

Decision No. 14094

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of Stockton and Mokelumne Canal Company, a corporation, for an order abrogating certain contracts with consumers, authorizing said corporation to terminate service as a public utility and authorizing the sale by said corporation of its assets to the Woodbridge Irrigation District.

Application No. 14094.

Levinsky and Jones, by Gilbert L. Jones,
for Applicant.

A.L. Cowell, for Woodbridge Irrigation District.

U.S. Webb, Attorney General,
by T.H. Christensen, Deputy Attorney General,
for the Department of Institutions of the
State of California.

George F. McNoble, for certain of the Boyce heirs.

WHITSELL, COMMISSIONER:

O P I N I O N

In this proceeding, Stockton and Mokelumne Canal Company, a corporation, serving water for irrigation purposes in the territory lying between Lodi, Woodbridge and Stockton, in San Joaquin County, asks for an order abrogating certain contracts with its consumers, to be relieved of its public utility obligations and for authority to transfer its properties, for a consideration of \$250,000., to the Woodbridge Irrigation District, which joins in the application.

A public hearing in this matter was held in the City of Stockton after all interested parties were duly notified and given an opportunity to appear and be heard.

The Stockton and Mokelumne Canal Company was organized in 1896 and incorporated in 1902, and has been in the business of distributing water for irrigation purposes as a public utility continuously since 1899. The company owns certain water rights in the Mokelumne River, the waters of which are diverted by means of a concrete dam located near the town of Woodbridge and distributed by gravity through approximately seventy-one miles of canals owned by the company.

On April 17, 1926, this company filed with the Commission Application No. 12764, wherein authority was asked either to discontinue further public utility service or for permission to establish increased rates which would yield the company a net return of eight per cent upon a value of \$209,115., which amount represents the appraisement of the physical properties of the system, exclusive of water rights, as reported by the engineer for the Woodbridge Irrigation District as of 1924. A hearing was held in Application No. 12764; the matter, however, was not submitted, pending the outcome of negotiations then in progress for the sale of the system to the above district. By stipulation entered into between all interested parties in the instant proceeding, the record of said Application No. 12764 may be considered a part of the evidence in this matter.

The evidence shows that this utility has been struggling along for many years at a constantly increasing financial loss; that no dividends have ever been paid upon any of the stock which has frequently been subject to the levying

of assessments to make up incurred deficits; that the number of consumers and the acres irrigated have constantly decreased until at the present time the revenues are insufficient to meet the necessary operating costs. It furthermore appears that there is little or no prospect of this company obtaining any relief in the future from the adverse conditions now existing throughout the area served.

The Woodbridge Irrigation District was duly and legally organized as such on May 8, 1924, under the laws of the State of California and at present comprises approximately fourteen thousand acres of irrigable lands, a large portion of which lies within the service area of this utility. Arrangements have been made by and between this district and the company whereby the district will acquire all of the properties, interests and water rights of the canal company for the consideration of \$250,000.

There was no protest of any kind made at the hearing against the sale of this property to the district and, as the evidence shows that further operation of this system under the present conditions is impracticable from a financial standpoint and that under the irrigation district plan the waters may be preserved to the people of the territory served and the area adjacent thereto at a reasonable cost, it appears that the transfer should be granted. There are, however, at the present time a certain number of consumers and also a considerable amount of acreage which has at some time in the past received water for irrigation purposes and which are not within the exterior boundaries of the district as at present constituted. The territory now embraced within the district was determined after more than a year's thorough and complete canvassing of

the entire area capable of being served by this utility. All of these consumers and landowners under the system now outside of the district were given every opportunity to bring their lands within the boundaries thereof. The district has stipulated in this proceeding that it is still ready and willing to permit these present and past consumers of the utility, who are not now within the district, to be included therein, provided proper application therefor is made within a reasonable time. It should be pointed out at this time, perhaps, that one of the chief difficulties in bringing into the district a larger portion of the territory served by the utility is the fact that the water-table is very close to the surface of the ground throughout this area, resulting in a very large number of land-owners and consumers preferring to obtain their water supply from wells. As part of the conditions of the transfer, the Commission will make proper provision for those present and former consumers of this utility now outside the district to apply for inclusion, should they so desire.

As heretofore stated, this application requests the abrogation of contracts existing between the utility and certain of its consumers. All of these contract holders, with the exception of the California State Hospital for the Insane, have agreed to relinquish their rights in order that this transfer may be expedited. The State Hospital for the Insane, through the Attorney General, declined to enter into such an agreement, but steps are now being taken for the making of a new contract upon more satisfactory terms to the irrigation district. In view of the foregoing, it becomes unnecessary for us to determine whether these contracts should be abrogated.

It appears to us that the public interests would best be served by the granting of this application. An order will be entered accordingly.

O R D E R

Stockton and Mokelumne Canal Company, a corporation, having made application for an order for the termination of its service as a public utility and for the sale of its properties to the Woodbridge Irrigation District, which joins in the application, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter,--

IT IS HEREBY ORDERED that Stockton and Mokelumne Canal Company, a corporation, be, and it is hereby authorized to transfer to the Woodbridge Irrigation District for the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.) its irrigation system, water rights, lands, rights of way, canals and so forth, as are more particularly described in the application herein and the exhibits attached thereto and which are hereby referred to and made a part of the order herein by reference, and thereupon stand relieved of all public utility obligations and liabilities in connection therewith, subject to the following terms and conditions, and not otherwise:

1. The authority herein granted shall apply only to such transfer as shall have been completed on or before the first day of June, 1928, and a certified copy of the final instrument of conveyance shall be filed with this Commission within ten (10) days from the date on which it is executed.
2. Within ten (10) days from the date on which Stockton and Mokelumne Canal Company actually relinquishes control and possession of the properties herein authorized to be transferred, it shall file a certified statement with this Commission indicating the date upon which such control and possession were relinquished.
3. Within fifteen (15) days from the date of this order, Woodbridge Irrigation District shall file with this Commission a duly authorized and adopted resolution, regu-

larly passed by the Board of Directors of the said Woodbridge Irrigation District, wherein it agrees to admit within its district boundaries all present consumers, or consumers or land owners who at any time in the past have used water for irrigation purposes from the system of the Stockton and Mokelumne Canal Company and who are now excluded from the boundaries of said irrigation district, provided said consumers make proper application therefor to said district on or before the first day of May, 1928.

4. Within thirty (30) days from the date of this order, applicant, Stockton and Mokelumne Canal Company, shall serve notice by mail upon all of its consumers, present and former, advising each of them of their right to come within the district as herein provided.
5. Within sixty (60) days from the date of this order, applicant, Stockton and Mokelumne Canal Company, shall file with this Commission an affidavit showing that condition number "4" of this order has been complied with.

The authority herein granted shall become effective upon 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 11th day of January, 1928.

Leon Whittell
Chas. J. ...
Edward ...
Thos. ...

Commissioners.