

ORIGINAL

Decision No. 1186

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application
of CUYAMACA WATER COMPANY, owned
by James A. Murray and Ed Fletcher,
for an order establishing rates
and charges for waters supplied by
pumping.

Application No. 756.

Ed Fletcher, in propria personae, representing
applicant;
D. G. Gordon, representing certain water consum-
ers;
Haines and Haines, representing certain water
consumers.

LOVELAND, Commissioner.

OPINION

Applicant is a water utility owned by James A. Murray
and Ed Fletcher in the county of San Diego, State of California,
known as the Cuyamaca Water Company, formerly known as the San
Diego Flume Company.

An application was filed with the Commission in 1912
by applicant herein applying for an order authorizing an increase
in the rate for water to be charged to its consumers in the coun-
ty of San Diego. That application, No. 118, was heard and there-
after a most exhaustive opinion rendered on the 28th day of March,
1913.

We quote from the findings and order of the Commission
in that application:-

* * *

The Commission further finds as a fact that
the applicants have in their control an ample sup-
ply of water, if the excessive losses are prevent-
ed, to supply the reasonable demands of their con-
sumers and to increase the supply available to them
for their use by 33 1/3 per cent.

The Commission further finds as a fact that
the flume of this system heretofore referred to and
described in the opinion, has entirely passed its
useful life and that it should be at once renewed.

* * *

The above quotations are from the findings of fact.

The following are from the Order:-

* * *

It is hereby ordered that the applicants herein begin immediately the construction of a flume in lieu of the one now used, which flume shall be of a character satisfactory to this Commission after the plans therefor have been submitted to it, but shall in any event be a closed flume or conduit of suitable material to be determined on the submission of the plans to this Commission; and

It is further ordered that within thirty (30) days from the date of this order that the applicants file with this Commission plans and specifications of said flume; and

It is further ordered that said applicants take immediate steps to increase the available supply of water so that the same may be increased over the present available supply at least 33 1/3 per cent. While the Commission does not at the present prescribe details with reference thereto it reserves and does not finally determine this question, and in the event that these applicants do not within a reasonable time in the opinion of the Commission begin the construction of other facilities than the ones specifically ordered herein, this particular matter being held open for decision and for the further submission of evidence, will again be considered by this Commission after due notice to the applicants and the parties hereto as required by law;

* * *

It is further ordered that each and every portion of this order is made in contemplation of the performance by the applicants of every other portion thereof, and that this order is not to be considered as separable, and that no rates other than the ones that are now being charged by these applicants may be charged or collected, until said applicants have complied with all of the provisions of this order or shall satisfy this Commission that they are in good faith proceeding to comply therewith.

In a later decision, the foregoing decision upon Application No. 118 (supra) was amended, fixing the rate to be paid by the Pacific Building Company at 18 cents per one thousand gallons, therein being an exception to the order that the rate for domestic use be 25 cents per one thousand gallons.

The decision was afterwards modified somewhat as to the form of the flume and still later as to the repairs of the old flume, but these matters require no further reference at this

time.

The rates named in Application No. 118 (supra) were to take effect July 1, 1913, provided the order of the Commission as to the repairs to the system and increasing the supply by 33 1/3 per cent had been complied with at that date.

It is evident that applicant did not comply with these conditions by July 1st, but on that date began to collect, and thereafter did collect, the rates named in Application No. 118 (supra). No protests from consumers as to the increased rates were received but numerous letters and telegrams were received in July and August declaring that there was great danger of a shortage of water and that applicant had not taken steps to guard against such shortage. Thereupon, a telegram was sent by the Commission to applicant reading as follows:-

"Supply of water on hand available for consumers under Cuyamaca Water Company's system so low extreme danger of water famine. Commission hereby directs you immediately to increase your supply by pumping plant or otherwise. Commission will permit you to charge excess rate to cover reasonable cost of temporary additional supply, such rate not to exceed 10 cents per thousand gallons. Wire answer immediately."

Applicant now asks that it be repaid the cost of installing and operating the pumping plants through increased rates, such increased rates to be sufficient to amortize such expense in three years' time.

At the hearing, applicant amended its application and asked that its revenues be increased by a certain sum which applicant claims it lost through a mistaken use of the water furnished the El Cerrito Park Water Company.

It appearing that some of the land which applicant had purchased for the purpose of installing the pumping plants, in compliance with the Commission's order, is not used and useful to the public utility, applicant also asked to amend its application by deducting the value of such land from the amount prayed for as

reimbursement for installation and pumping operations.

Applicant claims that it has expended, and is expending, large sums of money in repairing its plant and that it will soon have complied with the order of the Commission in Application No. 118 (supra).

It is very evident that when applicant shall have complied with that order it will apply to the Commission for a re-adjustment of rates and it is clearly evident that, as Judge Haines, of counsel for protestants, said at the hearing of the present application, the matters and things brought up in the present application, to-wit: whether applicant is entitled to be reimbursed for installation of pumping plants; if so, whether such reimbursement shall be by increased rates or the amount added to capital account; and if by increased rates whether such increased rates shall apply to all use or only to consumers so situated as to receive pumped water; and whether applicant is entitled to have the amount claimed to have been lost through the mistaken use of the El Cerrito Park Water Company added to its income; are questions which cannot be properly decided without again going into the whole matter and having a practical rehearing of the former application, with possibly a re-valuation of the plant, etc.

Some of these questions, as has been recited, were brought into the hearing of the present application through amendments to the application, at the hearing, with the result that neither applicant nor protestants had sufficient time to present them as they would have liked to and as the Commission would like to have had them present them.

I believe and find as a fact, first: That applicant is not entitled at this time, or at any other time, to any increase in rates until it shall have complied with the order of the Commission in Application No. 118 (supra) to the satisfaction of the Com-

mission; second: That the interests of all concerned will best be served by holding the matters and things involved in this application in abeyance until applicant has complied with the order in Application No. 118 (supra) to the satisfaction of the Commission, when the applicant may apply to the Commission for a readjustment of its rates and the whole matter gone into in such a way as to develop the equities of the situation.

I recommend the following Order:-

O R D E R

James A. Murray and Ed Fletcher (the Cuyamaca Water Company) having applied to the Commission for increased rates over a period of three years to amortize the expense of installing pumping plants, and having, by amendment to its application, asked that its revenues be increased by a certain sum which it claims to have lost through mistaken use of the water furnished the El Cerrito Park Water Company, and, by a further amendment, asked that the price of certain land purchased at the time the site for installing pumps was purchased, such land not being devoted to the use of the public utility, may be deducted from the sum asked for as reimbursement for the expense of installing and operating the pumping plants;

And the Commission having found as a fact that applicant is not entitled at this, or any other time, to any increase in rates until it shall have complied with the order of the Commission in Application No. 118 (supra), and that the interests of all concerned will best be served by holding the matters and things herein involved in abeyance until applicant shall have complied with the order in Application No. 118 (supra);

IT IS HEREBY ORDERED: That no decision be rendered at this time in the present application further than that it be held in abeyance, pending compliance by applicant with the Commission's order in Application No. 118 (supra); and that applicant be advised

that, upon such compliance with the order of the Commission in Application No. 118 (supra), it may apply for a readjustment of its rates, at which time the whole matter will be considered and adjusted.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st
day of December, 1913.

John M. Eickelman
H. D. Loveland
Edwin O. Edgerton

Commissioners.