presently necessary in Graeagle; certainly we could not order metering, based on Public Utilities Code Section 781. But nor can we find that Graeagle Water is imprudent in proceeding to install meters at this time. This issue is not directly before the Commission, because the investment and expense associated with metering has not been included in deriving the revenue requirement that was the basis of the rate increase. But it may be that the projected growth of the system and the prospect of treatment facilities will support metering in the future.



In view of the necessity for customers to allow their water to run to waste during the winter months to prevent pipes from freezing and the inordinate costs for golf course irrigation under authorized meter rates, we find that authorized meter rates are, for the future, not reasonable and should be vacated. The evidence suggests that the authorized rates would yield far in excess of authorized revenues and that redesign of the rates is required, perhaps with consideration of the rate design features proposed by Graeagle Water. We shall not undertake such redesign in this proceeding in light of the wintertime problems of frozen pipes and the resulting need to keep water running, which presents serious obstacles to the design of fair meter rates, particularly for residential customers. This situation impacts also on the decision to install meters and should be addressed by Graeagle Water in any subsequent proceeding where the reasonableness of metering is an issue.

We find the uncompensated for use of water by Graeagle Land to be unreasonable, even when the water use is essentially for a public purpose such as the city park. Graeagle Land obviously enjoys an economic benefit by promoting the attractiveness of the community and some charge should be made for its use of water. We will, therefore, order Graeagle Water to file a new tariff schedule applicable to the heretofore uncompensated use of water by Graeagle Land. We encourage the utility to coordinate with the staff in the development of the new schedule.

This determination does not require that the existing flat rates be changed to reflect the additional revenue to be derived from Graeagle Land. This is because we find that even with this additional revenue, Graeagle Water earnings will not exceed a reasonable rate of return, since the existing rates are calculated to yield only a 6 percent rate of return. We see no reason to reduce rates where the probable result is an immediate rate increase application in order to maintain a level of earnings that is only marginally adequate, particularly in view of possible future financial requirements.

We are not inclined to order any adjustment in the flat rates, as no evidence has been offered to show that the revenue requirement found reasonable by Resolution No. W-2429 is excessive. We reject FRP's contention that its flat rate should be adjusted to reflect the difference in water used between its 9-hole course and the Graeagle Meadows 18-hole course. The existing rate is based on a 2 to 1 relationship (18 holes to 9). FRP proposes it be changed to 3 to 1 to more closely approximate the relative water use.

There is an unmistakable irony in FRP's opposing the introduction of meters, but basing its flat rate design proposal on information obtainable only from the meters in place. Rates based on usage are generally more fair, but that is the basic argument in support of metering. We find no fact that has changed that justifies disturbing the historic relationship between these golf course rates. We also observe that the rate design proposed by FRP could just as readily be achieved by raising the Graeagle Meadows rate and leaving unchanged all others. This might be more fair than lowering the FRP rate and raising other rates to make up for the lost revenue.

Finally, FRP asks that we determine that FRP is in the Graeagle Water service territory. Its concern is apparently not based on any threatened action by Graeagle Water.

The record is clear that Graeagle Water has served FRP property for years without regard to its service territory boundaries. We are unable based on this record to determine whether there are other customers similarly situated or the effects of drawing new service territory boundaries that would take in all such customers. Therefore, we find only that Graeagle Water is estopped from asserting that existing customers are not entitled to water service on account of service territory boundaries, based on its dedication of utility

plant to serve such customers. Graeagle Water should file a revised service area map which, at a minimum, includes those areas in which customers are currently being provided water service.

Findings of Fact

1. The rate increase authorized by Resolution No. W-2429 is reasonable.
2. The authorized metered rates would produce grossly excessive revenue.
3. The meter rate design should reflect the abundance of water and the winter service conditions.
4. Meters are not necessary at this time.
5. Graeagle Land presently uses water in various locations without payment to Graeagle Water.
6. Even with additional revenue from Graeagle Land, Graeagle Water earnings will not exceed a reasonable rate of return, since existing rates are based on a 6 percent rate of return.
7. FRP's existing flat rate is based on a reasonable relationship to other rates and should be maintained.
8. Any existing customer of Graeagle Water is entitled to water service on account of continued service to such customer, whether or not such customer is within present territory boundaries of Graeagle Water.

Conclusions of Law

1. Present flat rates are reasonable and should not be changed.
2. Authorized meter rates should be vacated.
3. Graeagle Land should pay Graeagle Water for all water used.
4. FRP and any other currently served customer outside of the presently designated service territory of Graeagle Water should continue to receive water service from Graeagle Water.

O R D E R

IT IS ORDERED that:

1. The authority of Graeagle Water Company to charge meter rates is vacated pending further order of this Commission.

2. Any future rate increase application shall reflect revenues from rates applicable to all uses of water by Graeagle Land and Water Company.

3. Graeagle Water Company is estopped from asserting that any existing customer is outside its service territory.

4. Within sixty days after the effective date of this order, Graeagle Water Company shall file with this Commission a new tariff schedule applicable to water used by Graeagle Land and Water Company. Such filing shall comply with General Order No. 96-A.

5. Within sixty days after the effective date of this order, Graeagle Water Company shall file a revised service area map to include those areas in which customers are now being served. Such filing shall comply with General Order No. 96-A.

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

Dated     MAY 6 1980    , at San Francisco, California.

I abstain.

RICHARD D. GRAVELLE, Commissioner

John E. Dwyer  
President  
William L. Sturgeon

Clair T. [unclear]  
Donald W. [unclear]  
Commissioners