

Decision No. 19565

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of Haines Canyon Water Company, a cor- poration, for an increase in rates.	}	Application No. 13572.
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- Hornaday and Hartranft, for Applicant.
- C.W. Byrer, City Attorney, for City of Tujunga.
- Everett C. Carlson, for certain consumers, Protestant.
- John S. Knox, for certain consumers, Protestant.
- Daisy K. Snyder, for Chamber of Commerce of the
City of Tujunga, Protestant.

WHITSELL, COMMISSIONER:

O P I N I O N

Haines Canyon Water Company, a corporation, applicant in the above entitled proceeding, is engaged in the public utility business of supplying water for domestic, irrigation and other purposes to consumers in and in the vicinity of Tujunga and Sunland, in Los Angeles County. The application alleges in effect that the rates now charged are insufficient to yield maintenance and operating expenses, depreciation and provide a reasonable return upon the capital invested. The Commission is therefore requested to establish an increased schedule of rates, and, in the meantime, to permit applicant to collect an emergency surcharge of forty per cent on all bills for water service rendered. Public hearings in this proceeding were held at Los

Angeles after all interested parties had been notified and given an opportunity to appear and be heard. After the first public hearing was held in this matter, the Commission issued its Preliminary Opinion and Order herein (Decision No. 18721, dated August 17, 1927), denying without prejudice applicant's request for the establishment of a surcharge.

This water system was originally installed some time prior to 1910, was then known as the Freehold Water Company and its plant consisted of 263 acres of land, together with certain pipe lines, reservoirs and rights-of-way. This property was acquired about the year 1911 by the Western Empire Suburban Farms Association, a corporation controlled by one M.V. Hartranft, and was operated in conjunction with the project of the above association to supply water to approximately 1,726 acres of land which it had subdivided into small farms or tracts and was selling to the general public. In 1918, said association transferred its water utility properties to Haines Canyon Water Company, a corporation, the capital stock of which was owned or controlled by said association and those connected therewith. Approval of this transfer was granted by this Commission in its Decision No. 5887, dated November 1, 1918. For a more complete history and description of this system, reference is hereby made to this Commission's Decision No. 5065, dated January 21, 1918, rendered in connection with Case No. 1065 and Application No. 2912. The present water supply of this company is obtained from three wells located in and in the vicinity of the City of Tujunga, supplemented by a gravity water supply obtained from Haines and Blanchard Canyons. The company also claims a right to receive gravity water from Tujunga Creek. The territory served varies considerably in elevation. Water from the wells

is pumped into reservoirs located at an elevation of 1,460 feet, from which it is elevated by booster equipment to other reservoirs located at elevations of 1,720 feet, 1,940 feet and 2,070 feet. The amount of water pumped to the higher elevations depends upon the amount of gravity water obtainable from Haines and Blanchard Canyons, the waters from which sources feed into the upper service area of the system. The evidence shows that, under present conditions, applicant has an ample supply of water to meet the system's demands and has apparently an abundant underground supply of water for future development.

The rates now in effect on this system were established by the Railroad Commission in its Decision No. 10896, dated August 23, 1922, and are as follows:

MINIMUM MONTHLY CHARGES

5/8-inch meter-----	\$1.25
3/4-inch meter-----	1.50
1-inch meter-----	2.00
1 1/2-inch meter-----	2.50
2-inch meter-----	3.00
3-inch meter-----	4.00
4-inch meter-----	5.00

MONTHLY CHARGES FOR WATER CONSUMED

From 0 to 400 cubic feet, per 100 cubic feet-----	\$0.3125
From 400 to 1,000 cubic feet, per 100 cubic feet-----	.25
From 1,000 to 5,000 cubic feet, per 100 cubic feet-----	.20
From 5,000 to 10,000 cubic feet, per 100 cubic feet-----	.12
All in excess of 10,000 cubic feet, per 100 cubic feet-----	.06

The City Attorney requested that the records in Case No. 1065, Monte Vista Valley Board of Trade et al. vs. Western Empire Suburban Farms Association, and Application No. 2912, in re Western Empire Suburban Farms Association, be made and considered a part of the records of this proceeding. Upon objection of counsel for applicant, ruling thereon was reserved. Consideration of the matter, however, leads to the conclusion that certain

evidence and exhibits contained therein relate to the early history of this system, to its operating conditions and methods, and to the actual cost of acquiring many essential elements of this property, which cannot be obtained from any other source. It therefore appears that so much of the above proceedings as throws light upon the matters indicated above are germane to this proceeding and, therefore, may be properly considered as a part of the record herein.

Detailed reports showing appraisals of applicant's properties and estimates of depreciation, together with analyses of operating expenses and revenues, were submitted by H.B. Lynch, a civil engineer and President of the utility, and by F.H. Van Hoesen, one of the Commission's hydraulic engineers. A summary of these reports is set out in the following tabulation:

	: Lynch	: Van Hoesen :
<u>PLANT</u>		
Estimated original cost, as of April 1, 1927, less land value and intangibles-----	\$256,136.	\$258,709.
Land values-----	19,200.	No estimate.
Water rights-----	137,781.	No estimate.
Going value-----	50,000.	-
Working capital-----	10,000.	<u>No estimate.</u>
Total-----	\$473,117.	\$258,709.
Consumers' advances to aid construction *-----	\$ 18,421.	\$ 18,421.
<u>OPERATIONS</u>		
Replacement annuity-----	\$ 5,372.	\$ 7,317.
Operating Expense (1925)-----	25,289.	25,344.
Operating Expense (1926)-----	27,544.	27,349.
Estimated Operating Expenses, future-----	31,500.	26,985.
Operating Revenue (1925)-----	45,245.	45,245.
Operating Revenue (1926)-----	47,431.	47,431.

*Included in above totals.

The valuation of the physical properties set out above

is based upon the appraisals presented to the Railroad Commission by the same engineers in connection with Application No. 7593, the proceeding in which the present rates of this utility were established. Net additions and betterments to April 1, 1927, were added. No estimate of the reproduction cost new, less accrued depreciation, was presented in the evidence of this proceeding. The appraisements were both based upon the estimated original or historical cost of the physical properties, exclusive of lands, which were appraised at present fair market value.

Mr. John R. James, on behalf of applicant, appraised the operative lands of the utility at \$19,200., representing the fair market value as of June 13, 1927; while Mr. E.C. Carlson, a local real estate operator and building contractor appearing for certain consumers as well as in his own behalf, estimated the same lands to be worth \$13,450. The testimony indicates that the sum of \$16,000. is a reasonable value of this property for the purposes of this proceeding.

Applicant, through the testimony of Mr. Lynch, supported by Mr. E. Hawgood, claims a present value of \$137,781. for water rights; while the testimony of P.E. Harroun, a hydraulic engineer appearing for the Commission, is to the effect that the maximum cost of the acquisition of the water rights did not exceed \$29,800., including those of Tujunga Canyon, which sum of \$29,800. included much land and other properties. The figures presented by applicant included \$55,000. as the alleged value of its rights to pump from its wells, in addition to the physical costs thereof and the value of the lands upon which said wells were located; while such pumping rights were excluded by the engineers of the Commission.

established and, therefore, is not entitled to any additional or separate value for its rights to pump water from underground wells.

The water rights as claimed by applicant are as follows:

1. Haines Canyon:
as water-bearing. In re City of Marysville, 28 C.R.C. 27. \$ 16,000.
19.3 M.I. constant flow at \$2,000. per inch
Monahan vs. San Jose Water Company, 4 C.R.C. 110, in re San

2. Blanchard Canyon:
Company, 8 C.R.C. 421, and in re City of
Stockton, 23.1 M.I. fluctuating flow at \$2,500. per inch-- 7,750.
C.R.C. 301.

3. Tujunga Creek:
testimony shows that the waters of Tujunga Canyon
are of poor quality and unsuitable for domestic purposes with
17.5 M.I. flow at \$1,200. per inch----- 21,000.

4. Pumped from wells:
out ~~water~~ were used not in excess of sixty hours in
1926 and forty-eight hours in 1927. This supply clearly is
110 M.I. at \$500. per inch----- 55,000.

neither useful nor necessary at this time and is not a proper
Total-----\$148,000.

Less development in canyons valued
item to be elsewhere in report ~~for the purpose of this~~ 20,219.

proceeding. Total-----\$137,781.

Three instances of water right sales were cited by
The testimony clearly shows that water is now being
applicant but consideration of these sales shows that the con-
pumped from wells by parties other than applicant generally
ditions surrounding the transactions were wholly dissimilar.
throughout the service area of this utility and the vicinity
as far as actual sales are concerned, applicant herein purchases
thereof, and, furthermore, that such underground waters may be
as recently as 1926 and 1927, its rights to 17.5 miner's inches
obtained throughout said territory in quantity and quality at
of water from the Tujunga Canyon at a total out-of-pocket cost
least equal to that obtained by the company. No evidence was
of not over \$207. per inch, based upon the cost of delivering
presented to the Commission showing that the use of water from
water in payment therefor, and, in 1924, acquired by purchase
the other wells in the territory has diminished the yield of
the ownership of approximately a one-half interest in the present
water from the company's sources or in any way interfered with
Third Street well, entitling it to an average of 23.1 miner's
their continued operation; neither is there anything in the the
inches for a total cost of about \$2,061.

record of this case indicating that this company has ever ob-
Excluding the other properties and interests purchased
tained an adjudicated prescriptive right to any of its under-
along with the Haines Canyon and Blanchard Canyon properties,
ground waters or that it has at any time ever attempted to stop
the evidence shows that the total original cost of acquisition
or enjoin anyone from obtaining water from underground sources
of the water rights in the above canyons was not in excess of
in its service area or in the general vicinity thereof. Under
\$3,000.

these circumstances, it is clear that the applicant has not os-

In former proceedings before this Commission, applicant and its predecessors in interest have made no claim to an allowance for water rights in rate proceedings, but have taken the position that the water rights belong to the lot-owners in the 1,726 acre service area of this utility, a portion of the purchase price of the lots and parcels of land sold being for the right to receive a share of the waters of Haines, Blanchard and Tujunga Canyons, as well as certain well waters. The evidence shows that most of the original deeds given to the purchasers of the lots and parcels of land granted said purchasers a pro rata share in all of the water rights acquired by the company. (See Deed between Western Empire Suburban Farms Association and David Costello, identified as Protestants' Exhibit No. 2 in this proceeding.) As far as the evidence shows, there were none of the original deeds granted by the Western Empire Suburban Farms Association to purchasers of lots or tracts of land in the 1,726 acre area served by this utility that did not contain provisions transferring to purchasers the title to the water rights.

Another important feature as to the rights of this utility to appropriate surface stream flow is the cloud cast upon applicant's purported rights by the adjudicated rights of the City of Los Angeles to all of the waters of the Los Angeles River and any and all of its tributaries under its original Spanish Pueblo rights. (City of Los Angeles vs. Pomeroy, 124 Cal. 597 and 125 Cal. 420; Vernon Irrigation Company vs. City of Los Angeles, 106 Cal. 237; Feliz vs. City of Los Angeles, 58 Cal. 73; Lux vs. Haggin, 69 Cal. 255) Haines, Blanchard and Tujunga Canyons are tributary to the Los Angeles River.

Summarizing the evidence on water rights, it may be

stated that the Tujunga supply is now neither operative nor necessary; that no separate value for applicant's purported rights to pump from underground sources from wells is recognizable for the purposes of this proceeding, other than such values as already have been included in the lands as water-bearing; that such interests as applicant may have in the waters of Haines, Blanchard and Tujunga Canyons appear to be secondary in priority to the rights of the City of Los Angeles and are, to this extent, probably temporary privileges only, and that, furthermore, it is clear that the water rights of Haines and Blanchard Canyons, and to some extent Tujunga Canyon, have probably been transferred for valid consideration to and vested in the purchasers of lots in the original 1,726 acre area. Under these circumstances, it is clear that no part of the alleged present value of these claimed water rights may properly be included in the rate base upon which the consumers should be required to pay a return.

Applicant's contention that it requires \$10,000. in cash working capital is not supported by the evidence. This sum represents in excess of one-third of the entire annual operating expenses, less depreciation, for 1926. Considering that the revenues produce an average very closely approximating \$4,000. per month and that due allowance has already been made for materials and supplies, together with the fact that applicant has on hand an average of \$2,000. as deposits by consumers for metered service and advanced flat rate payments, it appears that, under such circumstances, an allowance of approximately one and one-half months' average operating expenses will be ample for cash working capital and, therefore, the sum of \$3,600. will be allowed.

The annual maintenance and operating expenses, exclusive of depreciation, as shown by the company's records for 1925, amounted to \$25,344. and \$27,349. for 1926. The Commission's engineer estimated the reasonable annual operating expenses for the immediate future to be \$26,985., exclusive of income tax; while applicant estimated the expenses for 1928 to be \$31,500., including income tax. Conditions of operation indicate that no abnormal increase in expenses in the immediate future may reasonably be expected, and it therefore appears that the sum of \$29,000., exclusive of depreciation and including income tax, should be a reasonable allowance for the operating expenses for the immediate future. The annual depreciation annuity was estimated by applicant's engineer to be \$6,155. and by the engineer for the Commission \$7,318., based upon the 5% sinking fund annuity. The latter figure will be used for the purposes of this proceeding.

Based upon the foregoing figures, the operations of this utility for the year 1926 resulted in a net return of 4% on \$278,309., representing physical properties and working capital only. Based upon the present increase in business, as indicated by the evidence, the present rates should reasonably be expected to yield 5.5% on the above amount during 1928.

Applicant contends that it is entitled to \$50,000., or about eighteen per cent of the cost of the physical properties, for going value, and bases this claim upon alleged early business losses and development costs. The entire evidence submitted by applicant in support of this claim covered costs alleged to have been incurred for "holding" water rights and for "holding" pipe lines and other facilities necessarily constructed in advance of needs and for exploration work in connection with well-drilling,

all alleged to have taken place during a period of five years immediately prior to the approximate date of the sale of the properties in 1918 to present applicant. Not only does the evidence fail to substantiate these claims of early losses or the reasonableness or necessity for the alleged development costs but this Commission has repeatedly held that early business losses and development costs have no direct bearing on the going value of a utility property as it may exist years later.

In this proceeding, full consideration has been given to applicant's claim of going value and it appears that this utility has never, at any time, been able to earn a full net return upon its investment by reason of the fact that its business is still in the development stage and higher rates would be prohibitive and greater than the service is reasonably worth, and, as this same condition still exists at the present, it is obviously idle to attempt now to determine what is the reasonable going value, if any, of this utility for the present.

In Decision No. 10896, dated August 23, 1922, in which the present rate schedule was established, the Commission did not determine a rate base for the reason that the area served was so sparsely settled and the system so obviously overbuilt for the then existing demands that a full return upon the capital investment in the bare physical properties would have resulted in an unreasonable and prohibitive rate for the service rendered. This same situation exists today. The present rates have already reached the saturation point. Present consumers cannot afford to use sufficient water for lawn and garden irrigation under the rates now charged, although ample water is available. To increase these rates would, in my opinion,

diminish the average water consumption to the extent of reducing revenues to an amount less than received at present. Based upon the figures presented by applicant, the granting of its request for a full return upon its alleged investment would require an increase of over \$27,000. above the revenues of \$47,431. received for 1926, or approximately 57% over the yield of the present rates. Based upon the average number of active consumers for the year 1926, the feet of main per consumer for that year amounted to 174. This, in conjunction with the fact that the present plant is designed to supply and has the existing facilities to supply a considerably greater population than is now served, clearly shows that the system is still considerably overbuilt and that the service area is only partially developed. Under these circumstances, it would be unfair and unreasonable to require present consumers to pay a full return upon the entire alleged investment in such a system, designed to serve a far greater population in the future. From the evidence, this project appears to be one of those subdivisions where the full hope of those who projected the sales of lots has not been realized and that it will be some time before they will fully settle up.

The present rates on this system are already higher than the rates charged by any of the other utilities in the general vicinity which are of comparable size and operate under similar conditions. Moreover, the monthly minimum quantity rate of 400 cubic feet is far less water than such other utilities furnish for the minimum charge. It is apparent therefore that applicant has already enjoyed a much more favorable rate than other similar utilities, and, under the conditions above referred to, no valid reason commends itself to this Commission warranting any further increase in the present rates. It is, indeed, a

matter for serious consideration if the facts do not warrant an increased amount of water for the present minimum monthly charge of \$1.25, but no such change will be made at this time.

I recommend, therefore, that this application be denied, and the following form of Order is recommended:

O R D E R

Haines Canyon Water Company, a corporation, having filed its application as entitled above, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

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 3rd
day of April, 1928.

Leon Whitell
W. Leary
Emmott
Paul D. Smith
M. J. Carr
Commissioners.