

Decision No. 24435

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
THE CITY OF LOS ANGELES and the BOARD
OF WATER AND POWER COMMISSIONERS OF
THE CITY OF LOS ANGELES that the Rail-
road Commission fix and determine the
just compensation to be paid for the
distributing system of the SOUTHERN
CALIFORNIA EDISON COMPANY existing in
certain additions to the City of Los
Angeles.

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) Application No. 13978
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Jess E. Stephens, W. B. Mathews, George T. Warren
and Floyd M. Hinshaw, for the City of
Los Angeles.

Roy V. Reppy, B. F. Woodard, and Morris Jones, Jr.,
for Southern California Edison Company.

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

Gail C. Larkin, for Southern California Edison
Company.

SEAVEY, Commissioner:

O P I N I O N

This is a proceeding under Section 47(b) of the Public
Utilities Act in which the City of Los Angeles and the Board of
Water and Power Commissioners of the City of Los Angeles, herein-
after referred to as the City, ask the Railroad Commission to fix
and determine the just compensation to be paid by the City of Los
Angeles to Southern California Edison Company, Ltd., hereinafter
referred to as the Company, for the taking of certain land, pro-
perty and rights of the Company. Such land, property and rights

are described in the several exhibits attached to the application and made a part thereof, as supplemented by amendment offered and allowed by the Commission on June 23, 1931, and consist of the electric distributing system and franchise rights of the Company in certain territories annexed to the City since 1922, at which time the City purchased the then existing system of the Company within the City.

During the hearings the Company raised several points of law in objection to the proceeding, which, after consideration by the Commission, were ruled upon adversely to the Company.

Just compensation is herein to be determined upon said lands, property and rights as of August 6, 1927, the date of the filing of the application.

The Company here presents for consideration figures of compensation based upon the same theory of capitalization of estimated net earnings as has been offered for the consideration of the Commission many times before and as often rejected by it. There are various methods and figures offered by different Company witnesses, but the bases are fundamentally the same. There are numerous sound objections to this theory of the Company, which objections have been set out fully in previous opinions of this Commission, as well as in various opinions of the courts. The theory was rejected in the decision of this Commission issued in Application 10882, wherein the just compensation for certain properties of Southern California Edison Company located within the City of Los Angeles were fixed on petition of said City and the Board of Public Service Commissioners (Dec. 20707, decided January 23, 1929, 32 C.R.C. 579). The Commission there held, page 582:

" The income theory advocated by the Company in substance has been advanced in other proceedings before this Commission and has not been adopted. It is based upon adopted 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 other 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 intangible things will come to be realities."

The order of the Commission in Decision 20707 was upheld by the California Supreme Court by denial of a petition for writ of review (S.F. 13461, Southern California Edison Company vs. Railroad Commission, et al., petition denied May 13, 1929; appeal dismissed and petition for writ of certiorari denied by United States Supreme Court 280 U. S. 532, 588.)

The record in the instant proceeding discloses nothing new in support of the Company's theory of the capitalization of estimated net earnings. It is illuminating to compare in the following table the several figures of the Company for total compensation with the reproduction cost new less depreciation of the physical property:

Total Compensation	Dr. Hoxie, Company Witness	\$	891,416
"	Dr. Ross,	"	900,000
"	Mr. Kelley,	"	587,000
"	Mr. Trott,	"	615,221
"	Mr. Ballard,	"	750,000
Reproduction Cost New less Depreciation,	Company Witnesses		366,215

The problem of establishing a figure of just compensation will be approached along the line heretofore used by the Commission, which takes into consideration all of the factors tending

to establish value, including the earning power of the properties. It will be taken up and expressed according to the legal requirements under the two heads "Property to be Taken" and "Severance Damages."

PROPERTY TO BE TAKEN

The property to be condemned, with the exception of maps and records, was inventoried as of August 6, 1927, by the Commission's engineers, under the close check and cooperation of the engineers of the Company and of the City. There being possible no inventory work on the date of application the Commission engineers proceeded in the usual practical way of adjusting the inventory with the additions and betterments by excluding overlapping work orders from the inventory and including them in additions and betterments, or vice versa, depending upon the progress of the work under construction. This method without question preserves the interest of the parties.

A number of errors and omissions, as is usual in an inventory and valuation of this nature, developed in this case and corrections were made by the engineering staff during the hearings. The City accepted the Commission engineers' reproduction valuation and also the estimate of the Company for cost of maps and records. The differences to be considered, therefore, are those between the figures of the Company and Commission engineers. The following table shows the two estimates:

Acct. No.	Classification	Reproduction Cost New	
		C.R.C.	Company
342	Distribution Lands,	\$ 6,612.00	\$ 6,612.00
343	Distribution Structures,	7,401.00	7,097.95
344	Distribution Substation Equipment	21,375.97	26,028.34
346	Distribution Poles, Towers & Fixtures,	95,827.86	112,244.00
347	Distribution Overhead Conductors,	77,661.46	94,103.89
350	Line Transformers,	27,919.47	28,969.40
351	Services,	11,138.57	13,149.78
352	Consumers' Meters,	22,583.25	24,654.63
355	Installations on Consumers' Premises,	332.63	530.57
357	Street Lighting Equipment,	15,954.50	16,928.14
382	Comm. System Equipment,	69.98	94.40
	Sub-Total	\$ 286,876.69	\$ 330,413.10
	Overheads,	47,644.62	58,284.20
	Sub-Total	\$ 334,521.31	\$ 388,697.30
	Maps and Records, (accepted)	2,292.22	2,292.22
	Organization and Franchises,	3,100.00	3,000.00
	Grant Total	\$ 339,913.53	\$ 393,989.52

The principal differences will be discussed under the appropriate headings.

Overheads:

The Company contends that the allowance of overheads by the Commission engineers which was cut down from the first estimate is not sufficient. I believe the record sustains the position of the Commission engineers that their estimates are ample because of the extremely thorough studies and checks made during the course of the hearings and because of the complete availability of accounts showing the actual experience.

Material Prices:

The Commission engineers used prices corresponding to those that the Company's experience indicated did prevail during

the pricing period. The Company estimated prices that a contractor buying for this particular job would have paid. This latter is hardly a fair criterion, for a contractor capable of doing this work would have an established buying advantage greater than the immediate work in hand. But even if not, the Commission engineers' method seems more reasonably applicable here because the property must be considered for construction under the conditions surrounding it at the time. As situated, it undoubtedly would not be produced except by one of the large utilities or by the City, any one of whom would have at least the purchasing power and facilities for construction here assumed. The use of the Company's price experiences and the Commission engineers' estimates as to what the Company should have paid seems justified as a measure of costs.

Labor Costs:

Both the Company and Commission engineers based their labor costs upon studies of the Company's work orders. The Commission engineers used as a basis for estimating labor costs the unit costs thus obtained from the records. The Company, on the other hand, added 20 per cent to the units of wage reflected in its work orders to equal what it claimed was the union wage, and an additional 10 per cent to reflect a claim for the inefficiency of newly organized construction crews. It is apparent from the record that the estimates of the Commission engineers are on a safer and more equitable basis than those of the Company. Here, again, the only reasonable assumption is that the construction would be performed by an organization amply equipped to do the work. The determination remaining is as to the proper

allowance for labor costs. The Company correctly maintains that the day wage paid by it is less than the union wage. There is conflict in the testimony as to whether the union wage would need to be paid by a private contractor, Los Angeles being an open labor district. These questions, however, are not controlling. The Commission engineers took the work orders of the Company as a basis for the necessary labor costs, and as the costs of the Company are approximately the same as those for other utilities and the City, who pay the union wage, it would appear that adequate labor costs had been allowed.

Allowance for Waste, Sag, etc.

The Company claims a substantial additional amount over what has been recommended by the Commission engineers for allowance for sag, waste, ties, etc. Both the Company and the Commission had engineers of equal competency and experience making studies on these items. However, one of the Commission engineers who made a considerable part of the field studies left the employ of the Commission before this matter came to hearing and did not testify and become subject to cross-examination. This being the case more weight will be given the Company's testimony and an allowance in its favor will be made in order to cover any question of undervaluation. A careful check of the record does not indicate that the other detailed claims of the Company should add any further amount to the figure arrived at by the Commission engineers.

Reproduction Cost New Less Depreciation:

Estimates of the depreciated cost new of these properties

were introduced by the Company, the City, and the Commission engineers. The results of these several estimates are shown in the following table:

Acct. No.	Classification	Depreciated Reproduction Cost		
		C.R.C.	Company	City
342	Distribution Land	\$ 6,612.00	\$ 6,612.00	\$ 6,612.00
343	Distribution Structures,	7,401.00	7,097.95	7,401.00
344	Distribution Substation Equipment,	19,846.00	24,797.04	18,928.00
346	Distribution Poles, Towers and Fixtures,	88,576.00	104,081.59	84,952.00
347	Distribution Overhead Conductors,	73,885.00	89,123.05	73,885.00
350	Line Transformers,	24,108.00	25,062.84	23,374.00
351	Services,	10,540.00	12,433.09	10,540.00
352	Consumers' Meters,	19,428.00	21,080.63	18,392.00
355	Installation on Consumers' Premises,	320.00	509.35	320.00
357	Street Lighting Equipment,	15,151.00	16,046.06	15,151.00
382	Comm. System Equipment,	70.00	94.40	70.00
	Sub-Total, Overheads,	\$ 265,937.00 44,107.00	\$ 306,875.00 54,047.34	\$259,625.00 43,012.00
	Sub-Total, Maps and Records, Organization,	\$ 310,044.00 2,292.22 3,100.00	\$ 360,922.34 2,292.22 3,000.00	\$302,637.00 2,292.22 3,100.00
	Total,	\$ 315,436.22	\$ 366,214.56	\$308,029.22
	Deduction on account of increasing maintenance,	-	-	5,255.00
	Grant Total	\$ 315,436.22	\$ 366,214.56	\$302,774.22

In these depreciated figures the Company accepted the condition per cent determined by the Commission engineers so that the difference between the two is the reflection in the Company's figures of its reproduction cost new estimates. The City accepted the Commission engineers' estimates except on sub-station equipment, poles and equipment and meters. The City on these three items made changes in the lives only. The City also made additional deductions for increasing maintenance with age. We

cannot find that on the property here considered the record warrants any more consideration for increasing maintenance with age than was accounted for in the estimates of the Commission engineers, and neither can we find a substantial basis for decreasing the lives as claimed by the City, which were based by the Commission engineers upon an inspection of the property and a study of the experience of the Edison Company and other comparable utilities in the State.

Going Concern Value:

No evidence as to going concern value was submitted by the engineers of the Commission. No separate item was set up by the Company to identify this part of the value of the property. The lowest figure that may be used to derive an approximation of the Company's claim for going value is that of \$330,336., set up as the value of the property and business. Deducting from this the Company's claim of a depreciated reproduction cost value of physical property of \$366,215., there remains a negative value for going concern. But the witness testifying to this negative value of going concern claimed that the severance of this claimed unproductive property would damage the rest of the property to the extent of \$561,080. This again shows the absurdity of the Company's theory of arriving at just compensation by the capitalization of earnings. Two other Company witnesses claimed judgment values of the property and business without severance of \$420,000. and \$428,641. These estimates are \$53,785. and \$62,426, respectively, in excess of the Company's estimate of depreciated reproduction cost of the properties.

The City presented evidence on going value, claiming to follow the theory propounded by Dr. W. F. Durand in previous matters before this Commission. Figures produced under this theory are worthy of consideration in arriving at such a value. A study of the Durand theory as described by its author leads to the conclusion that the Company is in a measure correct in its claim that the City witness did not adhere to the announced method. Especially is it apparent that the Durand theory, properly applied, would not in a developed company abruptly fluctuate the going value because of yearly fluctuation in earnings and cost of money; nor were certain controlling influences accounted for as prescribed by Dr. Durand. The estimate of the City witness, however, on this particular property comes close to a reasonable figure.

This property is a going concern, capable of making some earnings and there adheres to it some substantial going value which will be accounted for in the final figure of compensation.

I recommend, after considering all of the evidence of record, that this Commission find as a fact that the just compensation, not including severance damages, which the City should pay to the Company for the land, property and rights described in the application, as amended, including going value and franchise rights, is the sum of \$349,500.

SEVERANCE DAMAGES

The Commission engineers offered no evidence or testimony regarding severance damages. The Company estimated the physical severance damage at an amount of \$11,380, which was accepted by the City, with the exception that \$155. of such amount would be

a duplicate charge against the City in the event that the property here considered and the Sawtelle annexation under Application No. 10882 were both taken over. In such event there should be an adjustment in that amount in favor of the City upon final compensation being determined.

Three Company witnesses estimated intangible severance and arrived at estimates of \$236,000., \$300,000., and \$561,080., respectively. Each of the three estimates is entirely too far out of reason to be followed.

The City witness estimated a severance damage for cost of reconnection and damage to idle plant of \$11,750. He combined an additional severance figure with fair value in such a way that no accurate segregation can be made. He testified that the sum of \$340,000 was total just compensation for the properties, including going concern value and severance damage due to diminution in intrinsic value of the entire property not taken. Of this sum \$310,000. represented his estimate of reproduction cost of the properties depreciated.

I recommend in the light of all 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 total severance damages to the remaining lands, property and rights of the Company, after the taking of the land, property and rights described in the application, as amended, is the sum of \$30,000.

F I N D I N G S

The City of Los Angeles, a municipal corporation, and the Board of Water and Power Commissioners of the City of Los Angeles having filed with the Railroad Commission on the sixth day of August, 1927, a petition as above entitled, and the Com-

mission 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 of Los Angeles and the Board of Water and Power Commissioners of the City of Los Angeles to the Southern California Edison Company, Ltd. for the taking of the land, property and rights described in the application herein, as amended, public hearings having been held, the matter having been submitted and briefs filed thereon, and the Railroad Commission being now 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 of Los Angeles and the Board of Water and Power Commissioners of the City of Los Angeles to the Southern California Edison Company, Ltd., for the land, property and rights described in the application, as amended, not including severance damages, is the sum of \$349,500.

2. IT IS HEREBY FOUND AS A FACT that the just compensation to be paid by the City of Los Angeles and the Board of Water and Power Commissioners of the City of Los Angeles to the Southern California Edison Company, Ltd. as severance damages to the remaining lands, property and rights of the Company after the taking of the land, property and rights described in the application, as amended, is the sum of \$30,000.

3. IT IS HEREBY FOUND AS A FACT that the total just compensation to be paid by the City of Los Angeles and the Board of Water and Power Commissioners of the City of Los Angeles to

the Southern California Edison Company, Ltd. for the taking of the land, property and rights described in the application, as amended, is the sum of \$379,500.

The foregoing opinion and findings 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 10th day of February, 1932.

C. Deary
Leon Whidley
M. A. Lee
M. B. Harris
Fred G. Stewart
Commissioners