ORIGINAL

Decision No. 11784.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CITY OF BENICIA, a municipal corporation,
Complainant,
vs.
BENICIA WATER COMPANY, a corporation,
Defendant.

Case No. 1580.

In the Matter of the Application of BENICIA WATER COMPANY for a raise in rates.

Application No. 6850.

Jesse H. Steinhart, for Benicia Water Company.

Arthur C. Huston and Harry L. Huston, by Harry L. Huston, for the City of Benicia.

H. H. Gogarty, for Southern Pacific Company.

MARTIN, Commissioner:

## OPINION

The above entitled proceedings are brought by the City of Benicia and the Benicia Water Company for the purpose of revising water rates in the City of Benicia.

The complaint filed by the City alleges that the emergency rate authorized by the Commission in its Decision No. 7637 is not now needed and continuance of said rate permits Benicia Water Company to charge and collect for service not rendered; that the regular rates in force are unjust and disproportionate to the value of property used and the service furnished; wherefore it is desired that the Commission suspend the emergency rates until a further hearing may be held, and after said hearing regular rates be fixed to cover the service received.

Defendant answers by denying the allegations, except that it is in accord as to the rates being unjust and disproportionate to the service rendered and alleges that earnings have been insufficient to meet dividend requirements and none have been paid. Defendant declares its intention of filing an application for an increase in rates and requests that the Commission withhold action until same can be filed, when the City's complaint and the company's application may be consolidated for hearing.

The application filed alleges that the present and actual value of the company's property is in excess of $500,000, and that the regular rates have not earned a sufficient amount to equal a two per cent return on the investment after operating expenses and depreciation have been met; wherefore an increase in rates is desired in order that at least an eight per cent return may be received upon the value of its plant and properties used and useful in the conduct of its public utility business.

These matters were combined and heard at Benicia. All interested parties were given an opportunity to be present and be heard.

It appears that the original water company serving Benicia was incorporated in 1879, changes occurring until at present and for some time Benicia Water Company has been serving this city. The present capitalization is $500,000, divided into 10,000 shares of $50 par value per share. There are 6868 shares outstanding, or a par value of $343,400. About 64 per cent of the outstanding stock is held by Kullman-Salz and Company.

Briefly, this system consists of two collecting reservoirs whose combined capacity is 476,000,000 gallons, a pumping plant located below these reservoirs which elevates the stored waters to a third reservoir of 1,500,000 gallons capacity, from which the City is served through mains up to 8 inches in diameter. About 600 consumers are served. The system is entirely metered. When fresh water is obtainable in Carquinez Straits the above supply is augmented by filling a barge with water from the straits and pumping thence direct into the system.

In January, 1919, Benicia Water Company filed Application No. 4343, stating that due to decreased rainfall during the past season and increased activities in the city, the water supply was depleted to such an extent that it was necessary to sink wells and also barge water from the Sacramento River. To cover the additional cost the utility asked for an emergency rate to compensate for the extra expense. Commission's Decision No. 6223 authorized emergency rates which were effective from May 1, 1919 to May 30, 1920, inclusive.

In April, 1920, the company filed Application No. 5570, stating that due to continued lack of rainfall the expense of providing an adequate supply of water by barging necessitated higher emergency rates than those previously authorized. Commission's Decision No. 7637 authorized such rates, which were effective from June 1, 1920 to June 30, 1921, inclusive. At the termination of these rates the emergency expense had been met by the increased earnings. Some of the emergency equipment was taken over as a part of the regular plant and is now in use by the company.

Reference is made to the foregoing decisions for a complete exposition of the emergency conditions. Rates effective during these periods will be set out later in this opinion.

Appraisals showing the estimated original cost of the utility's system were presented by engineers F. C. Herrmann and J. A. Wilcox for applicant, and Harry Monett and J. E. Daugherty for the Commission. Mr. Chester H. Loveland, for the city, accepted the findings of the Commission's engineers.

Applicant's appraisal totaled $385,437.64, $36,161 of which represents intangibles. The intangible items are: organization $5,171, water rights $3,700, and development expense $27,290. It is readily apparent that the greater part of the intangibles is purely speculative, and their complete acceptance would be unjust to the consumers. If the intangibles are excluded the appraisals, which are in great detail, are in such close agreement that no discussion is needed as to their reconciliation. However, it is not necessarily a fact that all items comprising these appraisals are used and useful in applicant's public utility business. Neither is it self-evident that the deductions recommended by the City, amounting to $50,935, are the correct ones to be made.

It appears that even with deductions of items that are of doubtful or no value to applicant's public utility business, the capital investment in this system is relatively large for a community of the size of Benicia. This no doubt is explained by the fact that Benicia is not located advantageously as to an economical water supply. The experience gained during the emergency periods indicates the advisability of having an additional supply, and it appears that the method of pumping from the straits as now practiced is as economical as can be followed at the present time.

Depreciation annuities were recommended, based on the six per cent sinking fund method. The sum of $5,012 has been determined, after proper consideration of adjustments in the capital investment, to be a sufficient and proper amount to set aside annually to provide for replacement of property worn out in the service of the public.

Studies of past expenses for maintenance and operation and estimates for the future were presented by applicant, the City, and the Commission's engineers. The annual estimated future expense for these items, as presented by the three specified agencies, amounted to $35,419.52, $26,975 and $29,300.91 respectively. Included in applicant's estimate was the sum of $2,854.58, representing the estimated federal income tax. This is not a proper operating charge.

Subsequent to the preparation of these estimates fuel oil prices have been reduced, and it was agreed at the hearing that this item should be adjusted in accordance with changes in price of fuel oil.

While operation of this utility is considerably different from that of the usual water utility serving a community of this size, the evidence does not justify the inclusion of management charges as presented in applicant's exhibits, and it is believed that applicant can effect economies without injury to itself or impairment of the service.

Objection was made by the City to turbid water that sometimes is furnished. The installation of a complete filter system would obviate this, but the wisdom of advocating such a necessarily expensive installation at this time is questionable. The water obtained from the Straits is filtered. All water served by the Benicia Water Company is treated chemically, rendering it safe for human consumption. Samples of water are tested daily by a local laboratory, and careful attention to this detail will safeguard the city's water supply. The company agreed to a system of flushing dead-end mains, which no doubt will give some relief from the turbid condition mentioned.

The City recommended an increase in the item for purification expense, and this will be allowed. With the foregoing additions and adjustments as noted, it is believed that the sum of $25,000 will, if efficiently and economically expended, meet the proper annual operation costs on this system.

The rates now in effect and during the emergency periods are as follows:

| | Regular and Present Rates | Emergency Rates May 1,1919 to June 1,1920 Appl.4343 Dec.6223 | Emergency Rates June 1,1920 to July 1,1921 Appl.5570 Dec. 7637 |
|---|---|---|---|
| MONTHLY MINIMUM | | | |
| 5/8 inch meter or less | $1.50 | $1.50 | $2.25 |
| For each 1/4 inch diameter above 5/8 inch | .50 | .50 | .50 |
| MONTHLY METER RATES | | | |
| First 20,000 gallons, per 1000 gals. | .60 | | |
| Next 10,000 " " " " | .55 | | |
| " 10,000 " " " " | .50 | | |
| " 10,000 " " " " | .45 | | |
| " 25,000 " " " " | .40 | | |
| " 25,000 " " " " | .35 | | |
| All over 100,000 " " " " | .29 | | |
| First 20,000 " " " " | | .75 | |
| Next 10,000 " " " " | | .60 | |
| Over 30,000 " " " " | | .55 | |
| First 20,000 " " " " | | | 1.50 |
| Next 20,000 " " " " | | | 1.45 |
| " 20,000 " " " " | | | 1.40 |
| " 20,000 " " " " | | | 1.35 |
| Over 80,000 " " " " | | | 1.30 |
| MUNICIPAL USE - per month | 100.00 | 100.00 | 160.00 |

The emergency rates earned a sufficient sum before they were discontinued to compensate the company for the added expense necessary in providing the additional water required. The present rates, which also were in effect prior to the emergency, are entirely inadequate, according to applicant, and its exhibits present a suggested schedule as follows:

SERVICE CHARGE

| | |
|---|---|
| 5/8 inch meter, per month | $1.67 |
| 3/4 " " " " | 2.85 |
| 1 " " " " | 5.00 |
| 1½ " " " " | 10.00 |
| 2 " " " " | 16.50 |
| 3 " " " " | 33.50 |
| 4 " " " " | 50.00 |
| 6 " " " " | 100.00 |

FOR WATER DELIVERED - METER RATES

| | |
|---|---|
| For the first 3,300 cubic ft., per 100 cu.ft. | $0.75 |
| " " next 30,000 " " " " " " | .50 |
| " all over 33,300 " " " " " " | .34 |

MUNICIPAL USES

Fire Protection Service, per month . . . . $275.00
All other municipal uses at regular rates.

Applicant calculates that these rates will earn $69,667.27 per annum, or approximately the revenue required to meet their estimated annual charges. The experience of the Commission has shown that where a rate is unduly high in proportion to the reasonable value of the service that a decreased use of water has generally resulted, with a consequent decrease in revenue. High rates may easily defeat the very ends sought.

If the company's proposed rates were authorized the ordinary householder's water bill would be approximately $4.00 per month, and economy of use would have to be exercised to remain within that limit.

Such a charge would not be to the best interests of either the utility or the public.

If the regular rates were applied to the water use for the years 1919, 1920 and 1921, the revenues would have been \$45,036.76, \$43,983.54 and \$35,713.38 respectively. These figures cannot be accepted unconditionally as they are based on what may have been a restricted water use due to a higher rate schedule.

The rates herein established are designed to be fair to the consumer and to allow a reasonable operation and maintenance expense, depreciation, and to provide a fair return, under the conditions as they exist, on the property used and useful in the public service.

Of all water delivered in 1921, the municipality and small manufactories used 9 per cent, domestic consumers 14 per cent, Kullman-Salz and Company 27 per cent, and the Southern Pacific Company 50 per cent. The wide variations in use that occur with the large consumers at times, materially affect the service and operations of this utility, and fruitful efforts of these users to make their consumption more uniform would result to the advantage of all concerned. In a measure at least these large users are responsible for the greater cost of water above that generally found for a community of this size, and hence they should in all possible ways help to bear and distribute the burden equitably. Any schedule of rates established cannot in itself accomplish this; cooperation of the users must be had. The equities of the situation are apparent and the users should give their support.

The following form of order is submitted:

<u>O R D E R</u>

City of Benicia having made complaint in the above entitled proceeding as outlined, and Benicia Water Company having applied for an increase in rates, public hearings having been held on both proceedings, briefs filed, and the matter now being ready for decision,

It Is Hereby Found as a Fact that the rates charged by Benicia Water Company are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged by Benicia Water Company for water delivered in and in the vicinity of Benicia, Solano County.

And basing its order upon the foregoing finding of fact and upon the findings contained in the opinion preceding this order,

IT IS HEREBY ORDERED that Benicia Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order, the following schedule of rates, said rates to be charged for all service rendered subsequent to April 5, 1923:

MONTHLY MINIMUM METER RATES

| | |
|---|---|
| 5/8 inch meter | $1.65 |
| 3/4 " " | 2.25 |
| 1 " " | 3.00 |
| 1½ " " | 5.00 |
| 2 " " | 10.00 |
| 3 " " | 20.00 |
| 4 " " | 35.00 |
| 6 " " | 65.00 |

MONTHLY METER RATES

| | |
|---|---|
| 0 to 300 cubic feet, per 100 cu.ft. | $0.55 |
| 300 to 1000 " " " " " " | .48 |
| 1000 to 5000 " " " " " " | .43 |
| 5000 to 10000 " " " " " " | .38 |
| All over 10000 " " " " " " | .33 |

FIRE PROTECTION SERVICE, per hydrant, per month $2.00.
All other municipal uses at regular meter rates.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days from the date of this order applicant file with this Commission, subject to its acceptance, a set of rules and regulations governing the service and relations with its consumers.

IT IS HEREBY FURTHER ORDERED that the complaint in the above entitled matter be and it is hereby dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED that April 5, 1923, be and the same is hereby designated as the effective date of this order.

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

Dated at San Francisco, California, this 14th day of March, 1923.

C. L. Seavey

H. W. Brundige

Irving Martin

J. T. Whittier

Commissioners.