

ORIGINAL

Decision No. 21247

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, that the Rail- road Commission of the State of Cali- fornia fix and determine the just com- pensation to be paid by said City and County for certain parts and portions of the electric generating, transmission and distribution properties of the GREAT WESTERN POWER COMPANY OF CALIFORNIA, a corporation.))))))))))	Application No. 9767.
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J. J. O'Toole, City Attorney, and John J. Dailey,
Special Counsel, for City and County of San
Francisco.

Chaffee E. Hall, Guy C. Earl and Pillsbury,
Madison & Sutro, by Alfred Sutro, for Great
Western Power Company of California, and
special appearance for Bankers Trust Company,
Alvin W. Krech, The Equitable Trust Company
of New York, The Anglo-California Trust
Company and Mercantile Trust Company of
California.

J. J. Deuel, L. S. Wing and Edson Abel, for
California Farm Bureau Federation.

SEAVEY AND DECOTO, COMMISSIONERS:

O P I N I O N

This is a proceeding under Section 47(b) of the Public
Utilities Act in which the City and County of San Francisco (a
municipal corporation), hereinafter referred to as the City, asks
the Railroad Commission to fix and determine the just compensation
to be paid by the City and County of San Francisco to the Great
Western Power Company of California, hereinafter referred to as the
Company, for the taking of certain land and property of the Great
Western Power Company of California. Such land and property are
described in Exhibit "A" of the original petition filed February 11,

1924, amended as shown in "Application to Amend Petition" filed October 20, 1925, and made a part thereof, and consist of all properties of the Company in San Francisco used in its electric business, including property acquired by the Company from the Universal Electric and Gas Company, except certain small combination steam heat and steam electric generating plants and electric substations and the submarine cables between San Francisco and Oakland.

We have before us in this record two distinct theories of arriving at just compensation. It is necessary first to decide which of these theories shall be followed.

The Company bases its claim of just compensation primarily upon the theory enunciated by its witness, Dr. A. T. Hadley, although it presented two alternative structures which will receive attention later in this opinion. Dr. Hadley maintained that the value of a public utility business should be measured by the income which it produces; that where the whole property is taken just compensation will be the permanent recovery of the total loss of prospective net earnings, and that where a portion of the property is taken just compensation is the permanent recovery of the prospective impairment of income of the whole investment.

In applying this theory the Company used two methods. One method consisted of making estimates of loss of net revenue for a number of years in the future, the net revenue for each year, after being corrected for the additional investments necessary to conduct the business, being reduced to its present value by the use of present worth tables based upon 6 percent interest. Under the other method the estimated net revenue of the property during the first year after the date of valuation was capitalized at 6.26 percent, which was shown to be the average yield of money invested in electric public utility securities with the same investment characteristics as those of this Company and classified in the same proportion as like securities in

its capital structure. This last method was supplemented by calculations showing the sum necessary under the theory to be invested in the Company's own securities. The Company showed the amounts necessary as of January 1 and February 11, 1924, and also if severance were to take place in subsequent years. The following is a summary of the Company's claims under the above theory:

Present worth of future annual losses of net revenue corrected for additional investment - Severance as of Jan. 1, 1924,	\$33,051,000:
Same as above - Severance as of Jan. 1, 1926, ...	34,890,000.
Same as above - Severance as of Jan. 1, 1928, ...	37,171,000.
Capitalization of first year's loss of net revenue at 6.26%, Severance on February 11, 1924,	30,900,000.
Same as above - Severance late in 1926,	36,143,566.
Same as above - except assuming investment in Great Western Power Co. Securities, Severance on February 11, 1924,	31,860,290.

The City takes the position that the value to be fixed should be obtained by finding a figure of reproduction cost new less depreciation, to which should be added going value and severance damages. The results obtained by the City in using its method are as follows:

Reproduction Cost New - Great Western System, ..	\$7,552,474.
Deduct Straight Line Depreciation,	<u>2,500,690.</u>
Reproduction Cost New - Less Depreciation,	\$5,051,784.
Money expended on A's & B's prior to 2/11/24, ...	<u>63,902.</u>
Total,	\$5,115,686.
Add Going Concern Value,	530,000.
Add Severance Damage,	2,766,465.
Add divided portion of U.E. & G. Co.,	666,620.
Money expended on A's & B's prior to 2/11/24, .	466.
Add remaining portion of U. E. & G. Co. System,	<u>671,259.</u>
Just Compensation,	\$9,750,496.

The following deductions were made to the above figure for Just Compensation, in the City's brief:

Miscellaneous Service Equipment:		
Great Western System,	\$137,655.	
Universal System,	<u>44,888.</u>	
Total,		\$182,543.
A's & B's prior to Feb. 11, 1924:		
Great Western System,	\$ 63,902.	
Universal System,	<u>466.</u>	
Total,		\$ 64,368.
Use of 2 year pricing period:		
Great Western System,	\$163,529.	
Universal System,	<u>33,519.</u>	
Total,		<u>\$197,048.</u>
Total Deductions,		\$443,959.
Total Just Compensation,		\$9,306,537.

The wide divergence of the results obtained indicates that one or both of these theories are seriously at fault. The income theory advocated by the Company has heretofore been rejected in proceedings before this Commission. The general objections to it have been stated in other opinions and findings. As a measure of value it is considered too unstable. It is based upon constants which are in fact variables. It assumes for the indefinite future that this Commission will not change the rate of return; that the net return, the losses and the risks incurred will remain the same; that there will be a definite future program of building with depreciation charges and prices remaining the same; that future cost of financing will follow the present; that there will be a certain future population; that no form or mode of heat, light or power will transplant, modify or compete differently with the present electric service; that certain estimated but unknown revenues and operating and maintenance expenses will accrue; and that many other indeterminable things will come to be realities.

Surely the Company goes far afield and casts doubt on its sincerity when, as is done in the first of these methods, it asks this Commission to find just compensation on the basis of income earned from property, the investments in which it estimates it might

make in the future. We deem it our duty to fix just compensation on the basis of the property owned and to be taken on the day of taking.

In the second method, particularly, the witnesses for the Company indicate that they ignore as such the value of the tangible and intangible property taken and damage to the property not taken. And after arriving at an assumed net loss of income, which under various assumptions is to be projected as a perpetual capital loss, the actual application of the Company's theory is by means of a purely mathematical formula which determines the answer without the exercise of judgment.

This Commission in the instant proceeding, as in previous ones, is convinced that in order to act with that reason which the law imposes, it must refuse to give any material weight to the conclusions developed under this theory advanced by the Company. The facts and figures developed in this record regarding this property from the standpoint of income will be fully considered, together with other factors that form a basis for determining value. Therefore, the process of arriving at a figure of just compensation for the property involved will proceed in a general way along the lines indicated by the City, taking into consideration the other factors tending to establish value and as heretofore adopted by the Commission in other similar proceedings. The matter of considering just compensation will be handled in detail under two main headings, "Property to be Taken" and "Severance Damages," the law requiring that these two items be set up separately.

PROPERTY TO BE TAKEN

The detailed inventory of the property to be taken as of February 11, 1924 was made in the field by engineers of the Commission and checked by the engineers of the Company and City. This inventory and itemization of the physical, structural and real properties as presented in the record was accepted by all parties.

In collaboration with the engineers of the City and the Company, the Commission engineers arrived at certain unit prices based upon a time average of material prices and wages prevailing during the estimated period of three and one-half years, ending on February 11, 1924, which unit prices were applied to the inventory in the process of arriving at the reproduction cost new of the property. These unit prices, while not wholly agreed to during the hearing by the Company, seem to have been finally accepted by both it and the City in the briefs. In addition to this, other price studies were likewise made covering periods of five, four, three, two and one years, ending on the same date, and also a spot price as of February 11, 1924, to which prices no disagreement seems to have been recorded.

PRICING PERIOD:

The City, while agreeing to the inventory amounts and to the prices for the periods, does not agree that the pricing period of three and one-half years is the proper one to be used in this proceeding. The City contends that the three and one-half year period was selected arbitrarily as approximately the period of construction assumed by the Commission engineers; that it extends too far back into the period of high prices; that prices projected several years subsequent to the time of the application would be more applicable; and that the two year pricing period would more nearly represent a proper level of prices. The City does not take any exception to the construction period assumed by Commission engineers. The pricing period must of necessity conform reasonably to the construction period. The two year pricing period is claimed by the City to represent a proper level projected into the future. This is very doubtful, however, as the two year period is the lowest sag in the period of prices tabulated, the one year period recovering to within one per cent of the three and one-half year prices, and the

one day period as of February 11, 1924 maintaining approximately that same level. But in any event, the projection of prices into the future, in our opinion, cannot be considered, because the cost is to be estimated as of February 11, 1924, upon which date the property is to be completed and taken. Prices subsequent to that date cannot enter into the determination of this proceeding. We believe the three and one-half year period used by the Commission engineers reflects a truer condition of prices.

ALLOWANCES ON LAND:

The Company, while agreeing to the appraisal placed upon lands and rights of way by the Commission staff as to market value on February 11, 1924, claims that in addition to this certain estimated costs should be allowed, consisting generally of surveys, preliminary plans, real estate agents' commission, title insurance, expense of land department, portion of general supervision expense and interest and taxes during construction. As to those several items constituting what may be termed cost of acquisition we are convinced such small amount as could be claimed necessary is amply covered by the liberal allowance which is made herein for organization expenses and other general overheads. Also as to interest and taxes during construction we are unable to agree with the Company. We are here striving for a composite figure to be used as a measure of value. If this property as a whole were, in a commercial sense, marketable, we would by expert testimony arrive at market value without regard to these many perplexing problems that enter into reproduction new. But as a whole it is not, in the accepted sense, marketable. Land, a distinctive part of this property, is recognized as marketable, and when that market value is found; as in this instance by expert testimony and agreement, there is nothing to be added to further indicate value of land except it be that intangible value which attaches to the composite property in use. Nothing in

this record indicates a reproduction cost new figure for land built up by the method used for structures and equipment, and therefore market value as ascertained will be used.

PRELIMINARY ORGANIZATION:

The Company contends that it should be allowed certain preliminary expenses such as feasibility surveys and reports, preliminary engineering and legal advice, corporate organization, travel and other sundry preliminary expenses. It is our opinion that within reasonable bounds this is a proper character of expense to be included in reproduction cost new. We do not find that the Commission staff has made allowance for this element. The amount claimed by the Company has not been seriously questioned in the record and as it is in line with allowances made heretofore by this Commission for such expense there will be included in the final figure of reproduction cost an item of \$125,000.00 to cover organization expense for the total Great Western and Universal properties to be taken from the Company.

EXECUTIVE SUPERVISION:

The Company claims that an additional allowance of $3\frac{1}{2}$ per cent of direct costs should be made for what it terms "executive supervision." This is of the nature of expense sometimes called construction management fee. We have carefully considered this matter and are of the opinion that any additional allowance for overheads would be a duplication which cannot be allowed.

INTEREST DURING CONSTRUCTION:

The estimates made by the Commission staff and the Company of interest during construction were substantially upon the same interest rate and construction program. The main differences in results came about from the fact that the Company assumed that money

would have to be on hand, and payments made on material a longer time prior to its installation than was assumed by the Commission engineers. The Company also increased its interest charges by allowing interest on interest. A consideration of the testimony on this subject leads us to the opinion that the Company's claim is exaggerated beyond that which is practically and reasonably necessary and that the estimate of the Commission staff more nearly reflects the costs under reasonable assumptions.

GENERAL OFFICE EQUIPMENT:

The Company estimates a reproduction cost of \$100,000.00 and the Commission engineers present an amount of \$14,783.00 for general office records and equipment. The Company dismisses this matter with the statement that it is unimportant, inasmuch as a new inventory of this equipment will have to be made when the property is finally transferred. That is probably true but it is important that a figure be arrived at as of February 11, 1924. After a study of the matter we are of the opinion that a reasonable figure to cover this item fully is the sum of \$30,000.00, which amount will be used in the total sum.

CONSTRUCTION WORK IN PROGRESS:

We are of the opinion that to fully protect the rights and interests of the Company the amount of construction work in progress as of February 11, 1924 should be included in the figure of reproduction cost now and reflected thereby in the figure of just compensation as of that date. The record discloses that for the Great Western property that figure is \$63,902.00 and for the Company's portion of the Universal properties \$466.00.

MISCELLANEOUS SERVICE EQUIPMENT:

A new inventory of miscellaneous service equipment, which

the Company claims as part of its property to be taken, was not attempted in detail because of the time and expense necessary. Only a partial spot-check was made by Commission engineers. An agreement among parties was had regarding this property of the Great Western and Universal Companies which resulted in establishing reproduction cost new at \$241,100.00 and a depreciated value of \$152,500.00, which amount is included in the Commission engineers' figures for the Company's portion. There was no agreement, however, that this property should be included as property owned by the Company and to be taken and paid for by the City. Out of the somewhat uncertain and conflicting testimony on this subject we gather what appear to be the following controlling facts:

The property in question is that equipment between the property line and the meters inside the premises of the owner. The total was arrived at by taking from the Company's records the amount of work of this character from time to time installed under work orders. It was admitted that these work orders may have included other than the particular property sought. There was nothing to determine what amount may have been wholly removed, substituted, captured by competing companies, or left in permanent disuse. It was fairly well established that much of this work was put in by the Company as an inducement to get business, and under urge of competition. The record also indicates that ordinarily the equipment in question is installed by the owner of the premises and would not be included in estimating construction costs. We are convinced under the record before us that it would be erroneous to include the amount set up, or any amount, for this class of property in the figures for reproduction cost new, but that consideration should be given it as one of the elements of going concern value.

UNIVERSAL ELECTRIC AND GAS PROPERTIES:

Prior to the beginning of these proceedings, the system of the Universal Electric and Gas Company in San Francisco was taken over and operated by the Company through agreement with the Pacific Gas and Electric Company, which latter Company subsequently, on October 28, 1924, became the legal owner of one-half of the distribution properties, exclusive of substation properties. On December 9, 1927, as shown by this record, the City and the two companies entered into stipulation under which the interest of the Pacific Company in the Universal properties was to be excluded from the amount of the appraisal under the instant Application No. 9767 and included in the appraisal under Application No. 9768. There will be considered in the totals in this proceeding, therefore, the remainder of the Universal properties after deducting the interest of the Pacific Company, and adding the proper proportion of the construction work in progress.

The finding of just compensation hereafter recommended includes \$728,800.00 for the undivided portion of the property formerly owned by Universal Electric and Gas Company.

DEPRECIATION:

In the matter of depreciation the City contends for the application of the straight line method after arriving at estimated probable useful lives. The Commission engineers have depreciated on the age and life basis, setting up the results by both the sinking fund and straight line methods but maintaining that the sinking fund basis is the better indication of value. The Company, with certain exceptions, accepted the results of the sinking fund basis as established by the Commission engineers.

In the following table are shown the character and extent of the property with the results obtained by the different parties:

C. R. C. Account
 : Reprodu
 : Cost

GREAT WESTERN POWER COMPANY.		
304. Steam Power Plant Lands,	\$65,000	65,000
305. Steam Power Plant Structures,	206,000	206,000
306. Boiler Plant Equipment,	410,000	410,000
307. Steam Power Plant Equipment,	853,000	853,000
311. Misc. Power Plant Equipment-Steam,	14,000	14,000
342. Distribution Lands,	22,000	22,000
343. Distribution Structures,	47,000	47,000
344. Dist. Substation Equipment,	261,000	261,000
346. Dist. Poles, Towers & Fixtures,	296,000	296,000
347. Dist. Overhead Conductors,	406,000	406,000
348. Dist. Underground Conduit,	1,104,000	1,104,000
349. Dist. Underground Conductors,	992,000	992,000
350. Line Transformers,	490,000	490,000
351. Services,	626,000	626,000
352. Consumers Meters,	223,000	223,000
353. Misc. Dist. Capital,	27,000	27,000
355. Inst. on Consumers Premises,	115,000	115,000
357. Street Lighting Equipment,	18,000	18,000
362. General Office Equipment,	14,000	14,000
365. Other General Lands,	16,000	16,000
366. Other General Structures,	46,000	46,000
362. Communication System Equipment,	4,000	4,000
Materials and Supplies,	30,000	30,000
Non-Operative Property,	8,000	8,000
TOTAL G.W.P.CO. EXCLUDING OVERHEADS,	\$6,305,000	6,305,000
TOTAL G.W.P.CO. INCLUDING OVERHEADS,	7,552,000	7,552,000

UNDIVIDED U. E. AND G. CO.		
304. Steam Power Plant Land,	50,000	50,000
305. Steam Power Plant Structures,	93,000	93,000
306. Boiler Plant Equipment,	105,000	105,000
307. Steam Power Plant Equipment,	165,000	165,000
311. Misc. Power Plant Equip.-Steam,	3,000	3,000
342. Distribution Land,	257,000	257,000
343. Distribution Structures,	4,000	4,000
344. Dist. Substation Equipment,	264,000	264,000
G.W.P. CO. PORTION OF DIVIDED U.E. & G.CO.	717,000	717,000

TOTAL U.E. & G. CO. EXCLUDING OVERHEADS,	\$1,657,000	1,657,000
TOTAL U.E. & G. CO. INCLUDING OVERHEADS,	1,936,000	1,936,000

GRAND TOTAL EXCLUDING OVERHEADS,	\$7,962,000	7,962,000
GRAND TOTAL INCLUDING OVERHEADS,	\$9,488,000	9,488,000

The principal difference in the above final amounts arises from the application of the straight line and sinking fund methods of depreciation. It is necessary, therefore, to determine which of these two methods should be adopted in this proceeding.

STRAIGHT LINE vs. SINKING FUND:

The contention for the use of the straight line method in this record is founded primarily upon the following points:

(a) That it is a simple method;

(b) That it represents the mean between the elements that tend to augment, being principally time and interest, and the elements that tend to deplete, being principally increasing costs, quality and quantity of output, and psychology of desiring a new rather than an old article; and

(c) That the Interstate Commerce Commission uses it in its valuations and under its rules for setting aside depreciation reserve.

Simplicity of method has no virtue in this proceeding unless it gives an answer that can be demonstrated to be within reason. In regard to the elements of time and interest there is no division of opinion that when applied their results are exactly determinable and substantial. As to the elements of increasing costs and quality and quantity of output, the City witness produced no concrete figures substantiating his claim, but to the contrary the data presented in the record indicate that for the property in question very little depletion actually took place because of these elements. And the effect that psychology has in dealing with these properties is more obscure than in the case of its companion elements.

The Interstate Commerce Commission has tentatively required depreciation reserve to be set up by utilities under its supervision upon the straight line basis. It has also used the straight line

method in its general railroad valuations and in its recovery cases. A recovery case is similar in effect to a rate case where the property value found determines part of the rate base. The California Railroad Commission has invariably used the sinking fund method in rate cases. But as a matter of fact, it is quite within reason, depending upon the coordinate methods adopted, that the use of either straight line or sinking fund method of depreciation in a rate case should result in approximately the same rate level, although not the same property value. None of the above so-called values, however, are analogous in use to the values to be found in this proceeding. They are more in the nature of "reasonable period" values of private property continuously dedicated to public use.

The properties here in question are to be condemned and taken from their private owner. The consideration, so far as the property to be taken is concerned, must be that which represents the full value as of the day of taking. Under the record before us we believe the application of the sinking fund method of depreciation to the reproduction cost new will give the better index to the value sought. The Commission engineers examined the properties as to physical condition and made careful studies of ages and lives, which added greatly to the weight to be given their determinations.

PRICE SUBSTITUTION:

The Company claims that the Commission engineers, in arriving at reproduction cost new less depreciation on certain equipment no longer on the market, have acted in violation of the principle of substitution as laid down by the United States Supreme Court in McCardle v. Indianapolis Water Company, 272 U.S. 400. We fail to see that there is here a situation analogous to that in the McCardle case. In that case, in arriving at the value of the Water Company property, a steam pumping plant was substituted for

The existing gravity water canal. Here, in obtaining depreciated reproduction cost new of the property, the Commission engineers took the same kind of equipment as improved to date and at present prices. Throughout this matter of reproduction the Commission engineers have used the period prices, character of material and supplies available as of the present, and presently improved methods of construction. The Company stresses the point in opposition to this price substitution that the figure should point purely to reproduction cost and not to value, and yet it vigorously upholds the hands of the Commission engineer when he testified: "The answer I got in the sinking fund column is my opinion as to the value figure." The final answer of value we are here seeking would be the same even if we allowed the equipment to go in as the Company contends and then applied depreciation from all causes. We prefer the method of the Commission engineers as being more direct and consistent in this proceeding.

GOING CONCERN:

The staff of the Commission presented no evidence as to going value. The Company set up no figure for total going value but did present four bases of analyzing and estimating cost to reproduce business, and claimed that this item was not less than \$4,000,000.00. The following shows a general description and criticism of the four methods:

1. The reproduction new theory, which presupposes potential load in a district being already served but having an unsupplied demand:

<u>Estimate</u>	
New Business Solicitation:	
First \$1,800,000. of gross at \$2.00 per \$1.00,	\$3,600,000.
Next 700,000. of gross at \$1.00 per \$1.50,	1,050,000.
Engineering Expense - 2% of Consumers' Cost,	160,000.
Financial Expense - 2% of Consumers' Cost,	160,000.
Supervision, etc., 10%,	497,000.
Total Cost of Acquiring Business.....	<u>\$5,467,000.</u>

The assumptions upon which this estimate is based are out of line with those that should normally be assumed, we believe, but, taking the Company's own set-up that there is a potential load in a district being already served but having an unsupplied demand, it is presumptuous to assume that consumers demanding service would need so much money spent upon them to induce them to come on the system, and that there would be need of such a large amount to take care of all actually necessary expense of procuring the business.

2. The cost of consolidating a number of small unprofitable systems, aggregating the same gross load here contemplated. The Company estimates that the gross revenue in 1924 would be \$2,500,000.00; the net revenue \$900,000.00; and that the purchase of the Universal property in 1922 was on the basis of \$3.56 per \$1.00 of gross revenue, and that of the United Light and Power in 1915 on a basis of \$4.10 per \$1.00 of gross. The Company witness assumed a cost of \$4.00 per \$1.00 of gross.

Estimate

Property and Gross Revenue, \$2,500,000. at \$4.00,	\$10,000,000.
Steam Plant Similar to North Beach,	1,300,000.
Adjustments to System - 10% of \$10,000,000.,	<u>1,000,000.</u>
Total,	\$12,300,000.
Less Physical Property	<u>8,100,000.</u>
Value of Business	\$ 4,200,000.

3. The expense incurred in purchasing profitable going utilities serving the same load as here considered. Here the witness for the Company uses the cost to the Company of the City Electric Company in 1911 of \$6.70 per \$1.00 of gross revenue and \$17.50 per \$1.00 of net. The figures shown below include a substantial amount as payment for the going value of a successful enterprise.

Estimate

\$2,500,000. gross at \$6.70.....	\$16,700,000.	
900,000. net at \$17.50		\$15,800,000.
Less physical property.....	8,100,000.	8,100,000.
	\$ 8,600,000.	\$ 7,700,000.

4. The historical cost of acquiring the San Francisco electric properties, based on the actual experience of the Company:

Estimate

	:Annual Gross :Revenue(1923):	: Cost of :Acquiring :	: Cost per \$1.00 : of Annual Gross :
City Electric,	\$917,000.	\$3,470,657.	\$3.79
Consolidated Electric	230,000.	110,452.	.48
Universal,	354,000.	-	-
Total Purchased,	\$1,501,000.	\$3,581,109.	\$2.39
Current New Business,	814,000.	447,473.	.55
Total.....	\$2,325,000.	\$4,028,582.	\$1.76

The principal fallacy in the three estimates above is the fact that the Company witness assumes that the reasonable reproduction cost of attaching the business considered in this proceeding should be measured by the cost of profitable and unprofitable properties purchased by the Company to make its entry into San Francisco and to extend its operations, especially where such properties held more or less strategic and nuisance positions.

The City presented an estimate of going value, which includes cost of developing the business, in the amount of \$530,000. This was based upon the theory of going value as advanced by Dr. W. F. Durand, a witness for the City. Dr. Durand defines going value as that worth attached to an operating business over and above the cost of the property and material in place, the total overall being the market value. He lays down the following premises which form the ground work upon which to arrive at an answer. The rate base and the historical investment will be practically identical, which means that return received and interest paid will be

figured upon the same capital amount. To the owner, therefore, going value will be the capitalization at market rate of money of the difference between return and cost of money. The buyer will be willing to accept a somewhat lower return on his capital, but what this will be depends upon the attractiveness of the enterprise, the over-all rate of return from his investment, and the obligations, risks (including condemnation) and cares which must be assumed. The cost of attaching the business is included in the going value. And, lastly, while some of the elements of going value may be arrived at mathematically, the final answer is the result of the exercise of judgment.

Another witness for the City, in a general way, adopted the theory outlined above. In arriving at the figure of \$530,000.00 he took into consideration the past and possible future growth of the City; the rate base and attitude of this Commission toward rate base and rate fixing; cost of connecting up the business, which includes loss of profit or earning during the necessary time to connect up the business after construction; possible risks of the business, including municipal condemnation and competition, but no consideration to present competition; and the fact that earnings in San Francisco are greater than for the average of the whole system. One of the checks made by the witness to test his estimate was to multiply the San Francisco historical rate base by the difference between the rate of return considered to be presently allowed by the Commission, 7.6%, and the probable cost of money to the Company, 6.2%, capitalize this result at 6.2% and divide by three. The difference between the whole amount obtained by capitalization and the one-third of such amount is explained by the witness to be largely due to the risks of the business and the fact that capital must be encouraged in California. The risks include those due to possible municipal

competition and condemnation and changing attitude of the Commission.

The Commission has recently considered this theory and method of its application in Decision No. 20707, Application No. 10882, application of the City of Los Angeles for valuation of certain properties of Southern California Edison Company, and what was said there is applicable to the instant proceeding. We quote as follows:

"One can follow to a considerable extent the formula for going value herein laid down and followed by the city, but it would seem impossible to agree with all of it and particularly with the extraordinary effect given to the fact that the property in question is subject to condemnation and paralleling. I fail to see how ordinarily the liability of being condemned substantially affects the going value of a public utility. A public utility is not usually bartered and sold as are other businesses. The possibility of being condemned facing an ordinary business quite likely might seriously affect the property adversely, although this would not always be so. But in the case of a utility which occupies a definite field in a monopolistic way, whose financing, income, rates and service are regulated, and whose taking must be compensated, it would seem that any possible buyer would not depreciate its already restricted going value. The possibility of paralleling would have a very definite effect, but even there we must be aware that usually the municipality is the only party that might do this and that it would be disadvantageous to the city as well as the company."

And generally regarding going value we quote the following from the above Decision No. 20707, as also applicable to the instant matter:

"As intimated above, the going value of a public utility is much less elastic and perhaps more stable within its limitations than that of a private business. The private concern takes on no public responsibility, but by means of its wares, service and public relations develops a going value (aside from a good will) wholly by its own efforts and upon which it may trade without limitation. The utility assumes an obligation to serve which it cannot escape, except by consent of governmental authority, and acquires the right to continue with a certain protection. It, in effect, enters into a contract with the public, the result of which is to allot to some extent the value of going concern as well as good will between the contracting parties. The methods of arriving at going concern for a private business, therefore, cannot be applied in full to a public utility."

The element of value defined as "Going Concern" exists in this property to a substantial amount and will be considered in the final figure of just compensation.

MARKET VALUE:

Depositions from four witnesses in the east as to market value of these properties were taken and included in this record as part of the presentation by the Company. A summary of these figures shows the following:

Estimates of Market Value

	<u>Woodward</u>	<u>Addinsell</u>	<u>Baker</u>	<u>Mitchell</u>
Total System with San Francisco,	\$74,500,000.	\$65,000,000.	\$72,000,000.	\$75,000,000.
Total System less San Francisco,	42,000,000.	40,000,000.	39,000,000.	50,000,000.
	\$32,500,000.	\$25,000,000.	\$33,000,000.	\$25,000,000.

These witnesses were managers in or members of different investment banker firms. They based their estimates on a certain set-up of general facts and figures regarding these properties given them by the Company. They had no personal up-to-date knowledge of the properties. It is perfectly obvious that neither these witnesses nor any other expert would give a final figure of market value for a purchaser upon the information underlying the above figures. Three of the witnesses derived a judgment figure without disclosing any substantial basis for their judgment. The other witness went into a little detail but in some of his calculations used capitalization of income, which method has heretofore been passed upon by the Commission. We can give very little weight to the figures disclosed by these witnesses.

We recommend, after considering all the evidence, that the

Commission find as a fact that the just compensation, not including severance damages, which the City should pay to the Company for the land and property to be taken under this application, including going concern, is the sum of \$8,440,000.00.

SEVERANCE DAMAGES

The engineers of the Commission presented no estimate or testimony as to damage caused by severance. The California Farm Bureau Federation presented an estimate through exhibits and testimony as to severance damage. Due to the fact that this estimate of the Bureau's engineer was founded upon a basis similar to that advanced by the Company for just compensation, which we have already rejected, we deem it unnecessary to consider his results.

The City and Company presented estimates of severance damages which are set forth in the following table, both being taken from the record and modified according to briefs, as near as could be ascertained:

SUMMARY OF SEVERANCE CLAIMS

<u>Item of Equipment</u>	<u>Company</u>	<u>City</u>
Bay Cables No. 1 and No. 2,	\$214,359.	\$172,337.
Bay Cable No. 3:		
Section A,	55,120.	47,390.
" B,	76,035.	35,781.
" C,	5,657.	4,881.
" D,	47,237.	25,964.
Bay Cable No. 4:		
Section A,	216,334.	211,973.
" B,	42,088.	41,057.
" C,	130,939.	88,769.
Tie Line - 4th Ave. to Yerba Buena Sub.,	24,698.	22,043.
Tie Line - Golden Gate Sub. to Yerba Buena Sub.,	45,310.	47,891.
Electric Sub. Equip. at Bush, Phelan and Whitney Stations:		
Useless Equipment,	227,108.	124,462.
Usable Equipment,	26,838.	54,305.
Electric Production Equip. at Bush and Phelan Stations,	374,408.	62,198.
Land and Building at Bush Station, ...	142,242.	30,310.
Hydro Production and Transmission:		
Diversity,	7,629,000.	None
Other Excess Costs,	9,591,000.	1,797,104.
General Administration Expense,	778,000.	None
TOTAL SEVERANCE DAMAGE,	\$19,626,373.	\$2,766,465.

The City's estimates above are, on many items, much too low, because of the use of historical cost and the straight line method of depreciation. The City has also failed to sufficiently take into account, aside from purely physical damage, other causes of damage to the property not taken. With these corrections made, the City's figures point nearer to proper severance damage than those of the Company.

The Company's estimates, in most instances, of damage attaching to specific units of the system remaining after severance

were more indicative of the proper results than were those of the City. In other items of severance the conclusions developed by the Company have not been particularly helpful. In its estimates of damage to hydro production and transmission the Company indulged in most obvious speculations, made use of capitalization of net income and loss of net income and arrived at widely varying results by different methods. We are unable to see wherein these methods give estimates which relate themselves directly to the damage sustained because of production and transmission property rendered useless and the diminution of value of the remaining property. But if there could be found any such relationship, the uncertain and highly speculative character of the methods renders them unsafe for use.

The Company in this proceeding is entitled to an award of severance damages for loss sustained through diminution in value of the property not taken, including carrying costs on property rendered permanently and temporarily less useful. For the guidance of the Commission in this proceeding in thus fixing severance damages evidence has been introduced showing loss of property rendered permanently useless, carrying costs on property rendered permanently and temporarily less useful, and loss sustained by reason of many other costs tending or purporting to establish diminution in the value of the remaining property.

We recommend, after a thorough study of the evidence, that the Commission find as a fact that the total just compensation to be paid by the City to the Company as severance damages, after the taking of the land and property described in the application, is the sum of \$3,375,000.00.

F I N D I N G S

The City and County of San Francisco, a municipal corporation, having filed with the Railroad Commission on the 11th day of February, 1924, a petition as above entitled, and the Commission having proceeded in accordance with the provisions of section 47(b) of the Public Utilities Act to fix and determine the just compensation to be paid by the City and County of San Francisco to Great Western Power Company of California (a corporation) for the taking of the land and property described in Exhibit "A", attached to the application herein and amended as shown in "Application to Amend Petition" filed October 20, 1925 attached hereto, public hearings having been held, the matter having been submitted and briefs filed thereon, and the Railroad Commission being fully apprised in the matter, makes the following findings:

1. IT IS HEREBY FOUND AS A FACT that the just compensation to be paid by the City and County of San Francisco to Great Western Power Company of California (a corporation) for the land and property described in Exhibit "A", attached to the application as amended, not including severance damages, is the sum of \$8,440,000.

2. IT IS HEREBY FOUND AS A FACT that the just compensation to be paid by the City and County of San Francisco to Great Western Power Company of California (a corporation) as severance damages after the taking of the land and property described in Exhibit "A" attached to the application as amended, is the sum of \$3,375,000.

3. IT IS HEREBY FOUND AS A FACT that the total just compensation to be paid by the City and County of San Francisco to Great Western Power Company of California, (a corporation) for the taking of the land and property described in Exhibit "A" attached to the application as amended, is the sum of \$11,815,000.

We concur in the foregoing opinion and findings, and the same are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of June, 1929.

Thomas S. Lovett
C. Sealey
Wm. J. ...
Leon ...
W. J. ...
Commissioners.