Decision No. 25337

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion into the reasonableness and interpretation of the rules, regulations, practices and operations, or any of them, of the water works owned and operated by the California Water Service Company, a corporation, at Oroville, Butte County, State of California.	Case No. 3218.

BY THE COMMISSION:

O P I N I O N

On October 7, 1931, California Water Service Company filed with this Commission revised rules and regulations to govern the relations with its consumers residing in the Oroville district. After checking over the rules and regulations as filed, it was reported by the Hydraulic Division that said rules and regulations were acceptable and in accordance with the standard practice in such matters with the exception of certain regulations governing the extension of water mains to supply new consumers and subdivisions, being set forth in three sections under Rule No. 19, entitled "WATER MAIN EXTENSIONS," and also Rule No. 21(B), entitled "SURPLUS OF WATER SUPPLY." Although informal discussion took place by and between certain of the Commission's staff and representatives and officials of the California Water Service Company, no agreement was reached. Thereafter, a letter was received under date of February 6, 1932, from the California Water Service Company setting forth that said rules and regulations as filed on the

seventh day of October, 1931, not having been specifically suspended by order of the Commission, the company would consider all of said rules and regulations to have become effective on the expiration of a period of thirty (30) days from and after said date pursuant to Section 63(b) of the Public Utilities Act.

On the fourteenth day of March, 1932, the Commission issued its order instituting an investigation into the rules, regulations, practices and operations, or any of them, of the California Water Service Company in the conduct of the affairs of its water plant at Oroville, Butte County, California. Hearing in this matter was postponed from time to time for various reasons and was held before Examiner Satterwhite on the twenty-second day of September, 1932, at Oroville, at which time the matter was submitted.

The evidence indicates that Rule No. 19 as filed by the California Water Service Company with this Commission on the seventh day of October, 1931, which by operation of the law became effective thirty (30) days thereafter, provides for the charging of new consumers for extension of mains under different methods depending upon whether such service is to be extended within or without the city limits of the town of Oroville. Rule No. 19-1 provides for the general extension of mains within "incorporated limits" and requires, in general, that the prospective consumer requesting such extension, if residing within the city limits of Oroville, in all cases where the extension is in excess of one hundred fifty (150) feet of main per consumer, shall advance that portion of the reasonable estimated cost of the extension in excess of one hundred fifty (150) feet of main per con-

sumer, which advance payment shall be subject to refund upon the basis of the cost of one hundred fifty (150) feet of main for each additional consumer served from the extension for which deposit has been made within a period of ten years. In all cases where the consumer requires an extension of mains outside of the incorporated limits, Section 3 of Rule No. 19 provides, among other things, that a prospective consumer must deposit with the company in advance of construction the reasonable estimated amount of the cost of the entire extension, exclusive of service connections and meters, and that the company will refund thereafter annually to the consumer a sum equal to thirty-five per cent of the total revenue actually collected from all consumers initially or thereafter receiving service directly from the extension during the preceding twelve months, provided no refunds shall be made for a period longer than ten years after date of the completion of the extension. Section 2 of Rule No. 19 provides for extensions to serve tracts or subdivisions within incorporated limits and, among other things, provides that such tracts or subdivisions shall be piped upon the payment by the owner or real estate operator controlling said tracts or subdivisions of the estimated reasonable cost of the necessary facilities, exclusive of service connections and meters, subject to refund for each bona fide consumer obtained within the subdivision upon the basis that the cost of each one hundred fifty (150) feet of main within the subdivision bears to the total amount of the original deposit, provided no refund shall be due and owing after a period of ten years after the date of the completion of the installation. No specific provision whatsoever is made for main extensions to serve subdivisions outside of incorporated

limits. It is obvious therefore that, should such a demand arise, it would necessarily have to be governed by Section 3 of Rule No. 19.

The testimony clearly indicates that there is an unreasonable and unnecessary distinction existing in the provisions of Rule No. 19 regulating the conditions governing extensions of service within and without incorporated territory. It is also self-evident that the rules as they exist at present create an unfair discrimination against prospective consumers who may desire new service in territory not within the city limits of Oroville. No logical reason was presented for or in behalf of the utility to warrant or justify this discrimination upon the basis of the municipal boundary-line or upon any other grounds.

Since its inception this Commission has carefully avoided the placing of arbitrary and frivolous restrictions and delimitations upon rates and service to public utility consumers. No distinction without other controlling reasons has ever been recognized either in the rates charged consumers or in the rules and regulations governing service to them solely by reason of the fact that delivery was received outside of the incorporated limits of a municipality. There being no just cause why such a distinction should be made in this case, the California Water Service Company necessarily will be directed in the following Order to remove the unreasonable discrimination in Rule No. 19.

In connection with Section (B) of Rule No. 21 entitled "SURPLUS OF WATER SUPPLY," it should be noted that, while this matter may also be properly under review in this proceeding, nevertheless, it is also directly and specifically involved in connection with the reopening of Case No. 1998 (Table Mountain

Irrigation District, Complainant, vs. Pacific Gas and Electric Company, a corporation, Defendant) and Application No. 8140 (In the Matter of the joint application of PACIFIC GAS AND ELECTRIC COMPANY, a corporation, and the THERMALITO IRRIGATION DISTRICT for an order of the Railroad Commission of the State of California authorizing the former to sell and convey and the latter to purchase and acquire the water properties herein described; etc.), matters now pending before the Commission. By stipulation entered into by and between all interested parties in this proceeding, it was agreed that such changes, if any, as should be recommended and deemed advisable by the Commission in said Section (B) of Rule No. 21 should and may be determined in connection with the decision to be rendered hereafter in connection with the above mentioned pending matters.

O R D E R

The Railroad Commission, upon its own motion, having ordered an investigation into the reasonableness and interpretation of the rules, regulations, practices and operations, or any of them, of the water works owned and operated by the California Water Service Company at Oroville, Butte County, State of California, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises; now, therefore

IT IS HEREBY ORDERED that Rule No. 19 entitled "WATER MAIN EXTENSIONS," as set forth in paragraphs 1, 2, 3 and 4 thereof and as filed by the California Water Service Company with this Commission under date of October 7, 1931, be and it is hereby cancelled and annulled as of the date of the Order herein.

IT IS HEREBY FURTHER ORDERED that California Water Service Company, a corporation, be and it is hereby ordered and directed to file with this Commission, within thirty (30) days from the date of this Order, the following Rule No. 19 governing water main extensions and effective throughout its entire Oroville Division, irrespective of the corporate limits of the town of Oroville:

RULE NO. 19 - WATER MAIN EXTENSIONS

1. GENERAL EXTENSIONS.

The company will extend its water distribution mains to new consumers at its own expense when the total length of main extension from the existing facilities required is not in excess of 150 feet per consumer. If the total length of main extension required is in excess of 150 feet per consumer, the consumer or consumers applying for such service will be required to advance that portion of the reasonable estimated cost of such extension over and above the estimated cost of the said 150 feet of main per consumer, provided, however, that in no case shall the above estimate be based upon a main in excess of four (4) inches in diameter and the money so advanced will be refunded upon the basis of the cost of 150 feet of main for each additional consumer served from the extension for which deposit has been made within a period of ten years, but in no case shall the refund exceed the original deposit. Adjustment of any substantial differences between the estimated and the reasonable actual cost shall be made after completion of the installation. No deposit shall be required from an applicant requesting service from a main extension already in place. In case of disagreement over size, type and/or location of the pipe line or lines, the matter may be referred by applicant or applicants to the Railroad Commission for adjustment.

2. EXTENSIONS TO SERVE TRACTS OR SUBDIVISIONS.

Applicants for extensions to supply real estate tracts or subdivisions will be required to deposit with the company the estimated reasonable cost of the necessary facilities, exclusive of service connections and meters, before construction is commenced. The size, type and quality of the materials and location of lines shall be specified by the company and the actual construction

will be done by the company or by a contractor acceptable to it. Adjustment of any substantial differences between the estimated and the reasonable actual cost shall be made after completion of the installation. Refunds shall be made for each bona fide consumer within the subdivision upon the basis that the cost of each 150 feet of main within the subdivision bears to the total amount of the original deposit, provided no refunds shall be made after a period of ten years from the date of completion of the installation. In case of disagreement over size, type and/or location of the pipe line or lines, the matter may be referred by applicant or applicants to the Railroad Commission for adjustment.

3. NO EXTENSIONS WILL BE MADE FROM THE POWERS CANAL.

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IT IS HEREBY FURTHER ORDERED that said Rule No. 19 governing water main extensions shall become effective as of the date of this Order.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 7th day of November, 1932.

O. K. Lemmon

Leon O. Whitsell

Will D. Carr

Wm. B. Kamm

Fred E. Stevenot

Commissioners.