

Column Claremont wants to kick its private water company out of town. Good idea



Students sit on the campus of Scripps College, one of the Claremont colleges that gives the community its upscale, progressive tone. The citizens of Claremont have mounted a campaign to take over the city's private water company. (Gina Ferazzi / Los Angeles Times)



By **Michael Hiltzik** · Contact Reporter

AUGUST 26, 2016, 11:55 AM

The citizens of Claremont, fed up with the private company that provides their water, voted overwhelmingly in 2014 to seize its water system by eminent domain and convert it to a municipal utility. A Los Angeles state judge has just wrapped up a trial over whether that's legal and is expected to issue a ruling sometime in the next three months.

Water users who still get their supply from private companies should be rooting for him to give Claremont a green light.

“

Buzzwords cannot justify the exercise of eminent domain. ... Much more than flowery prose ... must exist.”

— Golden State Water Co.

Much of the evidence to be weighed by Judge Richard Fruin deals with abstruse issues of eminent domain law. But the fundamental question raised by the case is broader: whether private corporate ownership of a water system is at odds with the development of long-term policy on water use. Local residents in Claremont feel that as customers of a private monopoly, they've had almost no say over such policy in their city, so their only choice was to make the system a public one.

Fruin conducted a bench trial in the Claremont case, which is probably wise because the legal complexities probably would have driven your average jury up the wall.

In simple terms, if a city wants to condemn your house to widen a street, there's almost nothing you can do about it except dicker over the price. When the target is a water system or other utility, however, the utility gets the chance to question in court whether the condemnation is for a "more necessary public use" than the way the property is being used, or whether the "public interest and necessity" requires the move.

The position of Golden State Water Co., which has been Claremont's water company for nearly 90 years, is that the answer is no.

"In fact, the public interest is jeopardized if this takeover occurs," George Soneff, Golden State's lawyer, told me. If the city acquires the system and follows through on its plan to turn it over to the neighboring city of La Verne to run, "there will not be lower rates or a change in the water supply. There's been no showing that there's anything they can do differently" from Golden State, he says.

Yet residents of this community of 35,000 think there would be a sea change in how their water needs would be served, and there's ample reason to think they're right.

"We haven't felt we've been treated fairly by Golden State on several levels," says Helaine Goldwater, a 45-year resident of Claremont who chaired the committee that placed Measure W on the city ballot in 2014. The measure, which authorized the city to borrow up to \$135 million if it decided to condemn Golden State's property, garnered a 72% yes vote that November.

Among the residents' complaints is that Golden State has consistently overcharged them, compared with what other Southern California communities with public systems pay.

Claremont also maintains that the company has tended to operate as a disdainful higher authority in dealing with the city, keeping city officials out of the loop when planning its own construction and maintenance programs, refusing to coordinate with city land-use plans, and showing a lack of interest in programs dear to

the city's generally well-educated and progressive-minded residents, including water recycling, conservation and other markers of "sustainability."

Golden State dismisses those points. "Buzzwords cannot justify the exercise of eminent domain," the company said in a brief filed in June. The grounds for taking an existing, functioning system amount to "much more than flowery prose." The company made much at trial over lead and *E. coli* contamination suffered by the La Verne system in 2011 and 2012, suggesting that proved that La Verne was incapable of safely operating the Claremont system; Claremont responded that those issues had been resolved to the satisfaction of state health regulators.

It may be that private companies simply are not up to the task of developing and pursuing forward-looking water policies in an era of drought and climate change. Their economic incentives work against policies that lead to less water use and more recycling, says J.R. DeShazo, a public finance expert at UCLA's Luskin Center for Innovation who testified on Claremont's behalf at the trial.

Indeed, one of the issues that mobilized Claremont voters in favor of Measure W was a surcharge the Public Utilities Commission allowed the company to charge as water use declined. The result, as then-Mayor Joe Lyons told me at the time, was that "if we conserve, we don't benefit."

That's because a private water company's goal is to maximize revenue and profit, not to serve long-term water and land-use priorities. The Public Utilities Commission, which regulates private water utilities but not public agencies, mostly involves itself in financial and safety aspects of utility operations but has virtually no say on water policy.

"The PUC is a very large agency with complex responsibilities," says Steven Weissman, a former PUC staff attorney and administrative law judge now teaching public policy at UC Berkeley, who also testified for the city. "Water service regulation has always been a low priority."

Golden State Water, a subsidiary of San Dimas-based American States Water Co., has much at stake in this case: It recorded a \$47.6-million profit last year on revenue of \$364.6 million from its 39 water systems across California. The company has reason to fear that other communities might follow Claremont if the judge clears the takeover. Nor is Claremont the first: In 2013, residents of Ojai voted in favor of a plan for the Casitas Municipal Water District to take over Golden State's system in their city. Golden State has refused to sell, so Casitas launched its own eminent domain proceeding in May.

In part because of the mismatch between the profit motive and long-term public interests, private water utilities like Golden State already are the exception in California, not the rule. About 80% of the state's water deliveries are made by public agencies such as the Los Angeles Department of Water and Power, which traces its lineage to 1902. (It's true that the DWP is anything but a paragon of efficiency, but one reason we've learned about its problems is that it's subject to public scrutiny.)

DeShazo argues that Claremont is the kind of community ideally suited to pursue a public water policy. Home to the Claremont Colleges, a consortium of five undergraduate and two graduate institutions, Claremont boasts median household income of \$80,754, well beyond that of California as a whole or the U.S. in general. “Resource-endowed public systems” — such as those serving such upscale communities — are the leaders in innovative water policy,” he says.

But pursuing local goals via a company that operates multiple systems grouped into regional units is difficult, if not impossible. “Decision-making is centralized to such an extent” in a private company,” says Weissman, “that the particular interests of a particular community will be weighed against the corporate interest.”

Claremont wants to inject its own voice into decisions that its resident say have reduced them to silence. “Claremont has ambitious goals,” DeShazo says. “A private utility doesn’t have the incentive to tailor its activities to what Claremont wants.”

But he acknowledged that “this is a bold move on Claremont’s part.”

That’s not lost on advocates of the takeover. “Are we living in a dream world?” asks Goldwater, the Claremont resident. “I have no idea. But I honestly think that we can do a better job of managing our own system than Golden State does.”

Keep up to date with Michael Hiltzik. Follow @hiltzikm on Twitter, see his Facebook page, or email michael.hiltzik@latimes.com.

Return to Michael Hiltzik's blog.

Copyright © 2016, Los Angeles Times