

ORIGINAL

Decision No. 14422.

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.)

In the Matter of the Investigation)
into the Rates, Schedules and Condi-)
tions of Service of the) Case No. 2034.
SUTTER BUTTE CANAL COMPANY,)
on the Commission's own motion.)

Devlin and Brookman, by Douglas Brookman, and
Isaac Frohman and Henry Ingram for applicant.
George F. Jones, for Butte County Water Users
Association and Butte County Farm Bureau.
Arthur B. Eddy, for Protective Water Users Asso-
ciation of Butte and Sutter Counties.
J. J. Deuel and L. S. Wing, for California Farm
Bureau Federation.
W. G. Copperoll, for Butte County Farm Bureau.
J. M. McGee, in propria persona.
W. M. Hunt, in propria persona.

WHITTLESEY, Commissioner:

O P I N I O N

Application for an increase in rates as entitled above
was made by Sutter Butte Canal Company on October 26, 1923.
The Commission denied this application in its Decision No.
13122, rendered February 6, 1924. Thereupon the Sutter Butte
Canal Company filed an application for rehearing, which was
granted and was held on June 3, 1924, the matter was submitted
on briefs, and a decision on said rehearing has since been pend-
ing. Thereafter, on June 20, 1924, the Sutter Butte Canal

Company filed with the Commission a supplemental petition requesting authority, without prejudice to the original application or to any order which is pending thereon, for an emergency increase in rates to reimburse it for certain extraordinary pumping expenditures and loss in revenue incurred by reason of a water shortage existing on the system.

On July 11, 1924, after a hearing the Commission rendered its Decision No. 13799 on said supplemental petition granting Sutter Butte Canal Company a schedule of emergency increased rates. Thereupon the Butte County Water Users' Association, protestants, filed a petition for rehearing of said supplemental petition which was granted and a rehearing held, at which time additional and supplemental evidence was submitted. On August 27, 1924, the Commission rendered its Decision No. 13963 on the supplemental petition wherein there was authorized a surcharge of 70 cents per acre on all rice land irrigated during the season of 1924. This rate was computed to cover the estimated cost of the emergency pumping for the remainder of this season, and amounted to a modification and a material reduction in the emergency increased rates as granted in Decision No. 13799. Furthermore, on August 27, 1924, the Commission issued an order reopening for further hearing Application No. 9478 and also an order instituting on its own motion Case No. 2034 for an investigation into the rates, schedules and conditions of service of Sutter Butte Canal Company.

These proceedings were consolidated for hearing and decision, public hearings thereon were held at San Francisco and Gridley on October 6th and 23d, 1924, respectively, after due notice had been given to all interested parties. By stipulation entered in to at the original hearing of said Application No. 9478, now before

the Commission for decision on rehearing, all the records and files of the prior rate proceeding, Application No. 7317, are considered in evidence.

The rates at present in effect were established by this Commission in Decision No. 10372 after careful consideration and analysis of the large volume of testimony and evidence submitted which enabled a comparison to be made for a number of years of operating methods and conditions, the details of expenditures for maintenance and operation and for capital account, and the revenues derived from the acreage irrigated and charged. For the purpose of computing and designing this rate schedule the Commission at that time allowed the following as the reasonable and necessary annual charges to be returned from the revenues from the future operation of the system:

Maintenance and operation expenses.	\$133,000
Depreciation annuity.	19,000
Interest return on a rate base of .	\$1,655,009

As indicating the conclusions reached by the Commission as the basis for its order in said Decision No. 10372, the following statements are quoted from the opinion preceding said order (20 C.R.C., pages 631 and 633):

"In view of all the circumstances, it is reasonable to conclude that the acreage irrigated and the revenues received in 1921 be made the basis for computation of rates for the immediate future. We, therefore, adopt as an estimated revenue the sum of \$248,000, if present rates continue in effect."

And further on in this opinion,

"The rates at present in effect produce an annual gross income of \$248,000. Deducting from this the necessary allowances for maintenance and operation, taxes and sinking fund annuity, there remains as net revenue available for fair return on the property \$96,000.

This sum amounts to 5.8 per cent. on the rate base above shown. While it is true that this utility is still in process of development, we believe the company is reasonably entitled to a greater rate of return than that which it now receives. An increase in the rates will, therefore, be allowed in an amount sufficient, in our judgment, to enable the applicant, under continuing conditions of development, the return to which it is entitled."

The above rate schedule was first effective for the year 1922 and produced a gross revenue for the utility of \$275,440. However, for the following year 1923 the gross revenue decreased to \$223,000 which was due largely to the discontinuance of irrigation on about 7400 acres of rice land not planted that year. Whereupon the utility filed the present application, No. 9478, for a further increase in rates, in which it was alleged in effect that the schedule of rates under which it operated was unremunerative and inadequate to yield the necessary annual charges of the system. The Commission denied this application by its Decision No. 13122 heretofore mentioned, after careful consideration of all the evidence submitted, and an analysis of the details of operating records for a number of years past including those for 1923. The basis for the Commission's conclusion that an increase in rates was not justified at that time, as evidenced in its decision, was the assumption of the possibility that the acreage which would be irrigated and charged in 1924 might equal the average of the acreage which had been planted to rice and other crops over the preceding four years; in which case it was shown by computation that the present rates would yield a revenue sufficient to net the utility a return of 6 per cent. on the rate base of \$1,739,313, as allowed. However, it was pointed out that predictions as to the acreage that may be irrigated in future years are uncertain by reason of the great fluctuation exper-

lenced from year to year in the past, particularly in the case of rice acreage.

The cultivation of rice requires a delivery of approximately four times the quantity of water that other crops demand, and about 75 per cent. of the annual revenues of the company for a number of years past has been produced from the rice acreage irrigated. Rice is an annual crop and the total acreage which may be planted in any year depends largely on the forecast of the grower as to the probable future market price of the commodity which has in the past varied widely in accordance with supply and demand. The variation in the acreage of rice is further accounted for by the practice of resting the land for one or more years after three years' cropping.

In reconsidering the reasonableness of the annual charges allowed by this Commission in its previous decision in this proceeding, the additional and supplemental evidence submitted on its being reopened for further hearing must be given consideration. This evidence includes detailed statements of 1924 operating records and also the detailed figures regarding the water shortage experienced on this system by reason of which the utility suffered a loss in revenue of over \$26,000 due to the necessity of discontinuing service to some 4000 acres of rice, and in addition to this incurred extraordinary emergency pumping expenses which totalled approximately \$45,000.

A comparison of the maintenance and operation expenses incurred for the past four years, as compiled from the evidence, is given in the following table. Those for 1924 represent actual expenditures for nine months and estimated expenditures for three months.

MAINTENANCE AND OPERATION EXPENSES
(Exclusive of Depreciation Annuity)

<u>Items</u>	<u>1921</u>	<u>1922</u>	<u>1923</u>	<u>1924*</u>
Pumping Expenses	\$22,370.61	\$12,015.54	\$7,721.83	\$8,650.00
Distribution Expenses	61,147.99	61,757.81	51,062.34	54,750.00
Commercial Expenses	4,301.40	7,089.86	3,827.99	3,700.00
Management, Legal and General Expenses	46,669.63	55,714.42	41,236.51	34,765.00
Taxes	13,796.67	15,226.40	19,256.51	28,983.00
Fund for Extraor- dinary Repairs	3,000.00	3,000.00	3,000.00	3,000.00
Emergency Pumping Expenses	-----	-----	-----	45,000.00
Total Operating Expenses	\$151,286.00	\$134,804.03	\$126,763.88	\$178,848.00

* Three Months Estimated.

As shown above, the total operating expenses for 1923 indicate a considerable reduction over those for the preceding years and are less than those for 1924. It appears that this reduction was accomplished by effecting various economies in operation and also by reason of favorable operating conditions obtaining that year which obviated the necessity for certain extraordinary expenditures such as the evidence shows had been incurred in the past and are likely to recur at intervals in the future. It is apparent that the large increase in 1924 expenses was due principally to the increase in taxes and to the extraordinary expenditures incurred for emergency pumping. Increases in other items of expense were largely offset by decreases in others. The increase in taxes was brought about by the action of the Board of Supervisors of Butte County in increasing the assessed valuation of the company from \$147,475 to \$505,980, with a resulting tax increase of over \$12,000.

The company has been reimbursed for approximately \$10,000 of the emergency pumping expenses of \$45,000. This amount was received from the surcharge of 70 cents per acre authorized by the Commission and levied on all rice land irrigated in 1924 as previously mentioned herein.

A further analysis and comparison of the items of operating expense for 1923 and 1924 indicates that under normal operating conditions the annual operating expenses of this utility should be kept under \$123,000. With this as a basis and allowing for the increase in taxes made effective in 1924 and also a sum to provide a fund to reasonably cover extraordinary expenses for flood damage and for pumping as they may recur periodically in the future, we obtain the total \$141,000 as a reasonable amount to include in the annual charges in this proceeding for future maintenance and operation expenses.

The depreciation annuity allowed in the prior rate proceeding was \$19,000. Adjusting this sum for additions and betterments and for retirements and abandonments made subsequently, that is, for the period October 1, 1921, to October 1, 1924, as determined from computations submitted in the evidence, we obtain a net total of \$19,709 for the depreciation annuity to be allowed in this proceeding.

The rate base fixed by the Commission in its Decision No. 10372 as a reasonable allowance for the purposes of that proceeding was \$1,655,009 as of October 1, 1921. The evidence shows that subsequent to this date applicant has installed additions and betterments amounting to \$137,077, and has retired or abandoned property estimated to have cost \$22,342. Making the adjustments for the above amounts, which have been found upon analysis to be properly charged, we obtain the total \$1,770,644, which will be allowed as the reasonable rate base

as of October 1, 1924.

Summarizing from the above we obtain the following annual charges which will be allowed as fair and reasonable amounts to be produced from the rates in the immediate future:

Maintenance and operation expenses . . .	\$141,000
Depreciation annuity	19,709
Interest return on a rate base of. . .	\$1,770,644

The following tabulation compiled from the evidence shows the actual results of operation for the past four years:

<u>Items</u>	<u>1921</u>	<u>1922</u>	<u>1923</u>	<u>1924</u>
Total Gross Revenues	\$248,000	\$275,440	\$223,000	\$192,948
Operating Expenses, including Depreciation	169,936	173,804	145,764	197,848
Available for Interest Return	\$78,064	\$101,636	\$57,236	-\$4,900
Return on the rate base \$1,655,000 as allowed	4.7%	6.1%	3.4%	deficit

As indicated in the former Decision No. 10372, applicant cannot reasonably expect to receive a full return upon its investment by reason of the character of the water use and of the present stage of development of the system. However, from a consideration of the results shown above it is apparent that an increase in rates should be granted.

If the rates in the future are to return the above necessary annual charges including 8 per cent. on the rate base of \$1,770,644, it will be necessary that a gross annual revenue of over \$302,000 be produced, likewise if 6 per cent. is earned a \$266,900 gross revenue will be required, and if 4 per cent. is yielded, \$231,500 will be required.

An analysis of exhibits showing the acreage irrigated

and the acreage charged for a number of past years discloses the wide range within which the totals have fluctuated from year to year, particularly the rice acreage which as heretofore mentioned has contributed about 75 per cent. of the annual revenue. In 1922 the total acreage in rice was exceptionally large, being 28,128 acres, but in 1923 and 1924 the totals dropped to 20,737 and to 15,001 acres respectively, which was reflected by a corresponding reduction in revenues for those years as shown in the above table.

Another matter for consideration is the very general and long standing dissatisfaction and discontent existing on this system, which has been brought about mainly by the alleged discrimination due to the present form of rate schedule which provides for two classes of consumers, namely, contract holders and non-contract holders. The contract holders all protest against the increases made in the rates which had formerly been fixed in their original contracts. A certain large group also protests against the so-called "standby charge" whereby under the terms of their contracts they are obligated to pay the established rate for water whether the land is irrigated or not. A considerable number also desires the abrogation of these contracts in their entirety. The non-contract holders have protested the differential allowed contract holders in the present form of rate, claiming that an undue burden of the charge is thereby placed upon them and they have suggested that a rate be provided which would place all consumers on the same basis. It is evident that a continuation of these conditions will seriously retard the future development of this territory and at the same time the successful operation of this irrigation system will be rendered an economic impossibility. It is the opinion of the Commission that the time has come to eliminate the differential in favor of the contract holders, but we desire to state that it is not the intent of this decision to make, or attempt to make, any change in these contracts or in the relations between the company and the contract holders other than to fix the rates.

In view of all the facts regarding the past operations

of this utility, and after several years of investigation and study of the situation the Commission is convinced that a material change in the form of rate schedule is necessary at this time in order to preserve for the future the best interests of the water users and the community as well as to provide sufficient revenues to enable the company to function successfully.

The experience of the operation of irrigation districts under the "Wright Act", which requires that all acreage benefitted shall bear its share of the annual fixed charges, furnishes the basis for a practical solution in this case. However, a public utility supplying irrigation water cannot assess charges against every acre under its ditch system as is done by a district. But in order that a utility may be assured a dependable income to meet its fixed charges it is desirable that a stand-by charge be extended over as large an acreage as possible. To accomplish this end in the present instance, it is recommended that a rate schedule be designed which will require all consumers to pay a service charge per acre annually during the period in which they continue to be active consumers as a condition of obtaining water at established rates.

Suitable amendments to the rules and regulations to make this effective will be included in the following order. The duty of water for the irrigation of rice may vary considerably depending on the character of soil, drainage conditions, manner in which the land is checked for cropping and the methods employed for handling the water. It may vary from a minimum as low as five acre feet per season to ten acre feet or even higher. There has been considerable testimony and discussion as to the desirability of metering the delivery of water for rice in order to curtail extravagant and wasteful use of water and effect a conservation of the supply for the benefit of those

consumers who exercise economy in its use.

The physical conditions present on the system make it extremely expensive to install measuring devices throughout the rice area and at this time neither the company nor the land owners can reasonably afford the expense. However, in the future extensive metering of this system may be necessary in order to conserve the available supply to meet the demands of increased acreage and use of water.

Under the circumstances it appears to be sufficient that provision be made that meters may be installed either at the option of the company or at the request of the consumers, and therefore in the order herein a schedule of metered rates will be established as well as a schedule of flat rates.

After a careful consideration of all the evidence submitted and in view of the particular facts and the local conditions which must be met, the form of rate schedule set out in the following order has been computed and designed to yield applicant a reasonable average annual revenue over a period of years, and at the same time not prove to be unduly high and burdensome for the consumers to pay.

The following form of order is therefore submitted:

O R D E R

Sutter Butte Canal Company having made application to this Commission for an increase in rates, as above entitled, which was denied by Decision No. 13122; petition for rehearing in this matter having been granted, public hearings having been held thereon and the matter having been submitted for decision; and thereafter the Commission having again reopened the matter for further hearing and having instituted on its own motion Case No. 2034 as entitled above, public hearings having been held thereon

and additional and supplemental evidence having been introduced, and the entire matter having been finally submitted and the Commission being now fully informed in the matter,

It is Hereby Found as a Fact that the present schedule of rates of the Sutter Butte Canal Company, in so far as it differs from the schedule herein established, is unjust, discriminatory and unreasonable and that the schedule of rates herein established constitutes just and reasonable rates to be charged by said company.

Basing its order on the foregoing findings of fact and on the other statements of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED that Sutter Butte Canal Company be and it is hereby authorized and directed to file with this Commission within ten (10) days from the date of this order the following schedules of rates for irrigation water, said schedules of rates to be effective for service rendered for the 1925 irrigation season and thereafter:

SCHEDULE NO. 1 - FLAT RATES

For Rice Irrigation

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

\$3.85 per acre payable on or before February 1st, plus 75 cents per acre if water is pumped.

\$3.85 per acre payable on or before July 1st, plus 75 cents per acre if water is pumped.

For Summer Plowing or for Sprouting Water Grass, Weeds, etc. in order to eradicate same and not for purpose of raising crops the same season or year

Service Charge:

\$1.25 per acre to accompany application, which charge entitles consumer to one flooding, plus pumping charge at rate of 30 cents per acre foot if water is pumped.

Additional Charges for Water Delivered:

70 cents per acre for second and each subsequent flooding in the same year for the same purpose, payable before each flooding, plus pumping charge at rate of 30 cents per acre foot if water is pumped.

For Grain (other than Rice) Irrigation, including irrigation for double cropping such as beans or similar crops

Service Charge:

\$1.25 per acre to accompany application, which charge entitles consumer to two irrigations, plus pumping charge at rate of 30 cents per acre foot if water is pumped.

Additional Charges for Water Delivered:

70 cents per acre for third and each subsequent irrigation during continuance of service, payable before each irrigation, plus pumping charge at rate of 30 cents per acre foot if water is pumped.

For Irrigation of all Other Crops

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

\$1.00 per acre payable on or before February 1st, plus 40 cents per acre if water is pumped.

\$1.00 per acre payable on or before July 1st, plus 40 cents per acre if water is pumped.

SCHEDULE NO. 2 - METER RATES

For Rice Irrigation

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

\$2.50 per acre for 3 acre feet or less per acre, payable on or before February 1st, plus pumping charge at rate of 50 cents per acre foot if water is pumped.

For water used in excess of 3 acre feet per acre, additional payment to be made therefor at rate of \$1.45 per acre foot, plus pumping charge at

rate of 30 cents per acre foot if water is pumped,
same to be paid at end of month of use.

For Summer Plowing or for Sprouting Water Grass, Weeds, etc.
in order to eradicate same and not for purpose of raising
crops in the same season or year

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

If total quantity delivered for first flooding is
not over $\frac{1}{2}$ acre foot, no additional charge.
For all over $\frac{1}{2}$ acre foot charge at rate of \$1.45
per acre foot. If water is pumped add pumping
charge for total quantity delivered at rate of
30 cents per acre foot.

For all water delivered for second and subsequent
floodings in same year for same purpose, charge
for at rate of \$1.45 per acre foot, plus pumping
charge at rate of 30 cents per acre foot if water
is pumped; payments to be made at end of month
of use.

For Grain (other than Rice) Irrigation, including irrigation
for double cropping for beans or similar crops

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

If total quantity delivered for first and second
irrigations is not over $\frac{1}{2}$ acre foot, no additional
charge.
For all over $\frac{1}{2}$ acre foot charge at rate of \$1.45
per acre foot. If water is pumped add pumping
charge for total quantity delivered at rate of
30 cents per acre foot.

For all water delivered for third and subsequent
irrigations during continuance of service, charge
for at rate of \$1.45 per acre foot, plus pumping
charge at rate of 30 cents per acre foot if water
is pumped; payments to be made at end of month
of use.

For Irrigation of all Other Crops

Service Charge:

\$1.25 per acre to accompany application.

Additional Charges for Water Delivered:

\$1.25 per acre for $1\frac{1}{2}$ acre feet or less per acre, payable on or before February 1st, plus pumping charge at rate of 28 cents per acre foot if water is pumped.

For water used in excess of $1\frac{1}{2}$ acre feet per acre, additional payment to be made therefor at rate of \$1.45 per acre foot, plus pumping charge at rate of 28 cents per acre foot if water is pumped, same to be paid at end of month of use.

IT IS HEREBY FURTHER ORDERED that Sutter Butte Canal Company shall cancel and abolish Rules One and Two of its Rules and Regulations at present in effect and shall substitute therefor the following revised rules for making applications for water:

1. Any owner of land or a lessee of land furnishing a guarantee acceptable to the company for payment of water bills incurred, located within the present service area of the irrigation system, who desires irrigation service of water either on all or a portion of his acreage, must file with the company on or before January 1st of the season of intended use a signed application and agreement made on the printed form provided for the purpose. Thereupon such owner or lessee becomes an active consumer as to the acreage applied for, for a period of three consecutive years and obligates himself to pay during this period such rates and charges as are in effect for the use of water and service rendered. Hereafter at his option he may cease to be an active consumer by giving the company notice as provided in the following Rule No. 2.
2. At the beginning of each year, all active consumers on the system must either renew their applications and agreements to continue as active consumers for three consecutive years, or they must file with the company a notice to discontinue irrigation service for the production of crops the coming season. In case a notice to discontinue is filed, such consumer continues to be an active consumer for the two succeeding years, being the unexpired term of the three-year period of his last application and agreement filed with the company, and for said two years is obligated to pay the service charge together with the rate and charge in effect for water which he may require and which may be delivered for purposes other than producing a crop. However, a consumer having filed a notice for discontinuance may resume his relation as an active consumer for another three-year period by filing a new application for any kind of service desired either at the beginning of the third year of his unexpired application or at the beginning of any succeeding year.

IT IS HEREBY FURTHER ORDERED that the date for the filing of applications for service or notices of discontinuance of service, as provided in the revised Rules 1 and 2 set out above in the order herein, is hereby fixed for the year 1925 only as on or before the first day of February of that year in conformity with the order extending such date of filing as issued by this Commission on the twenty-second day of December, 1924.

IT IS HEREBY FURTHER ORDERED that Sutter Butte Canal Company be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, revised and amended rules and regulations which shall include the rules set out in this order and such other provisions to govern relations with its consumers as will make such rules and regulations conform with the schedule of rates set out herein.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

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 31st day of December, 1924.

C. Shaver

Dwight Martin

J. T. Whittney
Commissioners.