

Decision No. 13599.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
MOKELUMNE RIVER POWER AND WATER COMPANY,
a corporation organized and existing
under the laws of the State of Califor-
nia, for permission to discontinue serv-
ice to the public.

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) Application No. 9605.
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Frank J. Solinsky, for applicant.

Joe Huberty, for certain consumers and
Calaveras County Water Users Asso-
ciation, protestants.

H. W. Hobbs, for Southern Pacific Company.

WHITTLESEY, Commissioner:

O P I N I O N

Mokelumne River Power and Water Company, an incorpora-
ted public utility, makes application as above entitled, for per-
mission to discontinue the service of water to its consumers from
its ditch system in Calaveras County and to abandon its status as
a public utility. The applicant alleges in its petition that for
more than 60 years past it has been engaged as a public utility
in the distribution and sale of water from its ditch system to
the inhabitants of Calaveras County for mining, power, irrigation
and domestic purposes, including the supply for the unincorporated
towns of Mokelumne Hill, Campo Seco and Valley Springs; that dur-
ing the early years of its operations mining use predominated and
the company was afforded a considerable revenue and profit through

the large use of water for hydraulic mining purposes and for water power for operating the mills and plants of quartz mines; that during recent years and more particularly since about 1912, the use of water for all purposes has largely decreased and the revenues obtained from water sales have been insufficient to even meet the expenses of maintenance and operation without any allowance for depreciation, and as a consequence the company has operated at an annual loss which averaged about \$4,300 per year; that the decline of the mining industry and the resulting decrease in population in the towns account largely for this decreased use of water in recent years, hydraulic mining having ceased entirely about 1889; that electricity later replaced the use of water power for quartz mines, and then came the gradual closing down of the mines in this region; furthermore, that by reason of inadequate revenues, with the resulting annual operating losses, the company has had to reduce its operating expenses to an absolute minimum, has been unable to make the necessary and proper repairs and replacements on the system, and consequently the ditch has reached a general condition of disrepair. Wherefore, since the company has no means of avoiding the constantly increasing loss if it continues to act as a public utility, application is made for permission to discontinue service of water.

Public hearings were held in this proceeding at Valley Springs and San Francisco, after all interested parties had been duly notified and given an opportunity to appear and be heard. At the hearing the stipulation was made that the records and files of all the prior proceedings before the Commission in which this utility has been involved should be considered in evidence in this proceeding.

The operative water system herein involved consists of

about 33 miles of open ditch, with appurtenant flumes, pipe siphons, tunnels and regulating reservoirs and the pipe distribution systems supplying the towns of Mokelumne Hill, Campo Seco and Valley Springs. The diversion dam is located on the south fork of the Mokelumne River near Glencoe, about 16 miles above the town of Mokelumne Hill. Since the closing down of the mines the company has abandoned the use of considerable lengths of lateral ditches.

A review of the evidence submitted discloses the serious financial difficulties now confronting this utility in the maintenance and operation of its system. This extensive ditch system, originally constructed of a capacity to deliver the large volumes of water required for mining purposes (which use has ceased), has reverted to the present small uses, which consist mainly of a domestic supply for the three small towns above mentioned and for the irrigation of about 60 acres. It is apparent from the evidence that it is impossible for applicant to obtain sufficient revenue from the present small use of water, to return the bare costs of operation (without allowance for depreciation) unless unreasonably high and prohibitive water rates be established.

The limited use of water on the system in 1926 is shown by the following tabulation:

Domestic Use:

At Mokelumne Hill an average of 62 consumers.

At Campo Seco an average of 3 consumers.

At Valley Springs an average of 13 consumers.

Mining Use:

Pacific Gold Mining and Milling Co. used about 5 miner's inches.

Irrigation from Ditch:

6 consumers with approximately 60 acres irrigated.

The following tabulation, compiled from the book accounts, shows the maintenance and operation expenses and the revenues for the past ten years, together with the annual operating losses suffered by the utility:

Year	Maintenance and Operation Expenses	Total Revenues	Annual Deficit in Revenue
1914	\$11,492.57	\$5,447.97	\$6,044.60
1915	11,505.35	6,329.81	5,175.54
1916	9,748.06	5,954.58	3,793.48
1917	10,729.78	9,040.10	1,689.68
1918	10,097.09	4,785.34	5,311.75
1919	10,234.66	4,806.95	5,427.71
1920	9,651.81	5,430.38	4,220.43
1921	8,530.28	4,501.14	4,029.14
1922	8,121.07	5,332.05	2,789.02
1923	9,218.25	4,969.77	4,248.48
Total deficit for 10-year period			\$42,729.83

An analysis of the 1923 operating expenses, which follows, shows that approximately 82 per cent. of the total was expended for fixed salaries of employees and for taxes:

Analysis - 1923 Operating Expenses

Salaries - Superintendent and 5 ditch tenders.	\$4,440.00
Taxes.	3,105.14
Repairs - materials and supplies and extra labor	1,288.57
Miscellaneous General Expense and Office Expenses.	384.54
Total	\$9,218.25

The amount paid for taxes seems excessive, especially in view of the financial difficulties of this company and the fact that it has been operating with a deficit for several years. This item is however beyond the control of this Commission, taxes being levied by the authorities of Calaveras County.

The main protestants appearing in this proceeding were the consumers in the town of Mokelumne Hill and the Calaveras County Water Users Association, which organization was incorporated for the purpose of promoting the irrigation of some 6000 acres below Valley Springs by an extension of the company's ditch system. The consumers of Mokelumne Hill introduced testimony to show that the community has

been dependent on the company ditch for its water supply continuously since the early mining days, and that an adequate substitutional supply for the town is not available since underground mine workings have drained certain springs which otherwise could be relied upon for a water supply, and wells of suitable capacity cannot be obtained by reason of the proximity of bed rock to the surface in this region.

The evidence shows that the proposed development of irrigation use as a relief of present conditions would require a rehabilitation of the ditch to overcome the existing excessive seepage losses and the addition of adequate storage facilities to supplement the natural low flow of the river in the summer months when irrigation requirements are a maximum. Such improvements and extensions of the system for irrigation use will require large additional capital expenditures which the company itself is unable to finance and which apparently the proposed irrigation district is unwilling or unable to assume.

Due to a combination of the poor condition of the ditch, with resulting large seepage losses and the low summer flow available from the river, this company has for a number of years past experienced difficulty in maintaining sufficient flow during the summer months in the ditch below Mokelumne Hill to supply even the small demands for water in this lower territory, and for certain periods each summer the ditch is out of water below Campo Seco. As a result of this recurring water shortage the consumers in Campo Seco and Valley Springs have to a large extent been compelled to resort to local wells for their domestic supply.

That the gradual decline in the demand for water from this system in recent years, with resulting diminished revenues, was leading to the critical financial condition in which the utility finds itself, was evidenced in the prior proceedings before

this Commission. In this connection reference is made to the findings of the Commission in Decision No. 7394, rendered April 8, 1920, on Application No. 4943 for an increase in rates, and to the Supplemental Decision thereon, No. 9023, rendered May 28, 1921, in which a revised rate schedule was established, and particularly to Decision No. 10581, rendered June 14, 1922, on further hearing and investigation, wherein there was granted a further upward revision of rates in accordance with an agreement between the consumers and the company.

After careful consideration of all the evidence submitted and particularly the facts set out above, it appears that this utility is entitled to the relief sought for in its present difficulties, after proper provision has been made to enable the consumers in the communities now receiving service from this source an opportunity to develop or obtain other water supplies. As indicated above, Campo Seco and Valley Springs can readily obtain the small supply needed from existing wells, and accordingly, in order to afford this utility a partial relief by reduction of present maintenance and operation expenses, it is recommended that it be permitted to discontinue service of water from the section of ditch below Mokelumne Hill preliminary to the issuance of the final order authorizing discontinuance of service from the whole system.

The Commission realizes the serious situation which must arise from abandonment of service by a company which has for years supplied a community with water for domestic or irrigation purposes. The consumers have relied on the company to secure the necessary water rights and make delivery of water to them, and having placed that dependence upon the company the individual has therefore taken no action to make appropriation for the diversion

of water for his own needs.

The law empowers the Railroad Commission with authority to permit abandonment of service by a public utility when the evidence clearly shows that the company has not and cannot reasonably be operated at a profit. When therefore a company, pursuant to such an order, ceases operation as a public utility this Commission loses all control over the acts of the company or of its property and cannot determine any of the questions which may arise thereafter respecting the rights or claims of the stockholders, creditors or former consumers.

However, from testimony submitted at the hearings and from investigation of the situation it is apparent that a sufficient supply for the needs of the present consumers in Mokelumne Hill can be obtained from wells or tunnels in the town. The owners of the water system have stated their willingness to transfer to any citizen or group of water users in Mokelumne Hill the distributing pipe system at a nominal price to be mutually agreed upon or as determined reasonable by the Commission. The order to be made permitting abandonment of service by the Mokelumne River Power and Water Company will allow time for such purchase and the development of a water supply for the town.

The following form of order is submitted.

O R D E R

Mokelumne River Power and Water Company, a corporation, having applied for an order authorizing it to discontinue the service of water from its ditch system and to abandon its status as a public utility water corporation, a public hearing having been held thereon, and the matter having been submitted for decision,

It Is Hereby Found as a Fact that due to circumstances and conditions beyond the control of this utility the demand for and use of water from its system has for a number of years gradually diminished so that it has become impossible for it to properly maintain the ditch and operate except at a considerable financial loss, and that the possibility that the existing situation will be relieved by a revival of mining or by the proposed development of irrigation use is uncertain and remote.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that applicant be and it is hereby authorized to discontinue service of water from that portion of its ditch system which extends from below Mokelumne Hill to Valley Springs, on and after the 1st day of July, 1924, providing that within twenty (20) days after the effective date of this order written notice to that effect be given each and every consumer at present receiving service from said section of ditch.

IT IS HEREBY FURTHER ORDERED that applicant be and it is hereby authorized to serve written notice within twenty (20) days after the effective date of this order, on all remaining consumers on its system, namely, those in and in the vicinity of the town of Mokelumne Hill, that it is the intention to discontinue all service of water from its ditch system on or about the 1st day of July, 1925, and that such notice is given in order that ample time may be afforded them to provide some other source or sources of water supply and to acquire from applicant, if they so desire, the existing distribution system and reservoir in said town of Mokelumne Hill.

After full compliance by the applicant herein with the

foregoing conditions, this Commission will issue on or about July 1st, 1925, a supplemental order finally authorizing applicant to discontinue all service of water from its ditch system and to cease operating as a public utility, provided that it file with the Commission by June 1st, 1925, a written statement giving the actual conditions then obtaining on the system as to prospects for increasing water use from the system and as to the provisions that have been made by present consumers to care for their future water needs, and showing that conditions have not altered to such an extent that such supplemental order will be unjust and unreasonable to the consumers in the territory traversed by the ditch.

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 24th day of May, 1924.

Chas. J. ...

Egerton Shore

J. W. ...
Commissioners.