

Decision 99-11-056 November 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Steve Addor,

Complainant,

Apple Valley Ranchos Water Company,

Defendant.

ECP

Case No. 99-06-026

(Filed June 15, 1999)

**ORDER GRANTING REHEARING OF D.99-09-009, MODIFYING THE  
DECISION AND DENYING REHEARING, AS MODIFIED.**

**I. SUMMARY**

This decision grants rehearing because the notice of the filing of the complaint, of instructions to answer, and notice of hearings was not received by the Apple Valley Ranchos Water Company (AVRWC) until after the hearings were held and the case was submitted. This order grants rehearing, re-opens the proceeding, receives AVRWC's answer to complaint, and modifies the decision accordingly. Further rehearing of the decision, as modified, is denied.

**II. BACKGROUND**

The plaintiff, a customer of AVRWC, sued AVRWC on the ground that he was billed for water at his rental property when the property was vacant and no water was used. The customer paid the company \$18.34 under protest and was billed \$39.35, including late charges, for the disputed water.

On June 15, 1999, the plaintiff filed a complaint with the Commission, seeking a refund of \$56.68, which includes \$38.34 on deposit with the Commission and the \$18.34 amount paid under protest. On June 21, 1999, the Commission sent, by

certified mail, Instructions to Answer and Hearing Notice to AVRWC. The hearing was set for July 16, 1999. The company neither answered the complaint nor made an appearance at the hearing. The Commission ruled for the plaintiff in D.99-09-009.

On October 1, 1999, AVRWC filed an application for rehearing on the ground that it did not receive notice that the plaintiff filed a complaint, of the instructions to answer complaint, or notice of the hearing until after the case was submitted.

AVWRC asserted that it "does not care about the fifty dollars and is not anxious to put everyone through another hearing." However, AVRWC expressed concern about its reputation and does not want the decision to wrongly reflect that it ignored Commission instructions, failed to appear at a scheduled hearing, or that it sends out erroneous bills.

The plaintiff did not file a response to AVRWC's rehearing application.

### **III. DISCUSSION**

An examination of the record reveals that AVRWC did not receive notice of the complaint or hearings until after the hearings occurred and the case was submitted. The certified mail return receipt in the record shows that the date of delivery was July 23, 1999. The hearing notice had been sent by certified mail to 21760 Ottawa Road in Apple Valley, California, and not to the post office box which AVRWC asserts is its actual mailing address. Henceforth, AVRWC should clearly indicate which address is its mailing address so as not to confuse the public and the Commission.

Since AVRWC did not have the opportunity to answer the complaint and appear at the hearing, the Commission grants rehearing, re-opens the record to receive AVRWC's answer to the complaint, and modifies the decision accordingly. Further rehearing of the decision, as modified, is denied.

### **IV. CONCLUSION**

Upon the modification of D.99-09-009 to take into account AVWRC's response to the complaint, rehearing is no longer warranted.

**THEREFORE IT IS ORDERED** that:

1. The rehearing application of AVRWC is granted for the purpose of modifying D.99-09-009 only.
2. D.99-09-009 shall be modified as follows:
  - a) Paragraphs 1 and 2 on page 1 are deleted and replaced by the following:

On June 15, 1999, a complaint was filed against defendant water company by customer disputing charges for water usage. On June 21, 1999, the Commission sent the defendant Instructions to Answer and Hearing Notice, instructing the defendant to answer within 20 days and giving notice of a hearing scheduled for July 16, 1999. The hearing notice was sent by certified mail to the defendant's street address, rather than to the post office box which is defendant's mailing address.

At the hearing, the complainant testified that he has been billed for water at his rental property when the property was vacant and no water was used. After the complainant complained to AVRWC, the meter was replaced and the problem ceased. In the meantime, the complainant paid \$18.34 under protest and was billed \$39.35, including late charges, for the disputed water.

Defendant did not appear at the hearing because the post office does not deliver to defendant's street address. The certified mail return receipt in the record shows that the date of delivery was July 23, 1999, a week after the hearing was held.

On September 2, 1999, the Commission rendered judgment for the plaintiff in D.99-09-009.

On October 1, 1999, defendant filed an application for rehearing on the ground that it did not receive notice of the filing of the complaint, instructions to answer, or notice of the hearing until after the hearing was held. Defendant asserts that the amount at issue in the plaintiff's complaint is not material and therefore offered to forego another hearing. However, defendant requests that the decision be re-opened to receive

its answer to the complaint and reflect that the defendant's failure to appear at the hearing was not due to its ignoring Commission instructions.

In its answer to the complaint, AVRWC acknowledges that there was no tenant in residence at the complainant's property during the time in question. Nor did the company find evidence of leaks at the property. AVRWC asserts that the replacement of the meter was part of the company's meter change-out program because the meter at the property was 16 years old. AVWRC admits that "subsequent to the meter change-out, there was no consumption recorded on the new meter." (Answer of Apple Valley Ranchos Water Company, Exhibit 2, p. 2)

3. The rehearing of D.99-09-009, as modified and supplemented, is denied in all other respects.

4. This case is closed.

This order is effective today.

Dated November 18, 1999, at San Francisco, California.

RICHARD A. BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
JOEL Z. HYATT  
CARL W. WOOD  
Commissioners