

Decision No. 2070

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ORIGINAL

In the matter of the application of LONE OAK CANAL COMPANY for the establishment of rules relating to the distribution of its water and collection of charges therefor.

Application No. 1296.

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H. P. Brown for applicant.

GORDON, Commissioner,

O P I N I O N.

The Lone Oak Canal Company made petition to the Commission, on August 26, 1914, for permission to establish rules and regulations, and to have fixed adequate rates for water used for irrigation of the lands of consumers.

A public hearing was conducted in Hanford on December 17, at which time a number of consumers testified in regard to the quality of water service and the propriety of the present established rates, and the company presented evidence to support its contention that rates were inadequate, and that, in reason, it should be allowed to place all consumers upon a uniform basis and under uniform regulation.

The Lone Oak Canal Company receives its water supply from the Last Chance Ditch Company, a mutual concern, through the ownership of 6 9/15 shares of stock. The entire stock issue of the Last Chance Ditch Company is sixty (60) shares, each of which is generally assumed to give a sufficient interest to enable the owner to irrigate, with the water transported, 640 acres of land. Of the sixty (60) shares, fifteen (15) are still held in the treasury of the company, the water being roughly apportioned to the owners of the 45 shares outstanding.

The applicant owns 17 miles of ditch and lateral, with appurtenant structures and rights of way, and beside the shares of Last Chance Ditch Company's stock, claims ownership of twenty-four shares of stock in the New Deal Ditch Company.

The property at present owned and operated by the Lone Oak Canal Company was established by F. E. Robinson in 1906, and the canal system then constructed to provide service to lands which the said Robinson subdivided and placed on the market.

The Lone Oak Canal Company was incorporated by Robinson in 1910 and 500 shares of stock were then issued, all being retained by Robinson excepting three shares issued to others to qualify them as directors. Subsequently, F. M. Parrish, one of the directors, lent \$10,000 to Mr. Robinson, accepting the property of the Lone Oak Canal Company as security, and in May, 1914, this mortgage was foreclosed and Mr. Parrish bought in the property at a sheriff's sale, paying, according to testimony presented before the Commission, \$10,000, the amount of the indebtedness and assuming a further \$10,000 notes due. This may or may not be a duplication of account. According to a statement of receipts and disbursements of this company, F. M. Parrish beside having advanced \$10,000 to Robinson, has expended upon the property the net sum of \$4880. It therefore appears that the cost of this property to Mr. Parrish, now acknowledged to be the owner, is \$14,880. The proprietor has admitted his willingness to deliver the property of the company upon payment of \$25,000.

Valuations of the property were prepared by the Hydraulic Engineer of the Commission and by J. B. Benidict, Engineer for the Company, the former totaling \$26148 present value, and the latter \$48,451.70. The valuation prepared for the Commission uses 77 acres at \$75 per⁵⁰acre as the total area of land available to the utility use, assumes a value of the shares of stock in the Last Chance Ditch Company at the cost testified to by F. E. Robinson, to-wit, \$7075, and assumes 6 9/16 shares of New Deal Ditch Company's stock at \$100 to be used and useful instead of 24 shares actually the property of the company.

The statement of expenditures made on account of this wat-

er system for 1912, 1913 and 1914 are the only basis in testimony for an estimate of the proper annual cost of maintenance and operation of this system, excepting that the assessments of the Last Chance Ditch Company's stock were shown to be \$290 per share per annum. I will assume the following estimate of annual cost of maintenance and operation:

Assessments Last Chance stock, 6 9/16 shares at \$290,.....	\$ 1920
Assessments New Deal stock, 1/3 cost of operation of the New Deal Ditch,.....	120
Ditch Tender,.....	600
Maintenance and repairs,.....	500
Taxes, insurance and general,.....	200
	<u>\$3340</u>

Annual depreciation was computed only by the Commission's Engineers and by them found to be \$459. Total charges that may reasonably be provided by rate payers to this company, were the system utilized to full capacity, are therefore as follows:

Interest on \$25000 at 7%,.....	\$ 1750
Annual Depreciation,.....	459
Maintenance and Operation,.....	3340
Total,	<u>\$ 5549</u>

There was no competent testimony to establish the amount of water that this ditch company has received from the Last Chance Ditch Company and may therefore expect to continue to receive, nor to establish the amount that the Last Chance Ditch Company in its turn might at all times be able to deliver. It was admitted by the Lone Oak Canal Company that no measurement of water is made, and that the distribution of the water among its consumers is according to the opinion of a young man with practically no experience. There is no reason to suppose that under the present methods each consumer receives his fair proportion of the water available or the amount that he may need to carry on a commercially successful business of raising crops. In fact, there was considerable testimony that certain water users on the lower end of this system did not receive water when other users near the intake received water practically without restraint.

It was apparently established at the hearing that 5500 acres is the area which this company can irrigate and has under its sys-

tem. In order to get right of way expeditiously, apparently for the sake of being/^{better} enabled to market his lands, Mr. Robinson contracted with the owners of small ditches and others along the line of his proposed canal to carry water and deliver to the lands of various persons the water supply for the irrigation of their premises without charge. The owners of some $2 \frac{1}{16}$ shares of Last Chance Ditch stock have their water carried a greater or less distance by this company. One user, particularly, Mr. F. Nunez, was granted the privilege of operating at his pleasure a check placed across the main canal of this company. At this check Mr. Nunez, when he is irrigating, raises the water to a level decidedly above that necessary for flow to the consumers located below him along the ditch.

Nunez is the owner of stock in the Last Chance and Peoples Ditch Companies, and according to the testimony holds the water at a great level in the canal and irrigates for long periods, causing the loss of a great deal of water by increased seepage from the canal and a great deal of inconvenience to both the canal company and all other consumers, through their not knowing when or how they may expect to receive an increased or decreased supply. If Mr. F. E. Robinson were now under the jurisdiction of the Commission, I would recommend that he be severely criticized for having entered into a contract so obnoxious to the interest of the body of consumers from this utility. Robinson, personally, lost nothing. Nunez cannot be blamed for having demanded an arrangement so apparently advantageous to himself.

In return for this agreement the Lone Oak Ditch was constructed for a half a mile on the site of the ditch formerly used by Nunez, and it appears from the testimony that it ^{is} difficult to either construct a new ditch to replace the Lone Oak Ditch or a separate lateral for Nunez from the New Deal Canal.

I recommend that the Lone Oak Canal Company put into effect rules and regulations providing for the rotation of water to all

who receive water through its canal, and that the canal company's management establish a schedule and adhere to it strictly, having their employees make all changes of gates. In my opinion, the interest of the greater number of consumers must be subserved, notwithstanding any contracts which may have been entered into heretofore and which now appear to be detrimental to the system.

The present rates for service are 75¢ per acre payable January 15, and 75¢ per acre additional, payable August 15 of the year during which the water is used, making a total payment of ✓ \$1.50 per acre per annum. The amount in advance has generally not been collected, and it appears that consumers have assumed the right to use water almost at will and to make their own returns of the acreage covered. In cases where measurements have been made by the company, there has been considerable controversy, the area reported by the consumers invariably falling short of that which the Company determined had been watered.

I will recommend a rule that the acreage to be irrigated must be determined and paid for in advance, in accordance with the rate above cited, and that where water is used on additional land, unless request is made before use, the area will be accepted at the company's determination.

While the records of receipts from the sale of water within the last three years indicate an average annual income of about \$2250, there appears from the testimony to be every probability that the company can sell all its water to others, if not to the

present consumers, and if water be sold to all the lands within its reach, the returns will amply cover all charges. With no increased demand the returns apparently will be inadequate to cover even maintenance and operation cost. However, it must be borne in mind that the utility has been operating under abnormal conditions, and a considerable part of an apparent loss at this time has probable already been covered under the sale price of lands or should be provided for later in rates received when the capacity of the system is being utilized. I will therefore not recommend an increase of rates, but will recommend that where water is carried for individuals who own stock in the Last Chance or Peoples Ditch Companies a rate of 50¢ per acre per annum be established.

I submit herewith the following form of order:

O R D E R.

The Lone Oak Canal Company having made application for the establishment of rules and regulations and rates, and a public hearing having been held and the Commission being fully apprised in the premises,

IT IS HEREBY FOUND AS A FACT by the Railroad Commission of the State of California that the rates of the Lone Oak Canal Company so far as established are proper rates; that there is no rate established for service of this company in carrying water to various consumers owning individually, shares in the Last Chance and Peoples Ditch Companies, and that for people so served a proper rate will be 50¢ per acre per annum, and

IT IS FURTHER FOUND AS A FACT that the Lone Oak Canal Company has no adequate rules and regulations to govern affairs between itself and its consumers, and that reasonable rules and regulations are those set forth in exhibit "A" attached hereto; and basing its order on the foregoing findings of fact and the further findings of fact set out in the Opinion preceding this order,

IT IS HEREBY ORDERED by the Railroad Commission of the State

of California that the rates of the Lone Oak Canal Company shall be as follows:

For all consumers using water obtained by this company from the East Chance Ditch and for which this company owns shares and pays assessments,.....\$1.50 per acre per annum.

For all consumers owning shares in supplying ditches and paying assessments thereon, this company acting only as a carrier,..... .50 per acre per annum.

IT IS FURTHER ORDERED that the Lone Oak Canal Company adopt the rules and regulations set forth in Exhibit "A" attached hereto, to become effective within thirty days after the date of this order.

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, 1914.

W. H. Loveland
W. H. Gordon
Marce Thelen

Commissioners.

EXHIBIT "A".

RULES AND REGULATIONS LONE OAK CANAL COMPANY ESTABLISHED BY ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, EFFECTIVE ON AND AFTER

The rates of this company are as follows:

Rule I -

For all consumers using water obtained by this company from the Last Chance Ditch and for which this company owns shares and pays assessments,\$1.50 per acre per annum,

For all consumers owning shares in supplying ditches and paying assessments thereon, this company acting only as a carrier,50 per acre per annum.

Rule II - Rates are due and payable as follows:

Rates to be paid by consumers paying the full rate above established shall be due and payable, 75¢ per acre, at the office of the Lone Oak Canal Company on or before January 15th of the year in which the use is contemplated, and the remaining 75¢ per acre on August 15th of the same year.

On the former date a written statement must be provided, signed and by the consumer, giving the acreage, location of the land that he intends to irrigate. The payment of 50¢ per acre per annum to be made by the second class of consumers set forth in Rule I, shall be due and payable on or before April 1st of the year during which service is to be rendered.

subject to the approval of the Railroad Commission
Rule III - The company will establish a rotation schedule/and will deliver water to all users in accordance therewith in proportion to their stated acreage.

To those water users owning shares in the mutual canal companies supplying water to this system, water will be delivered at time periods fixed by the schedule, but in amount, measured by the water delivered to this system less seepage loss.

Rule IV - No person other than an employee of the company shall be allowed to move any flashboard or gate in the structures

belonging to this company, except in an extreme emergency or by permission given in writing.

Rule V - The company claims the right to provide water to
? ✓ tracts aggregating 5500 acres, and if the applicants for water in
any year fall short of that acreage, the company has the right
to grant additional applications to that extent.