

Decision No. 11744.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE CITY OF MANTECA, CALIFORNIA,)
requesting the Railroad Commission)
of the State of California to fix)
the just compensation to be paid by)
said City, under the Law, for the)
lands, property and rights of)
THE MANTECA WATER WORKS,)
a public utility, selling and dis-)
tributing water to the inhabitants)
of said City of Manteca.)

ORIGINAL

Application No. 8162.

J. R. Scott, for City of Manteca.

Von Dotten, Henry and Goodrum, by
M. J. Henry, for Manteca Water
Works, Incorporated.

J. S. P. Dean, for A. Baccilieri.

MARTIN, Commissioner.

O P I N I O N

The above entitled matter is a proceeding brought by the City of Manteca under the provisions of Section 47 of the Public Utilities Act, requesting that the Railroad Commission fix the just compensation to be paid by the City of Manteca to Manteca Water Works, Incorporated, for its public utility water system which delivers water for domestic and industrial purposes in the City of Manteca. A description of the property involved, marked Exhibit "A", is attached hereto and made a part hereof.

A public hearing in this matter was held at Manteca, at which all interested parties were given an opportunity to appear

and be heard. The matter has been submitted and is now ready for decision.

There are at issue in this proceeding the following main elements entering into the question of just compensation:

1. Valuation of lands and physical properties plus overheads.
2. Franchise.
3. Water rights.
4. Going concern value.
5. Severance damages.

This Commission has heretofore in its decisions outlined certain general principles governing the determination of just compensation to be paid for public utility property, which principles it will be unnecessary to reiterate in this proceeding.

It may be briefly stated, however, that the Public Utilities Act provides for a finding of just compensation in a single sum for the utility's lands, property and rights sought to be acquired. Paragraph 4, (b), Section 47, provides:

"When the proceeding has been submitted, the Commission shall make and file its written finding fixing, in a single sum, the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof; provided, that if the Commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the Commission as of the day on which the petition was filed with the Commission."

The value of the plant will, therefore, be considered as an indivisible gross amount. All the elements of property, tangible and intangible, will be considered as parts of a single entity, and individual findings of value, as to each element, will not be made.

A report of the Commission's Hydraulic Division, in which the various elements entering into the subject of just compensation were discussed, was presented by Mr. M. I. Reed, one of the Commission's hydraulic engineers. Included in this report was an

appraisal of the utility's lands, physical property, franchises and water rights, based upon unit costs of materials and labor averaged over an assumed reasonable construction period of one year ending August 12, 1922, the date of filing of the petition with the Commission. The results of this appraisal were as follows:

Organization	\$750
Franchise	0
Lands	825
Buildings	2,726
Wells	1,271
Tank and Tower	6,713
Pumping Equipment	13,155
Distribution Pipe Lines	28,434
Valves	545
Fire Hydrants	1,385
Services	3,601
Meters	678
Meter and Curb Boxes	224
Materials and Supplies	1,750
Water Rights	0
Total Reproduction Cost	\$62,057
Accrued Depreciation	8,597
Reproduction Cost less Depreciation	\$53,460

Testimony indicates that the unit costs of materials and labor used in the preparation of the engineer's appraisal include some of the lowest prices which have prevailed since the early part of the year 1916, are in most cases lower than present day prices of materials, and are lower than many of the prices actually paid for a large portion of the materials used in the construction of this system. It is evident that this condition should be given due consideration in the final determination of just compensation and that neither abnormally low nor abnormally high prices should be given undue weight in proceedings of this character.

Manteca Water Works presented no appraisal of the property but confined its showing entirely to the matter of going concern value.

Mr. E. E. Jeffries, City Engineer of Manteca, presented a "Report on Manteca Water Works for City of Manteca, San Joaquin

County, California, July, 1921", which was prepared by Mr. Chas. E. Sloan. This report was, by stipulation, admitted in evidence and was given all possible consideration in view of the fact that Mr. Sloan was not present for cross-examination and the further fact that the inventory shown therein does not contain all items of property which comprised the system on August 12, 1922, the date of filing of this petition.

No claim for franchise value was made by the utility and it does not appear that any expenditures were ever made in securing a franchise. It therefore appears that no allowance should be included in just compensation for this purpose.

It is also believed that no money value attaches to the company's right to pump from the underground water-bearing strata. Water can be secured at practically any point in this locality by drilling wells to the necessary depth, and, while it is clear that the utility has an unquestioned right to pump the quantity of water delivered to consumers in the past, in accordance with the law governing the rights to and values of percolating water, it appears that such values as exist are fully covered by the values assigned to the lands on which are located the wells and pumping plant.

It is well established by decisions of the courts that in valuing a public utility property for the purpose of eminent domain, consideration must be given to the element of going concern value, and if such value is shown to exist, allowance for it must be made. Going concern value is generally considered to be the difference in value between the dead physical structure and the business in financially successful operation. It appears from a study of various court decisions that to have any going concern value a company must at least be operating successfully, or, in other words, must be on a paying basis, and that the earn-

ing power and financial condition of the company are important factors to be considered in arriving at going concern value.

In this proceeding the evidence clearly shows that Manteca Water Works is now on a paying basis and is earning a reasonable return upon the investment.

A study of the results of operation from January 1, 1917, to July 31, 1922, indicates that this utility has for some years failed to earn a full return upon the investment in the plant and that, while now in a successful financial condition, has not yet had an opportunity to recover its necessary development costs.

Attention is called to the fact that had the City of Manteca constructed its own water system this same period of pioneering, development and inadequate return upon the investment would have been encountered. It is therefore evident, should the City at this time purchase this water system and its developed and successful business, that some consideration should be given, in the determination of just compensation, to the reasonable cost of developing the business.

While this Commission does not recognize that the terms "going concern value" and "development cost" are in any way synonymous it is realized that a reasonable cost of developing the business may in some cases be used logically as a measure of going concern value.

Mr. Chester E. Loveland, consulting engineer, presented a report on behalf of Manteca Water Works in which the following claim for going concern value, based upon development costs during a three-year period, is made:

"Clearly this company, in accordance with the practice of the Railroad Commission and the Courts, is entitled to have included in its valuation for condemnation purposes, the amount of which it has been deprived in earnings, plus accrued interest during its development period, which would equal a sum of not less than \$7803."

The Sloan report, previously referred to and introduced by the City of Manteca, recognizes the existence of going concern value in this water system and in 1921, when the business was not in as prosperous condition as at the present time, made an allowance of \$2500 to cover "good will, going-concern value, omissions and all other values".

Under the circumstances it is believed that some allowance should be made for going concern value and the finding of just compensation will include a reasonable amount to provide for this element of value.

As the City of Manteca desires to acquire the entire plant and business of Manteca Water Works there will be no damage resulting from the severance or disruption of the business.

Many other matters were submitted for the Commission's consideration as affecting the value of the plant and as having a bearing upon the final finding of just compensation. Elaborate and detailed discussion of these factors will not be attempted, but full consideration will be given in the final finding to all elements of value.

Included in the finding of just compensation is an item of \$1,750 for the value of materials, supplies and equipment. This amount should be adjusted at the time the property is actually transferred to the City, to provide compensation for such items as may be shown to be on hand by exact inventory.

F I N D I N G S

THE CITY OF MANTECA, a municipal corporation, having filed with the Railroad Commission a petition as entitled above, and the Railroad Commission having proceeded, under the provisions of Section 47 of the Public Utilities Act to fix and determine

the just compensation to be paid by the City of Manteca to Manteca Water Works, Incorporated, for the public utility water system supplying water to consumers in the City of Manteca, a public hearing having been held thereon, and the Commission having been fully advised in the matter:

IT IS HEREBY FOUND AS A FACT that the just compensation to be paid by the City of Manteca to Manteca Water Works, Incorporated, for that company's public utility water system supplying water to consumers in the City of Manteca, as the same existed on August 12, 1922, and more particularly described in Exhibit "A" attached hereto and made a part of these findings, is the sum of fifty-six thousand five hundred dollars (\$56,500).

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2^d day of March, 1923.

C. S. Seaver

Irving Martin

J. T. Whittier
Commissioners.

EXHIBIT "A"

DESCRIPTION OF PROPERTY TO BE ACQUIRED BY THE
CITY OF MANTECA FROM MANTECA WATER WORKS, INCORPORATED,
AS COVERED IN APPLICATION NO. 8162.

REAL ESTATE

All of Lots 9 and 10 of Block 3 of Baccilieri Park Addition to the City of Manteca.

BUILDINGS

PUMP HOUSE: 22' by 38' by 7' to eaves. Gable roof covered with galvanized sheet iron and galvanized corrugated iron. Concrete pump pit averaging 6 feet deep.

STORE HOUSE: 18' by 24' by 8' to eaves. Gable roof covered with galvanized sheet iron.

BARN: 25' by 30' by 9' to eaves. Gable roof, shingled. Vertical siding.

TANK HOUSE: 12'-5" by 12'-5" by 36' to eaves. Hip roof, shingled. Channel rustic sides. Painted. 3000 gallon, redwood stave tank.

WELLS

WELL NO. 1: 12 inches diameter, 243 feet deep. No. 14 gauge double well casing.

WELL NO. 2: 8 inches diameter, 110 feet deep. No. 16 gauge double well casing.

TANK AND TOWER

50,000 gallon, redwood stave tank; 22 feet diameter by 20 feet high, on steel tower, 80 feet high, 4 columns on concrete piers.

PUMPING EQUIPMENT

FAIRBANKS - RUMSEY UNIT: Rumsey Triplex Pump, Figure 690, 10-1/2 by 12, direct connected by automatic friction clutch with 50 horse power Fairbanks-Morse Oil Engine, Type Y, Style V. Complete with discharge and suction piping, oil tanks, air compressor, air tanks, 1-1/2 horse power, Type Z, gasoline engine, fly wheel, outboard bearing stand, extended shaft, concrete foundations, etc.

GENERAL ELECTRIC - SANDUSKY UNIT: Sandusky Triplex Pump, No. 231, 7 by 8, geared to 25 horse power General Electric, 40 degree, Type X, electric motor, 220 volt, 1200 R.P.M., 3 Phase, with standard starting equipment. Complete with discharge and suction piping and concrete foundations.

AMERICAN-WESTINGHOUSE UNIT: American Two Stage Centrifugal Pump, 2-1/2 inch, flexible coupling connecting to 25 horse power Westinghouse, 40 degree motor, Type C.S., 220 volt, 1740 R.P.M., 3 Phase, with standard starting equipment. Complete with suction and discharge piping, cast iron base and concrete foundations.

MISCELLANEOUS PUMPING EQUIPMENT--Consisting of discharge pipe to tank, pipe line to wells No. 1 and No. 2, miscellaneous piping, pressure gauges, cooling system, switchboard, etc.

DISTRIBUTION PIPE LINES

300	linear feet	3/4	inch	galvanized	screw	pipe.
100	"	"	1	"	"	"
5,410	"	"	2	"	"	"
955	"	"	4	"	"	"
1,720	"	"	6	"	"	"
820	"	"	8	"	"	"
26,795	"	"	2	"	dipped	screw pipe.
3,550	"	"	4	"	"	"
250	"	"	8	"	"	"
690	"	"	4	"	Redwood	Pipe--350 foot head.
3,410	"	"	6	"	"	350 " "
765	"	"	8	"	"	350 " "
320	"	"	6	"	dipped	casing pipe.
84	"	"	6	"	Flanged	Cast Iron Pipe.

VALVES

40 Two-inch Brass Screw Valves.
7 Four " Iron Body Brass Mounted Screw Valves.
1 Six " " " " " " "
5 Six " " " " " Hub End.
2 Eight " " " " " " "

FIRE HYDRANTS

4 - 2-1/2 inch Outlet - 4-inch Stand Pipe Hydrants.
4 - 2-1/2 inch Outlet - 3-inch " " "
1 - Double 2-1/2 inch Outlet - 4-inch Stand Pipe Hydrants.
1 - 2-1/2 inch Outlet Corey Hydrants.
12 - Double 2-1/2 inch Outlet Corey Hydrants.
1 - 2 inch fire rack.

SERVICES

475 - 3/4 inch Services.
47 - 1 " " "
13 - 2 " " "

METERS

2 - 5/8" x 3/4" Trident Meters.
8 - 5/8" x 3/4" Empire " "
14 - 5/8" x 3/4" Worthington Meters.
4 - 2" Worthington Meters.

METER AND CURB BOXES

12 - No.1 "Art" Concrete Boxes.
10 - No.1 "Form" Concrete Boxes.
20 - Small "Art" Concrete Boxes.
1 - Redwood Box - 12" x 60" x 24".
1 - " " - 12" x 48" x 18".
3 - " " - 16" x 16" x 18".
1 - " " - 18" x 18" x 24".
487 - Wood Curb Boxes.

MATERIALS AND SUPPLIES

All pipe, meters, meter parts, pipe fittings, valves, and other materials on hand.

Office furniture and fixtures.

Automobile and other equipment.

The intent of the foregoing inventory is to set forth a full and complete description of the lands, property, rights, etc., owned by Manteca Water Works, Incorporated, on August 12, 1922, and used for the purpose of supplying water to consumers in the City of Manteca.
