

Decision No. ✓.

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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L. Y. MONTGOMERY, et al.,
 Complainants,
 -vs.-
 THE FRESNO CANAL AND IRRIGATION
 COMPANY,
 Defendant.

Case No. 397.

Decision No. 1385

THELSON, Commissioner.

SUPPLEMENTAL OPINION.

In its order heretofore rendered in the above entitled proceeding on July 24, 1913, this Commission directed The Fresno Canal and Irrigation Company "to adopt and enforce, subject to this Commission's authority, such reasonable rules and regulations" as might be necessary to supply to its customers the full amount of water to which each thereof is ratably entitled.

Numerous conferences have been held between the defendant and its consumers and this Commission's Hydraulic Department for the purpose of agreeing upon rules and regulations to be adopted by the defendant. The rules and regulations originally proposed by the defendant have been very materially altered and modified from time to time. The final result of these labors is represented in the rules and regulations which will be set out in the order herein. These rules and regulations are now reported by this Commission's Hydraulic Department to be satisfactory, at least for the present.

I recommend the following supplemental order:

SUPPLEMENTAL ORDER.

IT IS HEREBY ORDERED that the following information, rules and regulations for The Fresno Canal and Irrigation Company and its water users be established by The Fresno Canal and Irrigation Company, effective April 1, 1914:

INFORMATION, RULES AND REGULATIONS
FRESNO CANAL AND IRRIGATION COMPANY AND
ITS WATER USERS.

RULE 1. OPERATION AND MAINTENANCE OF SYSTEM:

The Fresno Canal & Irrigation Company will operate and maintain all diversion works, main canals, branch canals and laterals, ~~except~~ where it is the established duty of the company to do so.

On any portion of the distributing system which the Company is not now obligated to maintain and operate, any user may request the Company to assume control. The Company will then approach all users, suggesting a sum for which the Company will place the ditch in proper condition and, further, the rate per acre per annum for which in the future the maintenance and operation will be assumed. Should this be agreed to unanimously, the Company will forthwith assume control. It may be arranged that either the users or the Company shall put the ditch initially in good condition, the actual cost to be paid by the users.

Should the arrangement mentioned in the preceding paragraph fail of agreement by all parties, the user or users desirous of this change may apply to the Railroad Commission, which will decide whether it will be for the furtherance of public convenience to grant the application; and if it be granted will fix the payment and rates due the Company for such increased service and the time and method of deposit of the payment for such service.

The Company retains the right to supervise the delivery of water to all individuals who make direct payment to it, wherever in the flow of its water supply, and will require that all distributaries not under its direct control shall be maintained in proper condition for the distribution of water to individual consumers.

RULE 2. DEFINITION OF "PRO RATA" DELIVERY:

A "pro rata" delivery means a simultaneous flow available at a point nearest on the Company's system for the use of each and every consumer, in an exact proportion of the total amount available, based on the individual's right to receive, as fixed by acreage, contract, payment or otherwise. This method may be applied to all or a part of the system.

RULE 3. DEFINITION OF "ROTATION":

"Rotation" means that method of delivery whereby water is carried through a portion of the distribution system, for a portion of the time, in larger amount than otherwise available, the aim being to deliver to each consumer ultimately as exact a proportion as by "pro rating".

RULE 4. PROTECTION AND DELIVERY OF FULL SUPPLY:

The Company will endeavor at all times to divert all water legally within its right into the canals of the system up to the aggregate amount of demands upon it, and will use every endeavor to protect the water supply available, and transmit same in proper proportional amount to the points on its system nearest by the established routes to its individual consumers. When sufficient water is available to supply all demands, it will be distributed at all division points and turn-outs to branch canals and laterals in a proportional part of the total flow available, allowing for seepage loss, this proportion being based upon the acreage and recognized rights to demand service upon each part of the system. That is, the total amount that it is determined can be delivered from the supply available,

will be ratably divided.

RULE 5. DELIVERY OF INTERMEDIATE SUPPLY:

When the supply available at the hands of the Company is insufficient to fully supply demands, but is above 50% of the amount demanded, water will be pro rated between distributaries of more than 200 cubic feet per second capacity, and may be rotated between smaller distributaries.

RULE 6. DELIVERY OF SUPPLY BELOW 50 PER CENT:

When the supply available is not sufficient to satisfy 50% of the demand, the Company may rotate in all portions of the distribution system. So far as is possible, a forecast will be made of the available water supply, and rotation between main canals shall be so planned as to provide a full head in each canal during the period of flow, which period will be varied in accordance with the amount of the total supply and as many as may be of the branch canals and laterals will be filled simultaneously, and it will be planned to provide a continued flow for sixteen or eighteen days.

RULE 7. NOTICE OF WATER DELIVERY:

The Company will provide bulletin boards at convenient points, and will give notice thereon, and by other feasible means, of the time of beginning and ending of rotation periods upon each of the branch ditches and upon all parts of the system where delivery is made by the Company direct to the individuals. The Company will give information of the beginning and duration of each run of water sufficiently in advance for the guidance of consumers. Such publication of rotation periods shall be not less than three days before the beginning of the period, except in case of emergency, when the best endeavor will be made by the Company through all means in its power to spread the necessary information.

RULE 8. ROTATION OF SERVICE IN CYCLES:

As nearly as is practicable, each individual or aggregation of individuals will be given a ratable service within a single season; provided this has not been done, the rotation shall continue in cycles; that is, those receiving a deficient supply in the preceding season shall be served in precedence of others during the following year.

RULE 9. ROTATION DELIVERY TO INDIVIDUALS:

Between individual users along the main canals of the Company and on minor distributaries where each individual may use the full flow of such distributary, delivery shall be by rotation, commencing generally at the farther end of such laterals, water being delivered to consumers in turn, the length of time being in accordance with the acreage and right. On larger distributaries delivery shall be limited to a rate of 4 cubic feet for 24 hours to each 20 acre lot, and to as many irrigators simultaneously as is possible with the supply available. When rotation has been resorted to in delivery to the main branches, the time period shall be reduced proportionately, but the endeavor will be to deliver heads sufficient in amount for the most beneficial use.

Water must be used continuously day and night and should irrigation be completed before the scheduled termination of a period of flow, the superintendent or ditch tender should be notified to have the delivery stopped.

Consumers are responsible for all water delivered to them and must make beneficial use of the entire amount, allowing no avoidable waste.

RULE 10. DEVIATIONS FROM SCHEDULES:

Deviation from the established schedule will be allowed only by previous arrangement and when the efficiency of the system is not thereby seriously impaired, so that irrigators desiring a less flow for a length of time may be accommodated,

and in case an irrigator is not ready for water when his turn is scheduled, he may exchange with another.

RULE 11. CREDIT FOR NON-USE:

When a water user has not taken advantage of the supply available during any period, nor arranged an exchange with another user, he may be supplied during the next period provided there is more water available than sufficient to supply all demands.

RULE 12. CONTROL OVER SYSTEM:

(a) The structures on the Company's canal system will be under the exclusive control of the Company's employees. The superintendent will give full instructions to ditch tenders in regard to all changes to be made in the flow of water. Any other person tampering with or in any manner changing the arrangement of gates or flash boards in any turn-out, check, drop or other structure of the Canal Company, will be dealt with according to law.

(b) The superintendent may grant special permission from time to time to irrigators to alter flash boards or gates, which permission should be in writing or by message later substantiated by a written communication, and will be for the specific time only. It may, however, be arranged that a number of users on a lateral shall change their gates in compliance with an established rotation schedule.

RULE 13. DEDUCTIONS FOR OVER-SUPPLY:

If any consumer shall have been found through his own or any other unauthorized person's acts to have obtained more than his ratable supply of water, the amount above his proper supply shall be deducted from later runs, to compensate the other consumers.

RULE 14. UNIT OF MEASUREMENT:

The unit of measurement will be the cubic foot per second.

RULE 15. MEASUREMENT OF WATER AND RECORDS:

Gauging stations will be established at points in the main and branch canals. At all practicable points in the laterals, weirs or other measuring devices will be placed in sufficient number to arrive at a close approximation of the amounts of water delivered at all points upon the system of the Company. Records shall be kept in the office of the Company showing throughout the season the amount of water that has passed each such point, and will be carried to totals by months, and each interested party will on request be informed at the close of the season of the amount of water which he must reasonably have received insofar as the jurisdiction of the Company extends.

RULE 16. DISTRICT SUPERINTENDENTS AND DITCH TENDERS:

The official personnel of the Company who will deal with consumers will include two district superintendents, whose duty will be the supervision of the individual ditch tenders and the keeping of records of the amounts of water turned into canals, branches and laterals and chargeable to individual consumers. A sufficient number of ditch tenders will be employed to visit once daily, practically every point on the system where water is running. Their duty will be to follow strictly the instructions of the district superintendents in the delivery of water to the various consumers, to make gauge and weir readings at all established measuring points, to guard and care for the property of the Company used in the distribution of water, to see that water is not wasted, to report any case of such wasting of water by consumers and trespasses upon any part of the Company's system, tampering with gates and flashboards and complaints made along their respective beats. Complaints may also be made directly to the Company's office, in writing or by phone.

RULE 17. ROTATIONS BETWEEN COMPANY AND CONSUMERS:

All officials of the Company are instructed to aid the water users in every manner, and to courteously and respectfully consider all criticisms and suggestions. The Company will meet with the desires of each consumer in so far as it can do so with justice to all interested parties.

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

Dated at San Francisco, California, this 28th day of March, 1914.

John M. Escherman

H. H. Howard

Max Thelen

Commissioners.