

LBM

Decision No. 18819.

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

City and County of San Francisco, a municipal corporation,	)	
Complainant,	)	
vs.	)	Case No. 842
Spring Valley Water Company,	)	
Defendant,	)	

In the Matter of the Application of SPRING VALLEY WATER COMPANY	)	
for permission to increase the rates and charges for water furnished by it to the City and County of San Fran-	)	
cisco and its inhabitants.	)	Application No. 2739

McCutchen, Olney, Mannon & Greene,  
by Allan P. Matthew, for Spring Valley Water Company;

John J. O'Toole, City Attorney,  
for City and County of San Francisco.

SEAVEY, Commissioner:

SUPPLEMENTAL OPINION

On September 6, 1927 Spring Valley Water Company filed a supplemental petition in the above entitled proceedings asking the Commission to modify the order in Decision No. 9352 dated August 12, 1921, as amended, by entering its fourth supplemental order in said proceedings providing-

1st. That condition three of said order be amended so as to provide that, commencing with October 1, 1927, if the revenues of Spring Valley Water Company shall exceed its requirements as defined in said condition three by more than the amount of the annual contribution to the amortization fund, two-thirds of the amount of such excess shall be credited to the amortization fund and one-third thereof to the surplus of the Spring Valley Water Company in the place and stead of an equal apportionment as required prior to such date;

2nd: That condition four of said order be amended so as to provide that if the properties of the Spring Valley Water Company shall be purchased by the City and County of San Francisco, prior to the first day of January, 1934, and, at the time of such purchase, Spring Valley Water Company shall not have been fully reimbursed for expenditures made in additions to and extensions of its water supply and distribution system (other than the expenditures required by the provisions of condition one) by means of the additional contributions to the amortization fund, that is to say, the contributions which are additional to the annual contributions, in the manner provided in condition three, as amended, the purchase price of the said properties may be increased by the amount for which the Spring Valley Water Company shall not have been so reimbursed.

The company alleges and submitted evidence to show that its present transmission lines from its reservoirs in San Mateo County to San Francisco and some of its distributing facilities in San Francisco are inadequate. The present transmission mains have a delivering capacity of about 47,000,000 gallons daily, while an additional 3,000,000 gallons daily may be obtained from Lake Merced, making a total maximum delivery of about 50,000,000 gallons daily. It is of record that the average daily consumption for 1926 was 47,000,000 gallons daily and for the first seven months of the current year 49,800,000 gallons daily, with a peak demand of 53,000,000 gallons reached in a single day. On several days during the current year the consumption was above 50,000,000 gallons. The company has 110,000,000 gallons storage capacity in San Francisco. Whenever the consumption exceeds 50,000,000 gallons per day the water in the local reservoirs is drawn down.

It is believed by representatives of Spring Valley Water Company that it is necessary and in the public interest, that a new fifty-four inch transmission main having a daily capacity of 30,000,000 gallons be constructed from the San Andreas reservoir in San Mateo County to the Laguna Honda reservoir in San Francisco, and that it is likewise necessary that the Stanford Heights distributing reservoir in San Francisco be enlarged so as to increase

its existing capacity by 5,000,000 gallons, that a new twenty inch main be installed from the Stanford Heights District to the Presidio Heights District, that certain alterations be made and the present pumping facilities, together with other additions and betterments to enable delivery of the increased water supply from the new transmission mains to the Spring Valley Water Company's consumers. The cost of these improvements is estimated at \$2,230,950.00 segregated as follows:-

Pipe line 54" San Andreas to Lake Honda . . . . .	\$1,484,950.
Moving pumps and boilers to central station . . . . .	140,000.
3900'-24" force main central station to Stanford Heights . . . . .	75,000.
13300' 20" pipe Stanford Heights to Presidio Heights	110,000.
Construct east half Stanford Heights reservoir . . . . .	70,000.
16,990' 48"-36" pipe to University Mound District . . . . .	301,000.
Extension of high pressure in Daly Hill, Crocker, Amazon and Clay St. tank, etc. . . . .	50,000.
Total.....	<u>\$2,230,950.</u>

The company is willing to undertake this work immediately provided that conditions three and four of the order in Decision No. 9352 dated August 12, 1921, as amended, will be amended, as indicated herein.

It is believed that by placing into the amortization fund two-thirds of the surplus, as defined in condition three in the order in Decision No. 9352, as amended, that the amortization fund will be sufficient to amortize the added investment prior to January 1, 1934,

It is admitted by representatives of the City and County of San Francisco that the installation of the proposed improvements is necessary in order that the inhabitants of San Francisco may have an adequate water supply. John J. O'Toole, city attorney, however, stated that the Board of Supervisors feel that if the improvements are practically financed out of revenue they should, when the company is fully reimbursed, become the property of the City and County of San Francisco. He further requested that the

granting of the company's petition should in no way effect the pending rate litigation and that the order should not contain any reference to the amount to be added to the purchase price if the city exercises its option prior to the complete amortization of the added investment.

We do not believe that we have any authority to require the company to deed the property to be constructed to the city in the event that the city does not exercise its option and the investment is fully amortized. If the city does exercise its option it is contemplated that the company will receive the difference between the cost of the properties and the amount in the amortization fund.

It should be understood by all that the granting of the request now before the Commission does not in any way prevent either the city or the company to proceed with the pending rate litigation.

In Decision No. 9352 dated August 12, 1921 the Commission, referring to the sale of the properties to the city, says--

" It is the view of the Commission that the Spring Valley Water Company should hold itself in readiness throughout the term during which its cooperative plan shall be in effect, to sell to the city the properties included in its offer of Jan. 14, 1921 at a price which shall not exceed the price heretofore fixed by the Railroad Commission, increased only by the amount of actual expenditures made by the company for capital purposes between the first day of March, 1920, and the first day of July, 1921, and other capital expenditures required of the company under the terms and conditions of the order herein."

There is some question whether the language quoted applies to the expenditures now contemplated. It is only fair and equitable, that if the company installs the improvements referred to herein, it should be compensated therefor, if the city acquires its properties. The measure of this compensation should be the difference between the actual cost of the improvements and the amount of such cost amortized at the time of the transfer. That the company is entitled to such compensation is admitted by the city attorney.

However, to remove all doubt concerning this matter it is believed proper to include in the order the amendment to condition four suggested by the company.

I herewith submit the following form of order;-

FOURTH SUPPLEMENTAL ORDER

Spring Valley Water Company having requested the Commission to amend Decision No. 9352 dated August 12, 1921, as amended, a public hearing having been held and the Commission being of the opinion that the installation of the additions to and extensions of applicant's water supply and distribution facilities referred to in the foregoing opinion should be immediately undertaken by applicant and that the Commission's order in Decision No. 9352, dated August 12, 1921, as amended, should be further amended, therefore,

IT IS HEREBY ORDERED that condition three of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended, be, and it is hereby, amended to read as follows;-

Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows;-

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station, as provided in condition 2 of said order) the payment of taxes and assessments, the creating of a depreciation reserve of \$300,000 per annum, the payment of interest on all bonds and notes and other interest bearing indebtedness, and the payment of dividends at the rate of 5 percent per annum upon the outstanding capital stock of the aggregate par value of \$28,000,000., there shall be set aside out of the surplus after meeting the foregoing requirements, and placed in the amortization fund, such sum, hereinafter referred to as the annual contribution, as will upon the expiration of a term of twelve years, with interest at 5 percent compounded annually, yield a total sum equivalent to the aggregate of the capital expenditures required under the provisions of condition 1 of said order; provided, however, that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than the amount of such annual contribution,

the amount of such excess shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company, but provided further that commencing with the first day of October, 1927, two-thirds of the amount of such excess shall be credited to the amortization fund and one-third thereof to the surplus of the Spring Valley Water Company in the place and stead of an equal apportionment, as required prior to such date; provided, further, that if the revenues of any particular year shall be insufficient to yield a surplus equivalent to such annual contribution above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such deficit or accumulated deficits, together with interest upon the amount thereof at the rate of 7 percent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the City and County of San Francisco on the fourteenth day of January, 1921, shall be purchased by the City and County of San Francisco prior to the first day of January, 1934, the sum which shall be transferred to and become the property of the City and County of San Francisco as hereinafter provided shall be not less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested by the Spring Valley Water Company in such manner as will in its judgment afford the maximum interest yield consistent with safety of principal. In the event that the depreciation reserve of \$300,000 per annum hereinbefore provided shall be insufficient to defray the expenditures of the Spring Valley Water Company for the renewal and replacement of operative properties and for additions to and extensions of its water supply and distribution system, the Spring Valley Water Company is authorized, to the extent of such insufficiency, to reimburse itself for the cost of additions to and extensions of its water supply and distribution system out of such moneys as have been or shall be placed in the amortization fund or as shall become available therefor, which are additional to the annual contributions, and to the interest accumulations upon such annual contributions; provided, that upon all moneys so expended from the amortization fund a charge of five (5) percent per annum shall be credited to the amortization fund to reimburse it for loss of interest upon said moneys and shall be paid by the Spring Valley Water Company into said fund; and provided further that the making of any such addition or betterment shall be submitted to the City Engineer and if disapproved by him within thirty days after such submission and such addition or betterment shall nevertheless be made or have been made, it shall not be permitted to the Spring Valley Water Company to reimburse itself for the cost thereof in the manner herein provided. The additions to and extensions of the water supply and distribution system of the Spring Valley Water Company, for which it is so reimbursed as aforesaid, shall, to the extent of such reimbursement, be in the place and stead of the amortization fund.

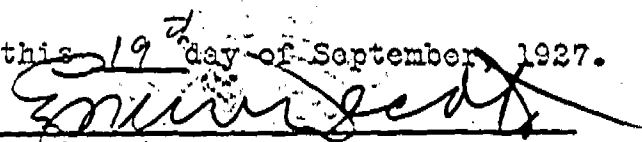
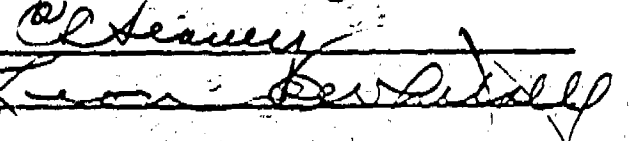
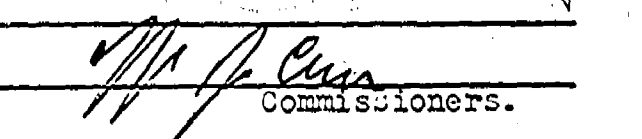
IT IS HEREBY FURTHER ORDERED that condition four of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended be, and it is hereby, amended to read as follows:-

As a further condition of the granting of such increase, it is required that in the event that the properties of the Spring Valley Water Company which were offered for sale to the City and County of San Francisco on the fourteenth day of January, 1921, shall be purchased by the City and County of San Francisco prior to the first day of January, 1934, the amortization fund established in accordance with the requirements of condition 3 hereof shall be transferred to and become the property of the City and County of San Francisco; provided, however, that if, up to the time that such properties shall be purchased by the City and County of San Francisco, the revenues of the company shall have been insufficient to meet the requirements of the company as specified in condition 3 hereof, and such deficit or accumulated deficits shall not have been offset by the surplus derived from the revenue of subsequent years and prior to the time of such purchase, the said amortization fund, before being transferred to the City and County, may be diminished by the amount of such deficit or accumulated deficits, and only the balance paid over to the City and County of San Francisco; and provided, further, that if at the time of such purchase the company shall not have been fully reimbursed for expenditures made in additions to and extensions of its water supply and distribution system (other than the expenditures required by the provisions of condition No. 1 hereof) by means of the additional contributions to the amortization fund, that is to say, the contributions which are additional to the annual contributions, in the manner provided in Condition No. 3 of this order as amended, the purchase price of the said properties may be increased by the amount for which the company shall not have been so reimbursed. In the event that said properties of the Spring Valley Water Company shall not have been purchased by the City and County of San Francisco prior to the first day of January, 1934, the said amortization fund shall thereafter remain the property of the Spring Valley Water Company.

IT IS HEREBY FURTHER ORDERED that the order in Decision No. 9352, dated August 12, 1921, as amended, shall remain in full force except as modified by this Fourth Supplemental Order.

The foregoing Supplemental Opinion and Fourth Supplemental Order are hereby approved and ordered filed as the Supplemental Opinion and Fourth Supplemental Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 19<sup>th</sup> day of September, 1927.

  
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Commissioners.