

ORIGINAL

Decision No. 1370

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 1370

In the Matter of the Application
of the City Council of the City
of Eureka for the Railroad Commis-
sion to fix the compensation to be
paid for water system, serving the
City of Eureka, owned by the Eureka
Water Company.

Application No. 843.

P. H. Ryan, City Attorney, and W. S. Clark,
Mayor, for Applicant
L. F. Puter, for Eureka Water Company

ESHELMAN, Commissioner.

OPINION.

This is the first case to arise under the amendment
to the Public Utilities Act, empowering this Commission to
fix, on application of certain named governmental agencies,
the compensation to be paid by such agencies for all, or any
designated portion, of the property of a public utility.

The portions of the Act, which are especially important to
consider in this case are as follows:

"Any county, city and county, incorporated city or town or municipal water district may at any time file with the commission a petition setting forth the intention of said county, city and county, incorporated city or town or municipal water district to acquire under eminent domain proceedings, or otherwise, any existing public utility, and the lands, property and rights of any character whatsoever connected with such existing public utility, or any part or portion thereof. Said petition shall give a full and complete description of said public utility, lands, property and rights, or the parts or portions thereof it is so intended to acquire, and may pray that the commission fix and determine the just compensation which shall be paid by such county, city and county, incorporated city or town, or municipal water district, under the law, for said public utility and said lands, property and rights thereof, or the parts or portions thereof sought to be acquired. Or the legislative or other governing body of any such county, city and county, incorporated city or town, or municipal water district may file with the commission a petition setting forth its intention to initiate such proceedings as may be required under the law governing such county, city and county, incorporated city or town or municipal water district, for the purpose of submitting to the voters of said county, city and county, incorporated city or town, or municipal water district a proposition to acquire under eminent domain proceedings, or otherwise, any existing public utility and the lands, property and rights of any character whatsoever connected with such existing public utility, or any parts or portions thereof. Such petition shall give a full and complete description of the said public utility, lands, property, rights, or the parts or portions thereof concerning which it is so intended to initiate said proceedings as above described. Upon either of such petitions being filed, the commission shall proceed to fix and determine the just compensation that should be paid to the owner of such public utility and the lands, property and rights thereof, or any such parts or portions thereof, in the manner and in accordance with the provisions of section 70 of this act. In the case of the petition first above described, within sixty days after the Commission shall have certified, in accordance with section 70, its findings as to the just compensation that should be so paid for such existing public utility and the lands, property and rights thereof, or any such parts or portions thereof, the said county, city and county, incorporated city or town or municipal water district must commence an action in a court of competent jurisdiction and in a manner in accordance with the provisions of law, to take under eminent domain proceedings said existing public utility and the lands, property and rights thereof or any such parts or portions thereof, the value of which has been so fixed and determined as herein provided, unless the owner of such existing public utility and the lands, property and rights thereof, or any such parts or portions thereof, shall file a written stipulation consenting and agreeing to accept the compensation so fixed by the commission to be paid by the said county, city and county, incorporated city or town, or municipal water district for the taking of said existing public utility and the lands, property and rights thereof, or any such parts or portions

thereof.....In such action the compensation fixed by the commission to be paid for such existing public utility and the lands, property and rights thereof, or any such parts or portions thereof, shall be deemed final and conclusive between the parties; and the court in which the action is pending, if it shall first decide that such county, city and county, incorporated city or town, or municipal water district has the right and power under the law to take the said existing public utility and the lands, property and rights thereof, or such parts or portions thereof, whose value has been so fixed as herein provided for, shall enter a decree in favor of the said county, city and county, incorporated city or town, or municipal water district, as provided by law, fixing the amount that shall be paid as the just compensation for the taking of such existing public utility and the lands, property and rights thereof, or any parts or portions thereof, as the amount fixed and determined by the commission. The judgment shall include a provision, in substance, that said judgment is subject to modification on account of any unreasonable depreciation or deterioration in value of the property taken, or on account of any loss which might be suffered by the owner of said public utility through his being required to properly take care of said property, as is hereinafter more fully provided for."

From a consideration of the statute here involved, it appears that the applicant must specify the property, whether it is all of the property of the public utility involved or a part thereof, which it desires to acquire, and this Commission has no authority to determine whether the power exists on the part of such applicant to acquire the property so specified. That power is specially reserved to the Superior Court when the actual condemnation is sought to be made and findings of this Commission are filed. It would then seem to follow that this Commission cannot exclude any of the property listed or add to it; its sole power being to fix compensation to be paid to the utility for the property sought to be acquired.

In the present case, however, there is not conflict as to the actual property which is sought to be acquired, but it is well to call attention to the fact that a proceeding like this is strictly an adverse proceeding wherein it is sought to have the value fixed upon property of a public utility which value thereafter shall be used by the courts in measuring the amount to be paid to the utility for its property taken under eminent domain proceedings. It appears then, if the Commission is limited, as I have suggested, to fixing

value upon the items set out in the application, that any value fixed upon other items or the exclusion of items set out in the application might be cause for the court to set aside the findings of the Commission. And furthermore, under the wording of the Act, it would appear that even when strictly following the application by placing values on those items alone set out in said application, if thereafter there are found items of property therein not necessary to the public use, and the Superior Court finding that the applicant has not the right or power to take any of the items set out in the application, said Court will be required to reject the entire valuation. Because, if this is not the case, the court would have the power to divide the property and exclude a portion as not necessary and fix the value on the remaining portion. Inasmuch as the court has no power to fix value upon any portion of the property, the Commission's power is limited strictly to the fixing of such value. In my opinion, the exclusion by the court of any item upon which a value has been placed by the Commission will be cause for the rejection of the entire valuation. X

The Writ of Review, provided for in this section, gives the Supreme Court the power to refer the valuation back to the Commission so that it may correct its findings in the manner therein specified. But under the Public Utilities Act, as now construed by the Supreme Court in the Pacific Telephone and Telegraph case, 46 Cal. Dec. 551, the proceeding in certiorari here provided for would certainly not give the Supreme Court the power, in reviewing the action of this Commission, to pass upon the right of the municipality or other governmental agency to take the property since that is a matter upon which the Commission has no power to rule. For it would readily appear that if the Commission followed the authority given it by statute and fixed the value upon property presented to it in the application of the municipality or other governmental agency, it could not be said that it had exceeded its authority if

it appeared that included within such items of property were items of property which the municipality had not the power to take. Therefore it would appear that a determination of the power of the municipality or governmental agency to take the property involved can only be tested when the condemnation suit is tried in the Superior Court; and the Supreme Court in a writ of certiorari would be limited to determining whether or not the Commission had pursued its lawful authority in ~~xxxx~~ other respects.

I refer to these matters because I believe it is desirable for municipalities and other public authorities to have in mind the limitation of a proceeding such as this, and to know that this Commission, in future proceedings, will neither add to the items of property presented nor exclude any of such items, but will feel called upon merely to fix the value upon those items specifically set out in the application.

This is in effect, as has already been said, a condemnation proceeding and the rule applicable to such proceeding should be followed. The Supreme Court of the State has uniformly held that in condemnation proceedings of all sorts, market value is the main element to be considered (Southern Pacific Railroad Co. vs. San
✓ Francisco Savings Union, 146 Cal. 291; Kishlar vs. Southern Pacific
✓ Railroad Co., 134 Cal. 636; Santa Ana vs. Harlan, 99 Cal. 538;
✓ San Diego Land & Town Co. vs. Neale, 88 Cal. 50.). In all of these cases, however, the court was concerned with values fixed upon portions of property, mainly real estate. It is very evident that in a public utility property consisting of many kinds of property, the adoption of the market value theory as the ~~sole~~ criterion will present many serious difficulties. To begin with, viewed as a whole, the market value of a public utility cannot be considered in fixing rates. This has often been discussed by this Commission, and it has been held by the Supreme Court of the United States in the Minnesota Rate Cases that this is the proper rule. It is very evident that the market value is primarily determined, or at least largely affected

by the earning power of the property in question. The earning power is determined by the rates, and, of course, to say that such earning power fixes the value of the property in a rate fixing inquiry is reasoning in a circle.

If we view the separate portions of the property in their disassociated condition and do not have in mind their condition as a part of the whole, we may arrive at a value for the entire property which is less than or greater than the proper value to be fixed. This will result whether we apply the market value to the several elements or any other value. In contemplating the market value, however, the impropriety of valuing various elements separately is made very manifest. Some of the elements, if sold separately, might return more than if sold in conjunction with the entire property. Market value while being fixed essentially by the earning power of the property sold is also largely affected by the demand and the number of buyers desiring to acquire such property. Many buyers might be at hand, to purchase a desirable piece of real estate, for example, not one of whom would be willing to purchase the entire utility property including such real estate. Many of them might also be willing to purchase such property if they might use it for agricultural or residence purposes who would not be willing at all to purchase it if required to devote the property to public utility purposes. The necessity of the property being used for a certain purpose and the inability of the owner to make other use of it unquestionably affects the market value of such property. Lands that produce oranges sell in the market at a much higher rate than lands upon which only grain can be raised. Here the physical necessity fixes the market price in one case at a less figure than in the other. But the effect would be no different if instead of physical necessity legal necessity required only grain to be raised on a given piece of land. It seems to be clear that the necessity of devoting property to any one exclusive use affects its market value and is, as to such property, in the nature of a servitude.

It is quite evident that the courts had in mind that if the agency who was seeking to condemn the property had to purchase it at the time of the condemnation, such agency would be required to pay what similar land would bring in the market, and I quite readily agree that fairness, as well as sound economic principles, requires the application of such rule in a case where the public utility, for example, is securing property from an owner who may devote such property to any purpose such owner sees fit. But after ownership has been transferred to the utility, while I admit that the price paid for such property should have large weight in determining its value in the hands of the public utility, yet I do insist that immediately upon such property being acquired and devoted to the public use the disability hereinbefore discussed attaches, and that the same rules which we would be required to apply to such property in the hands of a private owner empowered to use such property in any way such owner should desire, become inapplicable to such property during all of its history from the time of its acquisition until it passes out from the ownership of the public utility to some other owner who is not restricted in the use to which he may place it. ✓

The courts, as I have said, in the condemnation cases cited, had in mind a condition of ownership which permitted the agency sought to be divested to devote its property to any use which was deemed proper, including the highest use for which such property was suitable. But after the property goes into the hands of a public utility it is not possible to indulge such a theory with reference to it, because the legal necessity has here affected the increase or decrease of such value just the same as the physical necessity which requires lands to be used in a more or less unprofitable manner fixes the value of the property so affected.

Considering the separate items of a public utility property independent from the relationship which binds them together in the

serving public utility, and having in mind the principles to which we have just referred, it is easily seen that it is impossible to conceive a small portion of real estate, for example, owned by a water company and required to be used by such water company in a particular way, having value for water company purposes independent of the relationship in which it is held. I, therefore, come to the conclusion that the necessity of devoting the property to any one exclusive use fixes its market value both with reference to the entire property and with reference to its separate items, and it is impossible to determine that the fair value of an entire utility property is the sum of the market values which the elements would have if considered alone, independent of their relationship to all of the other items of property going to make up the whole, except as such separate market values may give some indication of the probable cost of such elements to the utility agency now owning them, if such utility agency were required to acquire them separately and then assemble them into the property sought to be acquired. In short, if, as a matter of history, it be found that the elements going to make up the public utility property, in the aggregate, cost a certain amount to the utility, fairness unquestionably requires that the value of the entire property in the hands of the utility, for the purposes of sale or rates alike, be at least the sum of the various cost prices required to be paid for the separate elements. But such a conclusion, induced by considerations of fairness, should not for the moment cause us to decide that the aggregate amount which should be required to be paid to purchase the same elements now at the prevailing market prices, if such elements were held by owners with the power to devote them to any uses desired, determines the value of the utility property now.

I shall assume, therefore, that the decisions of the courts in this and other states, to the effect that market value is the main element to be considered in determining the price to

be paid for property sought to be condemned, contemplated the entire property sought to be condemned and not specified portions considered apart from the relationship and the restrictions which the law forced upon them; and on such theory I shall give whatever effect it seems to me to be proper to the market value theory of valuation as applied to the entire property here under consideration.

In considering the market value of a property the earning power of the property is always a legitimate inquiry, which, of course, as has already been said, is not true in a valuation for rate fixing purposes. In order to determine what this company has earned and is now earning, it will be necessary to go somewhat into its history and the Commission is justified in assuming, in an inquiry such as this, that the rates legally charged by a utility under governmental sanction are the proper rates and that the earning under such legal rates, at the time the property is sought to be acquired, are legitimate earnings. This assumption, however, cannot be accepted without some modifications. It will readily appear that if a value is fixed for sale purposes on said grounds alone, and thereafter the property is sold to a new public utility owner, a rate fixing body would in conscience be required to consider the amount paid by the then owner in fixing the rates therefor. In the present case this difficulty is not so great because the purchaser is a municipality, and the rates upon which the value would be fixed are rates that have been determined by the municipality itself, and if they are too high such municipality is responsible. And besides, after such purchase the municipality, even though initially paying what might be an excessive price if the rates by which such value is determined have been too high, would have the power to accord proper treatment to its citizens, as patrons, independent of the initial purchase price of the utility.

This difficulty here discussed will be found to be more apparent than real if we consider a second element involved in the earning power of a utility, which very largely affects its value in the market. I refer to the permanency of the present condition

of the agency in question. Any wide-awake purchaser would not take the earning of a utility or other property for a year or any number of years in the past as solely determining the market value of such property. One might have an oil company, for instance, which had made a tremendous earning in the past, but, if on investigation, the fact developed that the field of the operation of such oil company was about to play out, the market value, of course, would immediately become impaired. Likewise, any wise purchaser of a public utility property would unquestionably investigate the condition of the property with a view to determine whether under the rules of law applicable to the fixing of rates by governmental authority there was likelihood that the present scale of rates would be maintained; and if it were found that such rates, although the legal rates at present, were likely to be cut down if governmental authority followed the rules laid down for fixing such rates, then unquestionably the market value of such utility would be in so much impaired. In short, the permanency of the present earning power, either of a utility or any other property, largely affects its market value.

This company was incorporated on the 22nd day of June, 1902, with an authorized capital of \$500,000.00, in shares of \$500.00 each, and was formed to purchase the property and plant of the Rex Water Company. The record shows that \$135,000.00 was paid by this company to its predecessor, although it is contended that \$166,758.48 was the amount the property had cost the Rex Company up to that time. We may assume, however, that the \$135,000.00 paid by the Eureka Water Company to its predecessor for this property was the correct amount. Since that time, the books show that there has been expended on the property itself \$153,811.96, making a total book cost of \$288,811.96. In this amount, however, no deduction has been made for depreciation. The earnings and expenses of this company have been as follows:

1908 - Earnings, \$52,410.19; expenses \$20,849.19, leaving a net earning before charging depreciation of \$31,560.

1909 - Earnings, \$50,912.75; expenses \$20,804.48; profit before charging depreciation \$30,108.27.

1910 - Earnings, \$51,591.75; expenses \$20,818.03; profit before charging depreciation \$30,775.72.

1911 - Earnings, \$51,308.94; expenses \$21,627.32; profit before charging depreciation \$29,681.62.

1912 - Earnings, \$55,778.86; expenses \$24,324.78; profit before charging depreciation \$31,454.08.

1913 - Earnings, \$52,980.24; expenses \$23,642.67; profit before charging depreciation \$29,337.57.

Under expenses for each of these years, there is an item of \$5,000.00 for the president's salary, and it is urged that this is merely a profit, the president owning the company and not performing services commensurate with this amount. The average earnings then appear to be about \$30,000.00, even if the president's salary is included as an expense. If depreciation is deducted at 2½ per cent on \$238,811.96, the book cost of the property, the average net profit will be \$22,780.00, which is eight per cent on \$284,750.00. If the present earning power alone was to be considered in determining value, this amount probably would quite nearly approximate what should be fixed as the value of this property for the purposes of sale; but, as I have already pointed out, this amount will be affected by the probability of the permanence of the present earning power. And in order to determine this question it is proper to consider the engineering conceptions of value upon which courts and commissions have more largely depended in fixing rates in the past.

The applicant asks that the water rights, right of way, real estate, buildings, pumping plant, transmission and distributing mains and property necessary to the operation of the water system be included in the price to be fixed by the Commission as a just compensation to the company.

The Eureka Water Company has been in the business of supplying water to the inhabitants of Eureka since 1889. A maximum of 250 miners' inches of water, equivalent to about 3½ millions of gallons daily was appropriated from the Elk River, and whatever supply was necessary was diverted through a steel pipe line 1½ miles long, to the pumping plant and was then pumped to a wooden tank within the City. Subsequent changes have been made until there now exists a new, up-to-date pumping plant on the bank of the Elk River and several miles of redwood pipe through which the water is delivered to a battery of two half million gallon tanks within the City. A new steel tank, receiving water pumped from the wooden tanks, furnishes good service to the highest portions of the City. The distribution system covers the settled portions of the City, and 85 per cent of the services are metered. There are no other companies delivering water for profit within the City.

The Company submitted to the Commission, inventory as of January 1, 1914, listing all property owned by it, covering in detail the component parts of the system.

The engineers for the Commission made a careful examination of all the property of the Company, and judged the physical condition of the various parts of the system to be excellent. Very complete records of locations of mains and services are in existence and show that care has been exercised by the Company in its methods of operation.

At a hearing held in Eureka on February 5th, 1914, the Commission's engineer presented a valuation showing in detail the quantities of the various items, the unit cost in place, the total cost and the additional allowance due to overhead expenses. Depreciation was computed on the straight line method and each item was allowed the number of years of useful life which was found reasonable. Deducting the depreciation from the reproduction cost of the system, with overhead, the present values of the physical elements were found.

While the Company had no engineer engaged to report upon the value of its system, its Superintendent had carried along as capital account all additions and improvements made in the last ten years or so, and had therefore a general appraisal of the property.

The determination of accrued depreciation was the principal discrepancy in results obtained by the Company and by the engineers of the Commission. On such an item as wooden pipe, constantly kept under pressure, the Company contended that a fifty year life should be allowed. Available records do not warrant the belief that this pipe, under the conditions of use here obtaining, will be in service at that age; therefore the Commission's engineers allowed 35 years as the probable life. The accrued depreciation as figured by the Superintendent of the Company was about \$15,000 less than that fixed by the Commission's engineers. While not accepting as a matter of fact either estimate of depreciation, I feel that the Commission's engineers have no intent to cause any injury to the Company by excessive deductions for depreciation. However, they have revised their estimate of accrued depreciation upon certain of the items and admit that \$3,751.00 may reasonably be transferred from accrued depreciation to present value. The Company was found to have omitted from its inventory meter material amounting to \$321.00, and that amount has been added to the totals placed in testimony.

The Commission's engineers presented a revised valuation of the physical property as follows:

Reproduction cost with overhead.....	\$304,731.00
Past depreciation deducted.....	<u>76,595.00</u>
Present Value.....	\$228,136.00
Additional for meter materials.....	<u>321.00</u>
Total.....	\$228,457.00

This is approximately \$11,250.00 less than the sum for which the Company contends is proper for the present value of the physical elements of the property without regard to water rights. In other words, eliminating the question of water rights, the Commission's engineers find a present value of the property in its present condition of \$228,457, while if the entire increased life contended for by the Company be allowed the present value resulting will be \$239,706.00.

On the question of water rights, we are relieved from any embarrassment as to the propriety of a charge for such rights because the City desiring to purchase this property admits that the rights held by the Water Company are of value to it, and expresses a willingness to pay therefor the sum of \$25,000.00. These rights consist of the right to divert up to 250 miners' inches of the flow of the Elk River. The Company submits two methods for computing the value of such water rights; first, the additional cost that would be incurred in bringing the next available source of water into Eureka; and, second, the arbitrary sum per million gallons supplied. Under each of these methods the Company arrives at a figure approximating \$100,000.00 as a proper value for its water rights.

While under the circumstances of this case I shall specifically refrain from a discussion of the propriety of a charge for water rights in this decision, and, under the agreement of the parties, will assume that some charge is justified, still it is well to comment upon the plain fallacy involved "in the additional cost of next nearest source theory". The representatives of the Water Company urge that inasmuch as the next available source is at Mad River and that the construction of a system to take the water from Mad River would require \$100,000.00 more than to construct a system to bring the water from Elk River, the present source of supply, the value of the water right is \$100,000.00. If this means anything at all, it merely means that the ownership of the right to

take water from Elk River is \$100,000.00 more valuable than the ownership of a similar right to take a similar quantity of similar water from Mad River, if value shall be considered that which it costs the agency to acquire the property. But, of course, the \$100,000.00 excess cost has no reference whatsoever to the value of any right to take water from Elk River and is purely the relative computation and gives no light whatsoever upon the proper value to be put upon the Elk River right, if such right is to have value at all. For plainly if cost is to be the criterion, as here urged, and the cost of the Elk River rights is \$25,000.00, then the cost of the Mad River rights would be \$125,000.00. While if the cost of the Elk River rights is \$100,000.00, the cost of the Mad River rights would be \$200,000.00, and only in the event that the cost of the Elk River rights is nothing is the cost of the next available source on Mad River to be assessed at \$100,000.00. And we have a situation where the net result of the reasoning of the applicant is that if cost is to be the criterion of value, its Elk River rights have no value, and if cost is not to be the criterion of value then the excess cost to develop the Mad River supply cannot be considered. Because of the fact that this theory is being urged in other cases, as well as this one, I believe it well to state definitely that whatever shall be the final determination of the Commission on this question that certainly the theory of the next available source must be rejected as being absolutely untenable for any purpose whatsoever.

If we add the \$25,000.00 agreed to by the City as the charge for the water right to the \$228,457.00 present value found by the Commission's engineers, we get a total sum of \$253,457.00. While if we add a similar sum to the \$239,706.00 urged as the present value of the physical elements of the property by the company, we will get a total present value of \$264,706.00. If we assume, on the other hand, that 2 per cent is the correct amount for the company to

earn and that the present earning power alone fixes the value of the utility property for the purposes of sale, we will have the sum of \$284,750.00. This latter sum is not far from the book cost of the property with no consideration given either to depreciation or appreciation of the various elements.

I have already pointed out the reasons why the earning power of a utility or other property cannot entirely fix the market value, and have called attention to the fact that the permanency of such condition must always be considered in a determination of market value, and further that the permanency of the earning power of a public utility can only be determined by an inspection of the property and a consideration in general, at least, of what may be expected of rate fixing bodies following the rules laid down by the courts and commissions in rate fixing inquiries. I have likewise shown the inapplicability of the market value theory of the separated items of a public utility property in determining the market value, or any other value, of the assembled items considered as a unit. I shall, therefore, not recommend the adoption by this Commission either of the theory that the market value is entirely fixed by the present earning power of a public utility property, nor that the market value under any circumstances is determined by the aggregate market values of the separated items of a utility property. I shall, however, give consideration to what appears to me to be the significant effect of the market value theory, and likewise shall give consideration to the determination of our own engineers and the Company's contention on the question of depreciation, and likewise shall consider the investment which the evidence shows to have been made in this utility property.

In passing, however, it is well to note that so far as can be determined from the books of this Company, not one cent has ever been put into the property other than the \$135,000.00 originally invested, and any added value has been secured from the rates.

To be sure, no criticism should be meted out to a public utility for re-investing its earnings in its property, the criticism being directed to the method which permits excessive earnings and the practical creation of utility property from out of funds contributed in rates. If the rates during the history of this utility have not been excessive then no criticism is due any one for the condition we meet here. But we find in effect, that starting with an investment of \$135,000.00 a little more than ten years ago, we have now actual money in the property, without considering depreciation, of approximately \$288,000.00; and in addition, each year there has been taken out \$5,000.00 by the president of the Company for nominal services. Under all of the considerations, and with the impossibility of determining from the books of the Company or from any available source just what has been expended out of earnings for maintenance and what for improvements, it is impossible to determine that the patrons of this utility have in the past been improperly dealt with, but it is very evident that proper accounting methods and proper regulation on the part of the cities must be enforced in order to have any information as to the propriety of a rate scheme enforced by any utility operating therein. I am convinced from the facts in this case, as well as facts in many other cases that have come to the attention of this Commission, that if the financial histories of utilities of the United States could be written it would be found that a great deal of their present property values have been secured from their rates in addition to proper earnings and not from such proper earnings; and this conclusion is not met by a showing that dividends have not been paid upon stock, because the investment of net earnings, excessive in amount, in utility properties and the gradual increase in the value of their stocks, is just as much an earning to the owners of such stocks as though dividends were declared

and the payment of the interest on bond issues and the payment of the bond issues ultimately from the rates, of course, brings about a like result. The fiscal affairs of utilities, of course, must be regulated in order to give light upon their value for sale purposes when the public shall desire to acquire them, as well as to determine the proper rates during the time they are held in proper ownership.

I recommend the following findings:

F I N D I N G S .

CITY OF EUREKA, a municipal corporation, having filed with this Commission a petition setting forth the intention of said municipal corporation to acquire under eminent domain proceedings the lands, property and rights of the Eureka Water Company, a public utility operating within said City of Eureka; said lands, property and rights hereinafter specifically appearing, and having asked this Commission to determine the just compensation which shall be paid by said City of Eureka for said lands, property and rights owned by said public utility, and a hearing having been held, and being fully apprised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that the just compensation which shall be paid by said municipal corporation, the City of Eureka, for said lands, property and rights owned by said Eureka Water Company and sought to be acquired by said City of Eureka, is two hundred and seventy thousand (\$270,000) dollars. The property for which such just compensation is fixed is described as follows:

WATER RIGHTS

250 inches of water flowing in Elk River, the point of diversion being in the east $\frac{1}{2}$ /Section 16, T. 4 N., R. 1 W., Humboldt Meridian, as per claim dated March 6, 1889, and recorded March 14, 1889, in Book No. 1 of Mining Claims, page 468, Humboldt County Records.

RIGHTS OF WAY

For pipe line from the intake at Elk River to the south limits of the City of Eureka, as particularly described in the following mentioned deeds, which are hereby referred to for more particular description and made a part hereof:

J. O. Showers and Mary Ann Showers to The Eureka Water Company. Recorded Dec. 31, 1909, in Book 110 of Deeds, page 282, Records of Humboldt County.

Thomas Hinch to The Eureka Water Company. Recorded Dec. 31, 1909, in Book 111 of Deeds, page 243, Records of Humboldt County.

J. P. Shanahan to The Eureka Water Company. Recorded Dec. 31, 1909, in Book 111 of Deeds, page 244, Records of Humboldt County.

W. O. Shanahan et al to Ricks Water Company. Recorded April 11, 1889, in Book 30 of Deeds, page 371, Records of Humboldt County.

J. K. Shanahan and Margaret Shanahan to Ricks Water Company. Recorded May 16, 1889, in Book 31 of Deeds, page 82, Records of Humboldt County.

Eva Fleckenstein to The Eureka Water Company. Recorded Dec. 31, 1909, in Book 111 of Deeds, page 242, Records of Humboldt County.

Phoebe A. Sharp and U. J. Noe to Ricks Water Company. Recorded Nov. 13, 1900, in Book 70 of Deeds, page 527, Records of Humboldt County.

Excelsior Redwood Company to Ricks Water Company. Recorded Nov. 13, 1900, in Book 70 of Deeds, page 529, Records of Humboldt County.

Also, a right of way for said pipe line diagonally across the land of Mrs. M. Zanona et al. from the lands of Thomas Hinch to the lands of J. P. Shanahan, being a distance of 940 feet, and from which transmission main was laid Nov. 1909.

REAL ESTATE

Parcel A

All that parcel of land situate in the County of Humboldt, State of California, and described as follows, to-wit:-

Beginning at a point 3642 feet north and 1234 feet west from the corners to Sections 9, 10, 15 and 16 in T. 4 N. R. 1 W., Humboldt Meridian; said point being on the East boundary of the County Road and on the west bank of a slough running into Elk River; thence North along the bank of said slough 16 degrees East 204.6 feet; thence North 18 degrees East 221.8 feet; thence west 328 feet to the County Road; thence along the same South 26½ degrees east 454.7 feet to the place of beginning, containing 1.51 acres, subject to an agreement made by the Eureka Water Company to sell 1.44 acres of above described parcel of land, the purchase price of which has not been paid in full.

Parcel B

All that certain parcel of land situate in the County of Humboldt, State of California, and being the site of Pumping Station No. 2, and particularly described as follows:-

Beginning at a point north 77 degrees 25 minutes west 139.5 feet from a point 208' north of the ¼ section corner between Sections 15 and 16, T. 4 N., R. 1 W., Humboldt Meridian; running thence north 7 degrees 15 minutes west 293 feet, north 89 degrees west 140 feet, south 7 degrees 30 minutes east 262 feet, and south 76 degrees 40 minutes east 146 feet to the place of beginning, containing 9/10 of an acre more or less.

Parcel C

All that parcel of land situate in the City of Eureka, County of Humboldt, State of California, and being the site of Tanks Nos. 1 and 2, and particularly described as follows, to-wit:-

South 134 feet of Block 122, 2nd Enlargement of Clark's Addition to the City of Eureka, being 245 feet on the north side of Harris Street and extending North 134 feet between "E" and "F" streets.

Parcel D

All that parcel of land situate in the City of Eureka, County of Humboldt, State of California, and being the site of Tank No. 3, and particularly described as follows:-

All of Block 83 of the Amended Enlargement of Prairie Addition to the City of Eureka, being between Wood and Harris, "K" and "L" streets.

Parcel E

All that parcel of land situate in the City of Eureka, County of Humboldt, State of California, and particularly described as follows:

The southwest quarter of Block 54 of the City of Eureka, being 110 x 120 feet at the northeast corner of 6th and "C" streets (for site of proposed shops).

BUILDINGS

Pumping Station No. 1 situate on the parcel of land hereinbefore described as Parcel A.

Buildings composing Station No. 2 situate on parcel of land hereinbefore described as Parcel B., and consisting of main building 70' x 40', Boiler Room 40' x 20' attached to main building, Dwelling, Shed, Barn and Tank Building and Tank for fire protection.

Office Building and two shops located at and back of 431 "G" street, Eureka, California, said building being located on Rented premises.

PUMPING PLANT AND EQUIPMENT

Located upon land described as Parcel "A"

Dow Duplex Pump, 11" x 18", capacity 1,500,000 gallons per day. 50 H.P. Electric Motor complete with all electrical equipment, including switches, wiring, auto-starters, etc.

Knowles Duplex Compound Steam Pump, 12" x 18 $\frac{1}{2}$ " x 12" x 12", capacity 1,000,000 gallons per day.

85 H.P. Boiler, complete and fully equipped for burning wood or oil.

Feed Water Pump
Hot Water Pump
Oil Feed Pump
Fuel Oil Tank

Fire Protection Tank, Pipes, Fittings, Hose, Etc.
Electric Power Line between Stations 1 and 2
Telephone Line between Stations 1 and 2
Delivery Pipes, Fittings and Valves
Miscellaneous Tools and Equipment

FILTER PLANT AND EQUIPMENT

Located upon land described as Parcel "A"

Three Mechanical Filters, 5' x 19', 8' x 21½', and 8' x 20';
combined capacity 1,500,000 gallons per day.

Alum Tank

Pipes and Connections

Miscellaneous Tools and Equipment

DIVERGING DAM

Located on leased land in Section 16, T. 4 N. R. 1. W.,
Humboldt Meridian. Recorded April 11, 1889, in Book 30
of Deeds, Page 378, Records of Humboldt County.

Timber Dam and Apron

Concrete Intake and Suction Pipe leading to pump pit.

Concrete Pump Pit.

Pipes and Connections

PUMPING PLANT AND EQUIPMENT.

Located on land described as Parcel "C"

5" Two Stage Centrifugal Pump, capacity 40,000 gallons
per hour.

25 Horse Power Electric Motor, complete with all elec-
trical equipment, including switches, wiring, auto-
starters, etc.

Miscellaneous Tools and Equipment

This pumping plant is used for pumping from Tanks 1 and
2 into Tank 3, which supplies the upper zone.

TRANSMISSION MAINS

Includes all pipe used for the transmission of water
to the distribution system.

4711 feet 16 inch machine banded wood stave pipe buried in trench.

4426 feet 16 inch machine banded wood stave pipe on timber trestles.

4973 feet 16" continuous stave wood pipe on timber trestles.

5819 feet, 13 inch, 14 gage Sheet Steel Pipe, including 2700 feet inside City Limits.

Total Length of Transmission Mains 19929 feet.

All gate valves, air valves, tees, elbows, and other fittings and appliances on transmission mains.

5	-	12 foot Timber Bridges, total length	216 ft.
2	-	14 " " " " " "	62 "
4	-	16 " " " " " "	80 "

Timber Covering over pipe on trestles

Concrete Casing under Railroad Track, 36" diameter by 53' long

Timber Portals for the above Concrete Casing.

- Timber Tunnel under County Road

Miscellaneous Tools & Equipment

DISTRIBUTION MAINS

Located within limits of City of Eureka

1044	feet	16	inch	Continuous Stave Wood Pipe
2602	"	16	"	Machine Banded Wood Stave Pipe
4343	"	12	"	" " " " " "
11217	"	13	"	14 Gage Sheet Iron Pipe
40	"	13	"	12 " " " "
10350	"	10	"	14 " " " "
1454	"	10	"	12 " " " "
31983	"	8	"	14 " " " "
5715	"	8	"	12 " " " "
17353	"	6	"	14 " " " "
1743	"	6	"	12 " " " "
1631	"	5	"	#16 " " " "
2644	"	8	"	Mathewson Pipe
2837	"	8	"	Cast Iron Pipe
1712	"	6	"	" " " "
290	"	3	"	Wrought Iron Pipe Dipped
86454	"	2	"	" " " "
31096	"	1	"	" " " "
20000	"	1	"	" " " Galvanized
552	Valves and Mains of various sizes.			
2	-	6	inch	service connections
43	-	2	"	"
19	-	1 1/2	"	"
7	-	1 1/2	"	"
1994	1	"	"	"
163	2	"	"	"
184	1	"	"	"
184	Gate Wells			

#Estimated

179	Fire Hydrants
43	Sprinkler Gates
1781	- 5/8 inch Meters installed
120	3/4 " " "
33	1 " " "
20	1 1/2 " " "
19	2 " " "
1	2" x 5/8" Compound Meter installed
480	Iron Meter Boxes
285	Wood " "

All pipe fittings and specials on distribution system

Redwood tank on concrete foundations, 54 feet diameter x 30 feet deep, capacity 500,000 gallons

Redwood tank on concrete foundations, 54 feet diameter x 31 feet deep, capacity 520,000 gallons

Both of these tanks are located on Parcel "C"

Steel tank and tower on concrete foundations 22 feet diameter x 32 feet deep, round bottom, capacity 30,000 gallons. This tank is located on Parcel "D"

All inlet, outlet and connecting pipes, valves, fittings etc. for these tanks.

Small wooden gate house

Miscellaneous Tools and Equipment

MISCELLANEOUS EQUIPMENT.

- 2 Automobiles
- 4 Sectional Maps showing all pipes, services, meters, fire hydrants, etc.
- Office safe, furniture & Fixtures
- Tools and appliances for street work
- Plumbing shops tools & appliances
- Power shears & punch, rolling machine, and tools for making sheet iron pipe.

MATERIALS & SUPPLIES

Wrought iron pipe on hand, sizes 3/4" to 2"
 Sheet " " " " " 6" to 13"
 Pipe fittings for wrought & sheet iron pipe
 8 tons Coagulant (Sulphate of Alumina)
 Filter sand.

MISCELLANEOUS

All buildings not heretofore listed
 All fencing of any character
 All other property owned by the Eureka Water Company on February 1st, 1914 and used and useful in the conduct of its water utility business.

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 23rd day
of March, 1914.

John M. Ashburn
W. L. ...
W. H. ...
Max Thelen
Edwin O. ...

Commissioners.