

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Decision No. 1255

W. D. ADAMS,
Complainant,

vs.

EASTSIDE CANAL AND IRRIGATION
COMPANY, a corporation,
Defendant.

Case No. 298

In the matter of the Commission's
investigation on its own initia-
tive into the rates and practices
of the Eastside Canal and Irriga-
tion Company.

Case No. 309

James F. Peck and F. J. Solinsky for
Eastside Canal and Irrigation Company.

EDGERTON and GORDON, Commissioners.

OPINION ON APPLICATION FOR REHEARING

In the order heretofore made in these proceedings on
March 31, 1914, this Commission established a rate of \$1.50 per
acre per year for water served by Eastside Canal and Irrigation
Company to consumers. The Commission also established rules
governing such service. This rate and these rules were estab-
lished upon the assumption that the Eastside Canal and Irrigation
Company would take over and operate the laterals through which
the water is distributed from the main canal of the Eastside
Canal and Irrigation Company to its consumers. The Commission
was given to understand at the time of the hearing that the Canal

Company proposed to take over these laterals and operate them. As incident to charging the \$1.50 per acre per year rate the Commission accordingly directed the Canal Company to take over and operate these laterals.

In the petition for rehearing and also in the argument thereon, the Canal Company claims that the order of the Commission is unlawful in several particulars, among others, that the valuation upon which a return is allowed is incorrect, and also, that the Commission has no jurisdiction to direct the Company to take over and operate the laterals. We desire first to consider these two contentions.

Upon the record in this case we believe that the Canal Company is correct in concluding that this Commission cannot, in this proceeding, direct it to take over and operate the laterals. This direction was made in the order because of the understanding given at the hearing that the Company proposed to follow that procedure. The \$1.50 rate was based upon that assumption. If the Company does not take over and operate the laterals we believe that a different rate should be established.

The engineers of the Commission found the value of the main canal operated by the Canal Company at the time of the hearing to be \$110,764.00 and the value of the laterals to be \$58,500.00. The main canal was constructed in contemplation of supplying 49,000 acres with water. During the past few years approximately 11,000 acres only have been supplied with water, and we believe that at least these 11,000 acres will probably continue to use water in the future. This amount of land, however, is considerably less than the territory which the main canal was constructed to supply. We did not feel, and do not now feel that the few thousand acres which are now receiving water should be expected to return a revenue upon the entire investment which was made to serve the 49,000 acres. The Commission accordingly found, - assuming that the Canal Company

took over and operated the laterals, that \$110,000 represented the value of all the property upon which the present consumers should be required to return a fair revenue. The rate of \$1.50 per acre per year was found to be a reasonable rate if the Canal Company operates the laterals, and we abide by that finding under those circumstances. If the Canal Company does not take over and operate the laterals, we find that a rate of \$1.00 per acre per year is a just and reasonable rate to be charged by the Canal Company for the service from its main canal. In determining this rate we have taken into consideration all the elements, including water rights, which we believe should be considered. We have not allowed the exorbitant valuations which the Canal Company claims should be placed upon its water rights. There are no records showing the amount of water which the Canal Company has actually received, and the Canal Company admits that after years of litigation its water rights are no more secured to it than when the litigation commenced. In view of these facts we find that \$1.00 per acre per year is a reasonable rate to be charged for water supplied from the main canal. We recommend that the Commission establish a rate of \$1.50 per acre per year to be charged by the Canal Company, provided the Canal Company takes over and operates the laterals, and recommend that a rate of \$1.00 per acre per year be established in case the Canal Company does not take over and operate the laterals.

In the petition for rehearing the Commission's attention is called to the fact that the Canal Company submitted an improper segregation of land in determining the lands which are regularly entitled to irrigation and those which are entitled only to surplus water. The order should be amended so as to correct this error.

The rules and regulations established by the Commission in the previous order were made on the assumption that the Canal

Company would take over and operate the laterals. Provisions in certain of these rules apply to the method of operating the laterals. If the Company does not take over the laterals the rules should be regarded as being amended by omitting those provisions which relate to the operation of the laterals. When these rules are put into practice it may be found that modifications are necessary to meet conditions peculiar to this Company. It should be understood, therefore, that these rules may be, at any time, amended or modified as occasion therefor arises and the consent of this Commission is obtained to such amendment or modification.

We submit herewith the following form of order:

O R D E R

EASTSIDE CANAL AND IRRIGATION COMPANY having petitioned for a rehearing of the order heretofore made in these proceedings and an argument having been held thereon,

THE COMMISSION HEREBY FINDS AS A FACT that if the Eastside Canal and Irrigation Company takes over and operates the laterals which are used to convey water from its main canal to its consumers, a rate of \$1.50 per acre per year is a just and reasonable rate to be charged for water served through the laterals to consumers.

THE COMMISSION FURTHER FINDS AS A FACT that if the Eastside Canal and Irrigation Company does not take over and operate the laterals above mentioned, a rate of \$1.00 per acre per year is a just and reasonable rate to be charged for water supplied from the main canal,

Basing its order upon these findings of fact and upon all other findings of fact in the original decision and in the above opinion,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that Eastside Canal and Irrigation Company put into effect the following rates for service of water:

1. \$1.50 per acre per year in case said company takes over and operates the lateral system above mentioned.

2. \$1.00 per acre per year in case said company does not take over and operate the lateral system above mentioned.

IT IS HEREBY FURTHER ORDERED by the Railroad Commission of the State of California that paragraph 2 of the order made herein on March 23, 1914, be, and the same is hereby amended so as to include the following described real property, to-wit:

East quarter of Lot 6 of Section 19; Lot 22 of Section 21; West half of Lot 30; East half of Lot 30; West half of Lot 31, and west quarter of Lot 32, and east three-quarters of Lot 32 in Section 21, Township 7 South, Range ten (10) East.

IT IS HEREBY FURTHER ORDERED by the Railroad Commission of the State of California that in the event said Eastside Canal and Irrigation Company does not take over and operate the lateral system above described, the rules and regulations heretofore established by the Commission shall be regarded as amended by omitting all provisions which relate to the operation of said lateral system.

IT IS HEREBY FURTHER ORDERED by the Railroad

Commission of the State of California that the petition for rehearing be denied, and that except as modified by this order the original decision rendered herein stand.

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 27th day of August, 1914.

Alex Gordon

Max Shelton

Edwin O. Edgerton

Commissioners.