

Decision No. 13799.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SUTTER BUTTE CANAL COMPANY, )  
a corporation, for an increase in ) Application No. 9478.  
rates. )

Devlin and Brookman, by Douglas Brookman, and  
Isaac Frohman and Henry Ingram, for applicant.  
George F. Jones, for Butte County Water  
Users Association.  
J. J. Denel and L. S. Wing, for California  
Farm Bureau Federation.  
W. D. Copperoll, for Butte County Farm  
Bureau.  
Milton Newmark for Vail and Maxwell, pro-  
testants.

SEAVEY, Commissioner:

OPINION ON SUPPLEMENTAL PETITION

On October 26, 1923, Sutter Butte Canal Company made application as above entitled for an increase in rates. This application was denied by the Commission in Decision No. 13122, dated February 6, 1924. Thereafter an application for rehearing was filed, and a hearing thereon was held on June 3, 1924. The matter was submitted on briefs, and a decision on the rehearing is now pending.

On June 20, 1924, Sutter Butte Canal Company filed with the Commission a supplemental petition asking for a setting aside of the submission of the matter and requesting authority for an emergency increase in the rates charged its consumers during the

present irrigation season, in order to provide sufficient revenue to meet the utility's extraordinary operating expenses and to cover the loss of revenue occasioned by a water shortage on the system.

The supplemental petition alleges in effect that due to the general water shortage prevailing in California applicant's available water supply was insufficient for the irrigation requirements of all its consumers and that it was compelled to discontinue service to approximately 4,000 acres of rice land, with the result that its revenue for the year 1924 will be decreased approximately \$25,000. It was further alleged that in order to supply the remaining area planted to rice, totalling some 15,000 acres, it was found that an additional water supply would be required, which could be obtained only by reclaiming the waste water in the drain ditches. A number of emergency pumps were therefore installed on these drain ditches in June, 1924, at an estimated cost for installation and operation of approximately \$35,000 for the present irrigation season. It was also alleged that the aggregate loss in net revenue for the year 1924 will amount to about \$60,000, and that unless some relief is afforded applicant in the form of emergency rates, it will be unable on account of lack of funds to continue its pumping and other operations during the irrigation season of 1924.

The Commission is therefore asked, without prejudice to the original application or to any order which may finally be made therein, to authorize applicant to put into effect and charge its consumers just and equitable emergency increased rates for the present season, to provide the increase in revenue necessary in order to meet applicant's financial obligations.

On June 20, 1924, the Commission made its order setting aside the submission in this proceeding and setting a hearing on the supplemental petition, which hearing was held at San Francisco

on June 30, 1924, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The evidence submitted indicates that this utility is experiencing an unusual water shortage during the present irrigation season. Measurements of the flow of the Feather River at applicant's point of diversion, taken early in the season, showed by comparison with previous years that there would be an insufficient water supply available for the requirements of the acreage which had made application for water service, and that drastic measures would be necessary in order to render adequate service to even a portion of the total area which had applied for water. It was decided therefore to discontinue service for this season to certain consumers who had made applications for service subsequent to February 15, 1924, and who, in accordance with the rules and regulations in effect, were subject to discontinuance in case of water shortage. The acreage thus eliminated was approximately 4,000 acres and was mainly planted to rice. It was also decided to supplement the flow available in the river by reclaiming the waste water from the rice fields, and 16 emergency pumping plants had been installed on the various drain ditches.

Evidence submitted at the hearing shows that the loss in revenue to applicant by reason of the discontinuance of service to approximately 4,000 acres of land will amount to \$25,879. There were also introduced in evidence estimates showing that the total cost of installing and operating the emergency pumping plants on the basis of three months' operation would amount to a total of \$40,037. The details of these estimates of emergency pumping costs are shown in applicant's Exhibits "B" and "C".

After deducting the acreage which was eliminated by applicant by reason of the water shortage there remains a total

of 15,134 acres of rice and 11,672 acres of other crops now being irrigated by the system.

The following statement compiled from the evidence shows the results of the 1923 operations of this utility as compared with the results which applicant estimates will obtain for the year 1924:

Items	1923	1924
Normal Maintenance and Operation Expense	\$123,129	\$124,465
Depreciation Annuity	19,000	19,452
Estimated Cost of Emergency Pumping Plants - 3 months	----	40,037
Total Expense Including Depreciation	\$142,129	\$183,954
Gross Revenue from Present Rates	223,000	180,848
Net Operating Revenue	\$80,871	----
Estimated Deficit from Operation	----	\$3,106

The gross revenue from the rates at present in effect for the year 1924 as shown by the foregoing statement, amounting to \$180,848, does not include any revenue on account of the 4,000 acres for which service was refused. Had the water supply been sufficient to care for all demands on the system as evidenced by the applications for water, the total revenue for the year 1924 would have been \$206,727.

It is evident that applicant is confronted with a critical financial situation through no fault of its own but occasioned entirely by a very severe shortage of water, and it therefore appears, after a careful consideration of all the evidence, that applicant is entitled to such increased rates for water delivered to its consumers during the present irrigation season as will yield sufficient additional revenue to provide for the extraor-

ordinary expense of pumping and the loss in revenue due to the necessity of cutting off a large area of land for which no water supply is available.

It is now necessary to distribute reasonably and equitably the required increase in rates to be charged the various consumers in accordance with the crops irrigated and the amounts of water used.

By discontinuing service to some 4,000 acres, an additional supply of water was made available for the use of the remaining area irrigated, and it appears that the resulting loss in revenue, amounting to \$25,879, is properly chargeable to the 15,134 acres of rice and the 11,672 acres of other crops so benefited in direct proportion to the total revenue which will be received in 1924 from the respective areas at the rates now in effect. By direct computation it appears that 80 per cent., or \$20,700 of the loss in revenue is chargeable to the rice area and 20 per cent., or \$5,179, to the acreage in other crops. Dividing these amounts by the respective acreages it appears that the increase necessary to cover the loss in revenue should be \$1.36 per acre for rice and 44 cents per acre for other crops.

It also appears reasonable that these amounts should be amortized over a period of years. If a four-year period is selected, these amounts become 34 cents per acre per year for rice and 11 cents per acre per year for other crops.

The cultivation of rice requires a continuous flow in the irrigation ditches in order that the land may be kept flooded during the growing season, and emergency pumping was resorted to in order to maintain the necessary flow and to save the crop from failure. If the rice area were not involved the water shortage problem could have been solved by rotation in deliveries of water

and by reductions in the amounts furnished. It appears reasonable therefore that the total cost of emergency pumping, estimated at \$40,037, should be charged to the 15,134 acres of rice now under irrigation. This will amount to \$2.65 per acre.

The testimony shows that Sutter Butte Canal Company has recently applied to the Superior Court of California for an order enjoining the Great Western Power Company of California and the Western Canal Company from interfering with the natural flow of the Feather River and thus depriving applicant of the natural flow to which it is entitled by virtue of prior rights on the stream. A decision in this matter was pending at the time of the submission of this supplemental petition, and on July 2nd an injunction pendente lite was granted. It was urged at the hearing that the granting of such an injunction would make available to Sutter Butte Canal Company an additional flow for the relief of the existing water shortage on the system, and thus reduce the expense of the emergency pumping. What results may be expected from the granting of this injunction cannot be determined at this time, and it appears that any relief from such a source will be reflected in the actual pumping costs incurred, and applicant will be required to file with the Commission monthly statements of the actual cost of emergency pumping so that the Commission may later, by supplemental order, make such an adjustment of the emergency rates as are equitable.

At the hearing applicant requested permission to modify Rule IV of its present rules and regulations providing a penalty for delinquency in payments for service under its schedule of rates, so as to require 10 days' written notice instead of the present 30 days' written notice. This change is reasonable under the circumstances and will be permitted for the present irrigation season.

The following form of order is submitted:

ORDER ON SUPPLEMENTAL PETITION

Sutter Butte Canal Company, a corporation, having made a supplemental petition in the above entitled proceeding, asking that it be authorized to establish and put into effect a schedule of increased rates to be charged consumers for the irrigation season of 1924, to reimburse it for certain extraordinary pumping costs and for losses in revenue due to the necessity of refusing service to approximately 4,000 acres of land which had made application therefor, a public hearing having been held thereon, and the Commission being now fully informed in the matter,

It Is Hereby Found as a Fact that the schedule of rates now charged by Sutter Butte Canal Company, a corporation, for water delivered to consumers is inadequate to yield the revenue required to meet ordinary maintenance and operation expenses, depreciation annuity, and certain extraordinary expenses due to the necessity of extensive pumping operations, together with other financial requirements brought about by the existing water shortage and the emergency thus created, and that the emergency increase in rates herein established is a just and reasonable charge to be made by said applicant over and above the rates at present in effect.

Basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion,

IT IS HEREBY ORDERED that Sutter Butte Canal Company, a corporation, be and it is hereby authorized and directed to file with this Commission within five (5) days from the date of this order, the following schedule of emergency rates to be charged consumers in addition to the schedule of rates at present in effect, the schedule of emergency rates so filed to be due and

payable on or before fifteen (15) days from the date of this order:

EMERGENCY INCREASED RATES

To cover the loss in revenue due to water shortage:

For all areas of rice irrigated and charged for under Rate Schedules No. I, No. II and No. III, at present in effect, a total charge of \$1.36 per acre, 25% of such total to be due and payable on or before 15 days from the date of this order and 25% of such total to be due and payable on or before February first of the next succeeding three years.

For all areas of crops other than rice, irrigated and charged for under Rate Schedules No. I, No. II and No. III, a total charge of \$0.44 per acre, 25% of such total to be due and payable on or before 15 days from the date of this order and 25% of such total to be due and payable on or before February first of the next succeeding three years.

To cover extraordinary pumping expense incurred and to be incurred during the season of 1924:

For all areas of rice irrigated and charged for under Rate Schedules No. I, No. II and No. III, at present in effect, \$2.65 per acre, to be due and payable on or before 15 days from the date of this order.

Each of the foregoing emergency increased rates is in addition to the charges heretofore made or to be made for the season of 1924 under the rate schedules now in effect.

IT IS HEREBY FURTHER ORDERED that applicant file with this Commission on or before the 15th day of each month during the present irrigation season a detailed statement showing the extraordinary pumping expense incurred during the preceding calendar month.

IT IS HEREBY FURTHER ORDERED that Rule IV of the company's rules and regulations providing a penalty for delinquency in payments for service under its schedule of rates, shall be amended to read "10 days' written notice" instead of "30 days'



written notice", and that Rule No. IV as amended shall be in full force and effect during the remainder of the 1924 irrigation season.

The Commission hereby reserves the right to make any further order or orders in this proceeding as to it may appear from time to time meet and just.

The effective date of this order is hereby declared to be the 26th day of July, 1924.

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 11<sup>th</sup> day of July, 1924.

C. L. Seavey

H. H. Bunnell

Irving Martin

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Commissioners.