

ORIGINAL

Decision No. 25768

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
the Mokelumne River Power and Water
Company, a California corporation,
for permission to discontinue ser-
vice to the public.

Application No. 17384.

E. R. Solinsky, for applicant.

Virgil M. Airola, for committee
of water users and consumers,
protestants.

BY THE COMMISSION:

O P I N I O N

In this proceeding Mokelumne River Power and Water Com-
pany, a corporation, makes application for permission to discon-
tinue the service of water to its consumers and to be relieved of
its status as a public utility. Applicant alleges that it is the
owner of a ditch system in Calaveras County with appurtenant water
rights extending from the diversion point on the South Fork of the
Mokelumne River near Glencoe a distance of about sixteen miles to
the town of Mokelumne Hill and thence about seventeen miles farther
to the towns of Campo Seco and Valley Springs; that since about 1860
petitioner and its predecessor have been distributing and selling
water along its ditches for mining, power, irrigation and domestic
purposes, including the supply for the unincorporated towns of
Mokelumne Hill, Campo Seco and Valley Springs; that during recent
years the use of water from petitioner's ditch system has decreased
gradually by reason of the decline in mining operations and in the

population of said towns and that, because of this decrease in the water use during these years, the annual revenues obtained from water sales have not been sufficient to meet even the annual expenditures incurred for maintenance and operation without including any sum for depreciation or allowing for any interest return on the investment in the properties,

WHEREFORE, the request is made for an order authorizing petitioner to discontinue immediately all service of water and to be relieved of its status as a public utility.

Public hearings in this proceeding were held at Mokelumne Hill before Examiner Satterwhite. The matter was submitted on briefs.

The evidence shows that heretofore in the period from 1920 to 1924 this utility has had several formal proceedings before the Commission asking for rate increases in an endeavor to obtain relief from its constantly recurring annual deficits. In Decision No. 7394 rendered April 8, 1920, (18 C.R.C. 43) the Commission authorized an increase in rates and in Supplemental Decision No. 9023 decided May 28, 1921, (19 C.R.C. 972) established a revision of said rate schedule. In Decision No. 10581 rendered June 14, 1922, (21 C.R.C. 793) a further attempt was made to continue the service of this utility by again increasing the charges for water based primarily upon an agreement entered into by and between the consumers and the company. Finally, on December 13, 1923, the utility filed an application for permission to discontinue all service to the public, resulting in Decision No. 13599, issued on May 24, 1924, (24 C.R.C. 932) wherein the Commission granted a discontinuance unconditionally of all further service of water to consumers from that portion of the ditch system below

the town of Mokelumne Hill and authorized the utility to discontinue service to its remaining consumers in and in the vicinity of the town of Mokelumne Hill and to cease operation thereof on July 1, 1925, contingent upon the utility complying with certain requirements and conditions and upon the issuance by the Commission of a supplemental order making permanent the authority conditionally granted. At this time petitioner discontinued only the service below and beyond Mokelumne Hill and elected to continue supplying the demands as far as said town. At present the service rendered is confined to the comparatively small domestic and commercial uses of fifty consumers in and near Mokelumne Hill, together with an occasional delivery for mining and prospecting purposes.

Concerning the operating conditions of this utility prior to 1924, the Commission in Decision No. 13599, among other things, stated as follows:

"A review of the evidence submitted discloses the serious financial difficulties now confronting this utility in the maintenance and operation of its system. This extensive ditch system, originally constructed of a capacity to deliver the large volumes of water required for mining purposes (which use has ceased), has reverted to the present small uses, which consist mainly of a domestic supply for the three small towns above mentioned and for the irrigation of about sixty acres. It is apparent from the evidence that it is impossible for applicant to obtain sufficient revenue from the present small use of water to return the bare costs of operation (without allowance for depreciation) unless unreasonably high and prohibitive water rates be established." (24 C.R.C. 933)

A review and analysis of the evidence submitted in the present proceeding show that the results of operation over the eight-year period subsequent to 1924 have not improved to any substantial extent and by reason of the restricted demand for water the utility has suffered each year thereafter an out-of-pocket

loss in the maintenance of the service. The following tabulation shows the revenues received and the expenses incurred during the six-year period 1925 to 1930, inclusive.

RESULTS OF OPERATIONS
OF
MOKELUMNE RIVER POWER AND WATER COMPANY
FOR THE 6- YEAR PERIOD 1925 TO 1930, INCLUSIVE

MAINTENANCE AND OPERATION EXPENSES:
(Not including Depreciation Annuity)

	<u>1925</u>	<u>1926</u>	<u>1927</u>	<u>1928</u>	<u>1929</u>	<u>1930</u>
Transmission and Distribution System Expenses	\$5,769.10	\$5,198.23	\$5,202.69	\$5,140.00	\$5,280.00	\$5,035.00
General Expenses	199.89	616.27	234.73	273.94	294.55	304.55
Taxes	2,517.30	2,654.59	2,789.26	2,716.58	2,491.22	2,175.18
TOTAL OPERATING EXPENSES	\$8,486.29	\$8,467.09	\$8,226.68	\$8,130.52	\$8,065.77	\$7,514.73

REVENUES:

Commercial Earnings	\$1,834.74	\$1,547.20	\$2,150.52	\$2,253.28	\$1,723.17	\$2,032.23
Industrial Sales	385.00	95.50	1,049.92	1,016.50	258.20	41.50
Irrigation Sales	178.65	69.00	141.40	217.85	80.00	145.15
TOTAL REVENUES	\$2,398.39	\$1,711.70	\$3,341.84	\$3,487.63	\$2,061.37	\$2,218.88
OPERATING DEFICIT	\$6,087.90	\$6,755.39	\$4,884.84	\$4,642.89	\$6,004.40	\$5,295.85

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The evidence shows that a considerable portion of the taxes included above under expenses has been incurred for the non-operative portion of this ditch system and for certain private holdings of the company. The lack of definite segregation of properties listed in the various tax bills makes it extremely difficult to make any reliable or accurate segregation and allocation of charges between these two classes of property. However, it appears that at least one-half of the annual tax items has been and is an improper charge to the utility business. But, nevertheless, even with this deduction ranging from eleven hundred dollars

(\$1,100) to fourteen hundred dollars (\$1,400) per year, it is found that the average annual operating deficit incurred for the six years last past has closely approximated four thousand three hundred dollars (\$4,300), exclusive of any allowance for depreciation. The present rates are as follows:

RATE SCHEDULE

Per Month

FLAT RATES FOR DOMESTIC USE:

1. For all residential use including irrigation of premises, a minimum annual charge of \$36.00 for 2,000 cubic feet of water or less per month, payable in equal monthly installments-----\$3.00
2. For private boarding houses, in addition to the residential rate, each roomer or boarder----- 0.20
3. Livery stables and stockyards, per average number of stock fed, each----- 0.35
Minimum charge----- 3.50
4. Public garages, average four autos or less----- 3.50
For each additional automobile----- 0.50
5. Hotels, creameries, slaughter-houses, bottling works and laundries, according to use of water-----\$3.50 to 9.00
6. For stores, shops or business places not otherwise listed----- 2.50
7. Additional for each bathtub, flush toilet or urinal in 3 to 6, inclusive----- 0.35
8. Barns in connection with stores or shops, not more than two horses----- 0.50
For each additional horse----- 0.25
9. For cold storage machines in addition to store rates-----\$2.00 to 5.00
10. For use of hose in front of stores or shops for washing windows and sprinkling sidewalks and roadway, according to use-----\$0.25 to 1.00
11. Water motors, according to size-----\$0.75 to 3.00
12. For each hydrant especially installed for fire protection or for the individual use of persons, firms or corporations for fire service exclusively----- 0.75

Per Month

METER RATES:

1. For all residential use including irrigation of premises, a minimum annual charge of \$36.00 for 2,000 cubic feet of water or less per month, payable in equal monthly instalments-----\$3.00
All use over 2,000 cubic feet per month, per
100 cubic feet----- 0.05
2. For all use of water other than residential:
1,500 cubic feet or less per month----- 3.00
Between 1,500 and 5,000 cubic feet per month----- 0.15
All over 5,000 cubic feet per month----- 0.05

Meters may be installed at the option of the consumer or the company. When a meter is installed at the request of a consumer, a deposit may be required, such a deposit to be returned to the consumer as a credit on monthly water bills at a rate of one-seventh of the monthly bills for water used.

IRRIGATION, MINING AND INDUSTRIAL USES - OPEN DITCH SERVICE:

Per Miner's
Inch per Day

For Irrigation Season:

24-hour service, continuous flow-----\$0.35
12-hour service, continuous flow----- 0.20
24-hour service, non-continuous flow----- 0.45

For Calendar Year:

24-hour service, continuous flow----- 0.30
12-hour service, continuous flow----- 0.15

Minimum annual payment will be the equivalent of 1/4 of a miner's inch continuous flow for irrigation season of 5 months. Miner's inch equals 1/40 of a cubic foot per second.

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The testimony of the consumers is unanimous to the effect that they cannot afford to pay any higher rates. No practical relief therefore can be gained through increased charges for water.

Counsel for the consumers in the town of Mokelumne Hill,

protestants herein, contends that the company has at no time in the past been required to devote or use more than one-sixth of its water rights and canal facilities to supply the amount of water needed by the consumers and, for this reason, alleges that only one-sixth the capacity of the present system may rightfully be considered operative and reasonably necessary for the purpose of serving the public. Furthermore, upon the same theory, it is claimed that not in excess of one-sixth the company's annual expenses incurred from 1925 to date should be allowed as properly chargeable to the public utility service, which would result in the water business being conducted at a good profit and preclude any necessity for permitting discontinuance of service.

A brief glance at the record in this proceeding shows the fallacy of this argument. Unfortunate as it may be, both to the interests of the consumers and the utility, this canal system must be maintained as it now exists although admittedly it was designed originally for and is still capable of carrying several times the volume of water required for its present consumers. To reconstruct the canals, flumes and pipe lines to transport only the restricted demands of Mokelumne Hill would cost perhaps as much as the original project. The present urgently required replacement of the so-called "porcupine" pipe line alone will necessitate the outlay of more funds than applicant has available or can raise. While this ditch system was constructed in the first instance for mining purposes, the owner now is faced unavoidably with the burden of maintaining the property as it is and cannot reasonably be restricted to an allowance which would cover but a small fraction of the necessary and proper costs of upkeep, operation and repair.

It is with sincere regret that the Commission finds it impossible to present any practicable solution to this problem which will insure the continuation of service by this utility under conditions fair and just to both the company and its consumers. This system has served this community and served it well from the early days of organized mining in California to the present time even during periods when the operations have been clearly unprofitable. For the past few years fortunate circumstances for the community have resulted in the continuation of water deliveries under the management of J.W. Preston, Jr., who was the holder of an option to purchase the properties and water rights of this utility with the duty and obligation of maintaining service during the life of said option. This purchase did not materialize, the properties were returned to the management and control of applicant herein, and now the principal stockholder, Mrs. Sadie S. Foorman, according to her testimony is financially unable to continue in the business at the past and present severe annual out-of-pocket loss. Although the evidence shows that several economies could be adopted by applicant which would reduce present costs, yet the record also shows that sufficient savings could not be effected thereby to overcome the present deficit and still maintain service.

There are but two alternatives left to provide Mokelumne Hill with water. The testimony shows that a sufficient supply cannot be obtained from wells by reason of the geologic formation of the country. Firstly, water may be obtained by pumping from the Mokelumne River below the town at a lift of about one thousand feet, provided the right to pump from the river can be obtained; secondly, arrangements very probably can be made by members of

the community to acquire the water rights and canal system from Mrs. Foorman for a fair and reasonable consideration. It may be operated then as a mutual concern, or as a municipal affair, or as a county water works district. While it should be pointed out that the maintenance of a 16-mile canal system consisting of ditches through rugged and rocky country, large wooden flumes and worn-out pipe lines will be very costly, yet, when undertaken by an entire community, it is feasible nevertheless through the spreading of the burden upon the shoulders of many rather than one individual as at present. From the information available at this time, it appears that the logical source of supply would be from the Mokelumne River by pumping from a point near and opposite the town.

While there appears to be no course open other than to grant the request of applicant herein to discontinue further public utility water service, we desire to state that at any and all times this Commission gladly will lend its good offices to the residents of Mokelumne Hill and vicinity to aid and assist them in obtaining or developing an adequate water supply. It is obvious that this change cannot be accomplished at once but immediate efforts should be initiated by the present consumers to secure a community water works as soon as possible. To this end the authority to discontinue will not be permitted to become effective until the first day of May, 1933. This should give a reasonable time under the circumstances here existing.

O R D E R

Mokelumne River Power and Water Company, a corporation, having applied for an order authorizing it to discontinue further public utility water service, public hearings having been held

thereon and the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that Mokelumne River Power and Water Company, a corporation, be and it is hereby authorized to discontinue all public utility water service to consumers in and in the vicinity of the town of Mokelumne Hill, in the County of Calaveras, on and after the first day of May, 1933, and thereafter stand relieved from all public utility obligations and liabilities in connection therewith, subject to the following conditions:

1. Within twenty (20) days from and after the date of this Order, Mokelumne River Power and Water Company, a corporation, shall give each active water consumer written notice of its intention to discontinue water service on the first day of May, 1933, and also shall cause to be published, within twenty (20) days from the date of this Order, in a newspaper of general circulation in the County of Calaveras a notice to the same effect.
2. Within thirty (30) days from the date of this Order, Mokelumne River Power and Water Company, a corporation, shall file with this Commission an affidavit showing that the provisions of the above Paragraph 1 have been duly complied with.

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 27th day of March, 1933.

C. C. Weaver
Leon Whitehill
W. J. Kim
M. B. Haines
W. L. Haines
Commissioners.