

ALJ/bw

Decision No. 92576

JAN 6 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ida B. Wetherell,
Complainant,

vs.

Phillipsville Water Co.,
Darrell J. Beasley, and
Ruth E. Beasley,

Defendants.

Case No. 10851
(Filed April 18, 1980)

O P I N I O N

Ida B. Wetherell (complainant) alleges that because of a dispute with the Commission, Darrell J. Beasley and Ruth E. Beasley doing business as Phillipsville Water Co. (defendants) are unable to supply water to her property.

Defendant Darrell Beasley has not denied that he refused to establish a connection for the vacant lot in question. He wrote a letter to the Commission stating that he would satisfy the complaint by providing a connection, unless he was instructed otherwise by September 10, 1980. On September 15, 1980, the staff received another letter informing the Commission that he had completed the connection. On September 18, 1980, the staff responded, stating:

"Your actions in this matter are in violation of Paragraph 6 of Decision No. 90497, dated July 3, 1970, in which you were prohibited from making additional service connections to the system until certain improvements to the water supply had been completed. Said improvements have not been accomplished.

"In view of the foregoing it is suggested that you make formal application to the Commission for modification of the existing order to permit the addition of this one service. This application must be made in accordance with the Commission Rules of Practice and Procedure."

Defendants thereupon filed a formal pleading on October 1, 1980 in this case requesting modification of Ordering Paragraph 6 of Decision No. 90497, infra, to "make legal" the completed installation of water service to complainant.

Decision No. 90497 issued in Case No. 10129, Butrica v Beasley, dba Phillipsville Water Co., was the third in two years concerning this utility's service (cf. Decisions Nos. 88933 and 87364). Decision No. 90497 found that defendants had only partially completed the system repairs and improvements previously ordered. It also found that a recent rate increase granted to defendants would enable them to complete the remainder.

Ordering Paragraph 6 of Decision No. 90497 reads 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."

Defendants have not installed the reservoir nor obtained the additional source of supply described in Ordering Paragraph 6 of Decision No. 90497 as a prerequisite to serving additional customers. However, defendants are ready and willing to serve complainant, the water service has been installed, and waiver of the prohibition against service to additional customers will produce a satisfactory solution to this complaint. ✓

We take official notice that defendants seek authority in Application No. 60031 to transfer Phillipsville Water Co. Our staff will work closely with the new owners of the water system to correct the deficiencies which defendants appear unable or unwilling to accomplish.

In the circumstances the waiver of the provisions of Ordering Paragraph 6 of Decision No. 90497 as requested by defendants will be reasonable. The defendants' request in their pleading of October 1, 1980 should be granted. By granting that request the complaint is satisfied.

Findings of Fact

1. A water service connection to complainant's property was installed by defendants.
2. No water service to complainant's property has been provided by defendants because of an admonishment set forth in a staff letter to defendants to the effect that such service would be in violation of Ordering Paragraph 6 of Decision No. 90497.
3. In a pleading filed October 1, 1980 in this proceeding, defendants seek waiver of the provisions of Ordering Paragraph 6 of Decision No. 90497 to the extent necessary to provide service to complainant.
4. Waiver as requested by defendants is justified by the circumstances of this complaint and will be reasonable.

Conclusions of Law

1. Granting of the waiver sought herein will permit defendants to provide service to complainant.
2. The sought waiver should be granted.
3. The granting of the sought waiver makes the complaint moot.

4. The following order should become effective on the date of issuance so that water service may be provided to complainant as soon as possible.

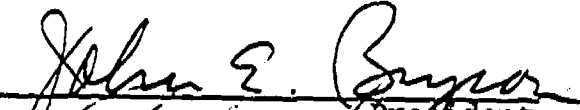
O R D E R


IT IS ORDERED that:

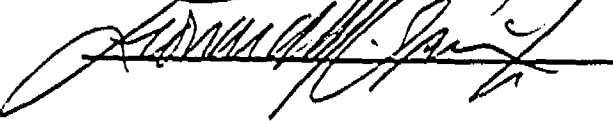
1. A waiver of the provisions of Ordering Paragraph 6 of Decision No. 90497 in Case No. 10129 is granted to Darrell J. Beasley and Ruth E. Beasley doing business as Phillipsville Water Co. to the extent necessary to provide water service to the property of Ida B. Wetherell involved in this complaint.

2. The complaint in Case No. 10851 is resolved.
The effective date of this order is the date hereof.

Dated JAN 6 1981, at San Francisco, California.



President




Commissioners