Decision No. 2063

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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| CITY OF COALINGA, Complainant, vs. PLEASANT VALLEY WATER COMPANY and COALINGA CONSOLIDATED WATER COMPANY, Defendants. | Case No. 623. |
| In the matter of the Application of PLEASANT VALLEY WATER COMPANY, a corporation, and COALINGA CONSOLIDATED WATER COMPANY, a corporation, for permission to increase rates for water furnished to the City of Coalinga and the inhabitants thereof. | Application No.1341. |

Henry S. Richmond for City of Coalinga.
A. E. Shaw for Pleasant Valley Water Company and Coalinga Consolidated Water Company.

THELEN, Commissioner.

## OPINION.

These two proceedings, which were consolidated for hearing and decision, involve the rates to be charged for water sold to the City of Coalinga and to the inhabitants thereof, for domestic and fire protection purposes.

The complaint in Case No. 623 alleges, in effect, that Pleasant Valley Water Company is a corporation engaged in the sale of water for domestic purposes to the City of Coalinga and the inhabitants thereof; that Coalinga Consolidated Water Company is a corporation engaged in the sale of water for domestic and manufacturing purposes in the vicinity of Coalinga, Fresno county, California; that these two corporations have entered into a contract whereby the Coalinga Consolidated Water Company, hereinafter referred to as the Coalinga Company, supplies to Pleasant Valley Water

Company, hereinafter referred to as the Pleasant Valley Company, all the water sold by the Pleasant Valley Company, in return for the payment of one half the gross proceeds derived by the Pleasant Valley Company from the sale of water; that the Pleasant Valley Company is charging for water a minimum rate per month for each meter connection of $2.00 for hard water and an additional meter rate of 2 cents per barrel for all hard water used over 100 barrels per month, and also a minimum rate per month for each meter connection of $1.00 for distilled water and an additional meter rate of 16 2/3 cents per barrel for all distilled water used over 5 barrels per month; and that these rates are excessive and unreasonable. Complainant asks this Commission to establish a minimum rate for each meter connection of $1.00 for hard water and an additional meter rate of 1 1/4 cents per barrel for all hard water used over 80 barrels per month, and also a minimum rate of 75 cents per month for distilled water and an additional meter rate of 10 cents per barrel for all distilled water used over 7 1/2 barrels per month. Complainant also asks that the contract between the Coalinga Company and the Pleasant Valley Company be abrogated and that the Coalinga Company be directed to sell hard water to the Pleasant Valley Company for the amounts specified in the complaint.

The Pleasant Valley Company and the Coalinga Company each filed an answer denying that the rates charged are unjust and unreasonable, and alleging that the rates charged for water supplied to the City of Coalinga and the inhabitants thereof are too low and should be increased.

These companies later filed their petition, in Application No. 1341, asking that this Commission increase the rate for water sold by the Pleasant Valley Company in the City of Coalinga for other than fire purposes, to $3.00 per month for each tap, with an additional charge of 50 cents for each 1000 gallons used



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in excess of 3000 gallons per month. The petitioners asked that the rate for water furnished to the City of Coalinga for fire purposes be fixed at the sum of $100.00 per month. Subsequently, petitioners asked and were granted leave to amend this application so as to ask that the Commission establish a just and reasonable rate to be charged for water delivered to the City of Coalinga for fire purposes, irrespective of the rate of $100.00 per month now in effect for this service.

Public hearings were held in the City of Coalinga on September 2 and 3, 1914, and in San Francisco on September 23 and 24 and November 16, 1914. Careful consideration has been given to the transcript of the evidence and to the exhibits introduced, and these proceedings are now ready for decision.

The Coalinga Company is the owner of a ten-acre tract of land located about 3 1/2 miles distant from the City of Coalinga, and described as the northwest 1/4 of the northeast 1/4 of the southwest 1/4 of Section 16, Township 20 South, Range 15 East, M. D. B. and M, whereon the Company has bored six wells for water, in addition to a seventh well which is not claimed in the Company's inventory. The Company was originally incorporated for the purpose of selling water to oil companies operating in the Coalinga oil fields, and the Company's operations prior to 1909 were confined to this class of business, without the sale of any water for use in the City of Coalinga.

Prior to 1909, the City of Coalinga was supplied with water for domestic uses from tank cars or from wells, the water whereof contained a large percentage of sulphur and was not satisfactory for domestic use. The provisions for fire protection were entirely inadequate. On April 28, 1909, J. L. Chaddock and W. H. Stenger, owners of the stock of the Coalinga Company, entered into an agreement with the Pleasant Valley Company, whereby

Chaddock and Stenger agreed to construct a pipe line from their property to the City of Coalinga in return for capital stock in the Pleasant Valley Company, to be issued at par, in exchange for the pipe line at cost. The issue of the stock was to be made conditional upon the ability of the Coalinge Company to supply through this pipe line at least 10,000 barrels of good water per day. Upon the issue of the stock, as agreed, the Pleasant Valley Company was to become the owner of the pipe line and the rights of way along which the same might be laid. This contract contains other provisions to which it is not necessary now to refer. Under a subsequent arrangement, it was provided that the Pleasant Valley Company should pay to the Coalinga Company, in return for the water received from that company, 50 per cent of the gross revenue received by the Pleasant Valley Company from the sale of water to the City of Coalinga and to the inhabitants thereof. Under a separate contract, provision was made for the sale by the Coalinga Company to the Pleasant Valley Company of distilled water which the Pleasant Valley Company conducts through a separate pipe system to the City of Coalinga, where the water is sold and delivered through this pipe system for drinking and other domestice purposes. The rates charged by Pleasant Valley Company for distilled water are not seriously questioned in these proceedings and it will not be necessary to establish rates therefor.

In examining the rates proper to be charged by the Pleasant Valley Company for water supplied to the City of Coalinga and to the inhabitants thereof, other than distilled water, I shall consider the following subjects in order:

1. Value of property.
2. Depreciation and amortization annuities.
3. Maintenance and operating expenses.
4. The rate.

1. VALUE OF PROPERTY.

In determining the value of the property for the purpose of these proceedings, it will be necessary to consider separately the property of the Coalinga Company and that of the Pleasant Valley Company.

The property of the Coalinga Company is used in part exclusively for service to the oil fields and in part jointly for service to the oil fields and to the Pleasant Valley Company for its service to the City of Coalinga and the inhabitants thereof.

This Commission's hydraulic department estimated that the cost to reproduce new the property of the Coalinga Company which is jointly used for service to the oil fields and to Coalinga is $48,009.00. Mr. Gail S. Strout, engineer for the Water Companies, estimated that the cost to reproduce these properties jointly used, is $80,092.00. This sum, however, includes in addition to an item of $2500.00 for the land, an item of $30,000.00 for water rights. This item is added on the theory that the Coalinga Company has acquired by prescriptive use, a right to water which is additional to the value of the land and water before the alleged prescriptive right was acquired. While the rule in this State, in accordance with the immemorial rule applied in England, was formerly that title by prescription can not be acquired to underground waters (Harrison vs. McCue, 42 Cal. 303), this rule was apparently changed by the Supreme Court of this State in Hudson vs. Dailey, 157 Cal. 617, 629. However, it was clearly indicated by Mr. Justice Shaw in the Hudson case that no prescriptive rights accrue unless it be shown that the party claiming this right has used the water in such a way as to interfere with the use of the water by other land owners or so as to make the use of the party claiming the prescriptive right adverse to other land owners and to establish a prescriptive right. The party claiming

the prescriptive right must allege and prove that he has taken more than a reasonable proportion of the water.

There is no evidence in the present case that the Coalinga Company has used the underground waters in such a way as to interfere with the use thereof by other land owners or that the Coalinga Company has taken more than its fair and reasonable share of the waters which underlie its lands and those of other persons owning lands in this general vicinity. I am accordingly of the opinion that no value should be allowed for water right in addition to the value which adheres to land in this vicinity, including the usual right to the use of a reasonable amount of water developed by the sinking of wells.

The problem of ascertaining what portion of the Coalinga Company's property jointly used for service to the oil fields and to the City of Coalinga is chargeable to the City of Coalinga is not free from difficulties.

The Water Companies made the segregation on the basis of the relative amounts of water used in the oil fields and in the City of Coalinga on August 10, 1914. The total amount so used was 247,650 gallons, of which 91,630 gallons, or approximately 37 per cent, was used in the fields and 156,020 gallons, or approximately 63 per cent, was used in the City of Coalinga. The evidence, however, shows that in the month of August the use of water in the City of Coalinga is higher than in almost any other month of the year. Consequently, the percentages thus established are manifestly unfair to the City of Coalinga.

The Commission's hydraulic department used percentages of segregation based on the relative use of water during the year 1914. It appears that the percentage of water used in the oil fields is gradually decreasing, due to less active development of the fields, and that the percentage of water used charged to the City of Coalinga is accordingly increasing. The following table clearly shows this situation:

TABLE NO. I.

Use of Water in Oil Fields and City of Coalinga.

| | Field | Field's per cent of total | City | City's per cent of total. |
|---|---|---|---|---|
| 1910 | 2,100,000 bbls. | 59.7% | 1,417,674 bbls. | 40.3% |
| 1911 | 1,400,000 " | 53.2% | 1,232,687 " | 46.8% |
| 1912 | 1,140,000 " | 48.8% | 1,198,944 " | 51.2% |
| 1913 | 854,100 " | 42.9% | 1,133,739 " | 57.1% |
| 1914 to 8-31 | 388,300 " | 36.4% | 677,761 " | 63.6% |

It appears from this table that the use of water in the oil fields has diminished from 2,100,000 barrels in 1910 to 388,300 barrels in the first 8 months of 1914, and that the percentage of water used in the fields has decreased from 59.7% of the entire amount of water pumped in 1910 to 36.4% during the first 8 months of 1914. Likewise, it appears that the percentage of the entire amount of water pumped used in the City of Coalinga has increased from 40.3% in 1910 to 63.6% in the first 8 months of 1914. If the hydraulic department's test is logically applied year by year, it will follow that if the use of water for the oil fields should cease, the City of Coalinga would be charged with the value of the entire property now devoted to the joint service of the field and of the city. In view of the fact that more property is devoted to this joint service than would be necessary if the City of Coalinga were alone served, it seems clear that an injustice may be done the City of Coalinga if the basis used by the hydraulic department is consistently applied. If the Commission knew the cost of a substitute water system large enough to supply only the needs of the City of Coalinga, it would be easier to ascertain the value to be allowed for the property used in the development of water. There is no evidence, however, on this question.

After a careful consideration of the different bases which have been suggested and of the evidence concerning the value of the property jointly used, I find as a fact that the sum of $24,000.00 represents at least a fair value of that proportion of the joint property which is justly chargeable to the City of Coalinga's use.

Referring now to the value of the property of the Pleasant Valley Company, the Commission's hydraulic department estimates the cost to reproduce new the sum at $58,876.00, to which amount the department suggested the addition of $1900.00 for working capital. As the entire maintenance and operating expenses of this Company are only slightly in excess of $6000.00 per year, it seems clear that the allowance for working capital is largely in excess of a proper allowance.

The Water Companies estimated the cost to reproduce the property of the Pleasant Valley Company at $72,524.00. This total, however, includes an item of $13,265.00 "for intangibles," which were explained to represent the losses of the Company in the creation of a portion of its business. The Coalinga Company's manager stated that this item is simply an estimate. This Commission has heretofore on several occasions said that the cost of developing the business, if reliable evidence is presented, should be considered and that this cost should be taken care of either in rates high enough during the early stages of the utility's operations to take care of this expense or by adding the expense to capital account and allowing a return thereon during subsequent years. If the item has been fully covered in one of these two alternative methods, it seems clearly erroneous to claim it again under the other alternative. The evidence in these proceedings shows that on March 18, 1912, the directors of the Pleasant Valley Company unanimously adopted a resolution as follows:

"Resolved, that, whereas, the assets of this corporation are more than seventy-one thousand dollars, and whereas, the cash received from the sale of 33,769 shares of the capital stock outstanding to date is thirty-four thousand one hundred forty-eight dollars and fifty cents, and whereas the additional amount of such assets has been accumulated from the earnings of the Company, which said earnings instead of having been distributed as a dividend to the stockholders and then afterwards paid in by said stockholders for additional capital stock, have been deferred from said stockholders and have gone into mains and other extensions, now, therefore, be it resolved that one additional share of the capital stock of this corporation be issued to the present stockholders for each share of the capital stock now owned and held by them, and the president and secretary of this corporation be, and they are hereby authorized and directed to so issue the same forthwith."

The additional capital stock was actually issued as authorized by this resolution. This resolution clearly shows that in the judgment of the Board of Directors, the earnings in the 3 years 1909 to 1912 had been in excess of 100 per cent of the cash actually paid for the outstanding stock. In view of this condition, it must be clear that such development expenses as were incurred during the first years of the Pleasant Valley Company's history, have been more than repaid from earnings of the first few years and that it would be most unfair to compel the rate payers now to again pay for these costs by adding to capital account an item for development expenses.

I find as a fact that the sum of $59,376.00 is a fair and reasonable value to assign to the property of the Pleasant Valley Company, on which property the Company is entitled to a return.

## 2. DEPRECIATION AND AMORTIZATION ANNUITIES.

A reasonable allowance must, of course, be made for a depreciation annuity. This allowance will be made on the sinking fund basis.

In addition to an allowance under this head, the Water Companies claim an allowance under the head of amortization

annuity amounting to 3.33 per cent of the value of the property each year for the purpose of amortizing the property. This allowance is asked for on the theory that the City of Coalinga will be extinct within 10 years from date and that the property of the Water Companies will thereupon lose all value except salvage value. There is evidence in these proceedings showing that the population of Coalinga has decreased during the last year or two, and also evidence that the operations in the oil fields, on which Coalinga is at the present time largely dependent, have diminished during the last year or two. The evidence, however, also shows that the major portion of the oil lands in the vicinity of Coalinga are still to be developed. In my opinion, based on the evidence herein, it is going very far to say that the City of Coalinga will cease to exist 10 years from date or even 15 or 20 years from date. The general manager of the Water Companies testified that he was having considerable success in raising deciduous fruit trees on the land of the Coalinga Company; that the land in this vicinity was good land for agricultural purposes;and that, in his opinion, there is a considerable field for the development of these lands when placed under irrigation. According to this testimony, even if the development of the oil fields should gradually decrease, the City of Coalinga might nevertheless continue to exist as a center of an agricultural community. The evidence that the City will be defunct in 10 years is contrary to other evidence to the effect that the oil fields are only partially developed and that this territory may hereafter be developed for agricultural purposes, and I can give but little weight to it.

I find as a fact that an allowance of $6000.00 per annum is at least a fair and reasonable allowance to be made for depreciation annuity as affected by ultimate amortization.

3. MAINTENANCE AND OPERATION.

I find that the sum of $7,794.00 is a fair and reasonable sum to be allowed annually for that portion of the maintenance and operating expenses of the Coalinga Company which is fairly chargeable to the City of Coalinga, and that the sum of $6,295.50 is a reasonable sum to be allowed for the annual maintenance and operating expenses of the Pleasant Valley Company for its service of water for domestic and fire purposes, and that the sum of $400.00 per year should be allowed for the gradual payment of the expenses of these hearings, until the reasonable cost of these hearings has been paid for. If the Water Companies desire to be generous and to pay expenses for these hearings in excess of those which their present financial condition warrant, they must be generous at their own expense and not at the expense of their consumers.

4. THE RATE.

The receipts of the Pleasant Valley Company from the sales of domestic water and from water sold to the City of Coalinga for fire and other purposes have been as follows:

TABLE NO. II.

Receipts of Pleasant Valley Water Company From Water Sold for Domestic Purposes.

| Year | Amount |
|---|---|
| 1909 | $ 7,207.00 |
| 1910 | 26,998.00 |
| 1911 | 26,161.00 |
| 1912 | 27,309.00 |
| 1913 | 26,096.00 |

The Water Companies' Exhibit No. 6 shows an income for the year ending June 30, 1914, from the sale of domestic water and water sold to the City of Coalinga amounting to $24,624.80. This amount includes $800.00 paid by the City of Coalinga for fire

protection, but does not include the remaining sum of $400.00 still due from the City for this service at the rate of $100.00 per month. When this amount is collected, the revenue for the year ending June 30, 1914, will accordingly be $25,024.80. This item will be somewhat increased by the collection of other accounts which have not as yet been paid. There is evidence that the revenue received from the sale of water in Coalinga has been decreasing for the last two years or so, and it may well be that the revenues for the year ending June 30, 1915 will be less than those for the year ending June 30, 1914. If the amount of water sold decreases and the number of consumers is less, the operating and maintenance expenses will also be less. In this opinion I am allowing the full amount paid by the Pleasant Valley Company for maintenance and operating expenses for the year ending June 30, 1914 and the full amount of the operating and maintenance expenses of the Coalinga Company fairly chargeable to the City of Coalinga during the same period.

The rates charged for domestic water supplied to the inhabitants of Coalinga are already high and cannot reasonably be increased. I find, however, that the rate paid by the City of Coalinga for fire protection should be increased from $100.00 to $140.00 per month.

While, even with this increase in the rate, the returns to the Water Companies will be less than they have hitherto expected to receive, I find that, considering the conditions actually existing at Coalinga, as shown by the evidence ~~in [illegible]~~ in these proceedings, the rates now prevailing, as herein modified by the increase in the rate for fire protection, are as high as the Water Companies can reasonably and justly charge.

In all ~~other~~ respects other than the increase of the rate paid by the City for fire protection, I find that the complaint and the application should be dismissed.



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I submit the following form of order:

ORDER.

The above entitled proceedings having been consolidated for hearing and decision, and public hearings having been held therein and said proceedings having been submitted, and being now ready for decision,

IT IS HEREBY ORDERED that the rate paid by the City of Coalinga for water supplied for fire purposes be and the same is hereby increased from $100.00 per month to $140.00 per month, but that in all other respects the complaint and the application herein be and the same are hereby dismissed.

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 13th day of January, 1915.

Max Thelen

Edwin O. Edgerton

Frank R. Devlin

Commissioners.