

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the matter of the application of City of Santa Monica, a municipal corporation, for an order of the Railroad Commission fixing and determining the just compensation to be paid to City Water Company of Ocean Park for a portion of its lands, property and rights.

) Application No. 1564.

Victor R. McLucas and John Mellen for City of Santa Monica.

Anderson & Anderson for City Water Company of Ocean Park.

THELEN, Commissioner.

OPINION

This is a proceeding to fix and determine the just compensation to be paid by City of Santa Monica to City Water Company of Ocean Park, a public utility engaged in the business of selling water for domestic and municipal purposes in the City of Venice and the City of Santa Monica, for that portion of its lands, property and rights which are located in the City of Santa Monica. This proceeding is brought under the provisions of Section 47 of the Public Utilities Act.

The petition of the City of Santa Monica alleges in effect that the city is a municipal corporation organized and existing under and by virtue of the Constitution and Statutes of this state; that the city has a population of approximately 12,000; that the inhabitants derive their water for domestic use from various wells and springs in and around the city; that water

is supplied from said sources by various private water utilities including City Water Company of Ocean Park; that by reason of the city's rapid growth it is difficult for these utilities to make the necessary extensions, additions and replacements; that the City Council of Santa Monica is of the opinion that the public interest and convenience of the city demand the acquisition and construction of a municipal water system; that the City of Santa Monica intends to acquire by eminent domain proceedings the properties of City Water Company of Ocean Park located in Santa Monica; and that the necessary ordinance for the institution of these proceedings has been passed by the Common Council of the City of Santa Monica.

At the hearing in this proceeding, held in the City of Santa Monica, it was stipulated that the evidence in Application No. 1561, being a similar proceeding with reference to the property of Ocean Park Water Company and Application No. 1562, being a similar proceeding with reference to the property of Irwin Heights Water Company, might be considered as being presented in this proceeding. Briefs have been filed and this proceeding is now ready for decision.

City Water Company of Ocean Park, hereinafter referred to as the City Water Company, at present secures its water primarily from a well which was dug some three years ago in Venice and which was referred to in the present proceedings as the "Dandy" well. The pump in this well has a capacity of 100 miner's inches and the well is said to be capable of supplying even more water. The City Water Company does not own a reservoir but has leased the right to use in common with Ocean Park Water Company the latter Company's reservoir located on Beverly Avenue between Central Avenue and Kensington Road in Santa Monica. The City Water Company owns a distributing system from which it serves customers in the City of Venice and in the extreme southwesterly portion of the City of Santa Monica.

The customers in Santa Monica are mostly located in the thickly settled territory between the Ocean Front on the west and Trolley Way on the east, Strand Street on the north and the city limits on the south.

Very nearly one-third of City Water Company's property and customers are located in Santa Monica with the remaining two-thirds in Venice.

Prior to three years ago, City Water Company secured its water from two pumping plants located in Santa Monica on or near the southerly city limits. These pumping plants are known respectively as the Ozone plant (No.2) located at Ozone and Seventh Streets, and the Marine Street plant (No.3) located at Longfellow and Marine Streets. The Ozone Street plant consists of five wells connected to one pump. The Marine Street plant consists of nine wells connected to one pump. Subsequent to the bringing in of the Dandy well these two plants have been used very little. The evidence shows that the Marine Street plant was pumped in the summer of 1914 for a period not over one month, by reason of a break-down, and that the Ozone Street plant has not been pumped at all during the last two years and is practically abandoned.

The City of Santa Monica now asks the Railroad Commission to fix and determine the just compensation to be paid by it for the City Water Company's property in Santa Monica including the Ozone Street wells and the Marine Street wells. In addition to determining the fair value of this property it will also be necessary to determine the severance damages, which will be caused to the City Water Company by reason of the taking of the Santa Monica portion of its property.

By agreement between the parties the city filed at the hearing an amended inventory of the City Water Company's

property, which amended inventory was substituted for the inventory attached to the petition herein. It was stipulated at the hearing that such additional property as might be shown by the evidence might be added to the inventory. The evidence shows that the following property should be added to the city's amended inventory:

27 Fire Hydrants
48 Brick and Iron Manholes
13 Wood Manholes

The evidence also shows that one well at the Ozone pumping plant which was assumed to be 76 feet deep is in reality 450 feet deep thus necessitating an additional allowance for the additional depth.

Mr. G. M. Jones, the City Water Company's president, testified that in his judgment the fair value of the property to be taken by the City of Santa Monica, including severance damages to the portion of the property not taken, is \$125,000. The City of Santa Monica in its brief contends that the total value to be allowed should be \$51,579.75, which value apparently does not include severance damages.

I shall discuss the value of the property under the following heads:

1. Lands.
2. Physical Structures and Improvements.
3. Water Rights.
4. Going Value.
5. Severance Damages.

I.

LANDS

The City of Santa Monica accepts the value of the lands of the City Water Company as testified to by Mr. G.M. Jones, as follows:

Lot One, Block Five, Fountain Glen Tract No.2	- -	\$4,000. ✓
Lot One, Block Seven, Fountain Glen Tract No.3	- -	1,550. ✓
Lots One and Two, Block Eight, Fountain Glen Tract No. 3	- - - - -	1,500. ✓
Lots Fifty-one, Fifty-two and Fifty-three, Block Forty-two, East Santa Monica Tract	- - - -	4,500. ✓
Total - - - - -		\$12,550.

The foregoing values do not include an allowance for developed water.

II.

PHYSICAL STRUCTURES AND IMPROVEMENTS

Mr. C. S. Burns, appearing in behalf of City Water Company, presented an estimate of the depreciated reproduction value of the physical structures and improvements of City Water Company totaling \$69,376. No estimate of reproduction value new was presented on behalf of City Water Company.

Mr. James Armstrong, one of the Railroad Commission's Assistant Hydraulic Engineers, testified that the reproduction value new of the physical structures and improvements to be taken by the city is \$49,972. and that the depreciated reproduction cost, as estimated by him, is \$37,565. By including the items which were omitted and which have hereinbefore been referred to the estimate of reproduction cost new is increased to \$52,797., and the estimate of depreciated reproduction value is increased to \$39,864.

The chief difference between the estimate of Mr. Burns and that of Mr. Armstrong is in the item of paving. The estimate of Mr. Burns includes an allowance for all paving now lying over the City Water Company's mains and services, although most of this paving was laid by the city subsequent to the installation of the mains and services, without any expense to City Water Company. Mr. Armstrong included an allowance for only such paving as was cut through by City Water Company in laying its mains and services.

Reference is hereby made to this Commission's Decision No. 2279 rendered on April 9, 1915 in Application No. 1141, being the application of Marin Municipal Water District for an order fixing and determining the just compensation to be paid to Marin Water & Power Company for its lands, property and rights, in which proceeding the Railroad Commission lays down the rule that allowance shall not be made for paving which was laid over a Water Company's mains and services by public authorities without expense to the Water Company. The reasons why such paving does not make the water system more valuable, as well as the authorities supporting the Railroad Commission's conclusions, are therein set out in full.

The other chief differences between the appraisal of Mr. Burns and the appraisal of Mr. Armstrong are that Mr. Burns included an allowance of \$2,000. for preliminary expenses, which item Mr. Armstrong covered in his allowance for overhead accounts; that Mr. Burns applied a uniform overhead account of 19% to the unit price used by Mr. Armstrong while Mr. Armstrong included in his unit price a number of items generally included in overhead percentages and applied overhead percentages from 8 to 16% to his unit price; that Mr. Burns made an additional allowance of 5% on the estimated cost of the pipe system, for special fittings, for which items allowance was made by Mr. Armstrong in his unit price for pipe, which unit price Mr. Burns accepted; and that Mr. Burns applied the sinking fund method of depreciation while Mr. Armstrong applied the straight line method.

The fair allowance to be made for physical structures and improvements will probably be somewhat in excess of that presented by Mr. Armstrong and considerably less than that presented by Mr. Burns.

III.

WATER RIGHTS

As already indicated, the city is not seeking to condemn City Water Company's present main source of supply in Venice. The city seeks to acquire the Ozone plant, which is practically abandoned, and the Marine Street plant which, while claimed by City Water Company as a ~~res~~ reserve, has been pumped about one month in the last two years. The testimony shows that the wells at each of these plants were dug more than five years prior to July, 1913, at which time City Water Company began to pump from the Dandy well in Venice. City Water Company claims that the Ozone Street wells and the Marine Street wells had a total capacity, when pumped, of 72.6 miner's inches, of which 26.35 miner's inches is assignable to the Ozone Street wells and the remaining number of miner's inches to the Marine Street wells. There is no direct evidence as to the amount of water which was actually delivered from these wells and used by consumers at any given time although the record shows that during portions of the summer months the wells were pumped to capacity. The record shows that during the month of August, 1914, City Water Company used approximately 41,222,910 gallons of water, amounting to about 103 miner's inches, of which amount approximately one-third was used in Santa Monica. This evidence, however, does not show how much water was actually being used from the Ozone and Marine Street wells while they were being pumped.

The question of the water conditions in and around Santa Monica and of the elements to be considered in estimating such value, if any, as should be assigned to the right to divert percolating water in this vicinity were considered in Application No. 1562, Irwin Heights Water Company, in which application the decision is this day being rendered. It would be surplusage to repeat here what was said in the application No. 1562 and reference to ^{the} same is

hereby made.

IV.

GOING VALUE

Mr. C. S. Burns first presented in this proceeding, as well as in Applications No. 1561 and No. 1562, an estimate of going concern value for each Company based on a consolidated operation of all three companies. It seems clear that such estimate can have but little value. City Water Company thereafter presented, ~~XXXXXX~~ through Mr. Burns, a separate computation based on City Water Company's operation alone, which computation was marked Exhibit No. 2 of City Water Company. In this computation a claim is made for \$31,175. for going value, less an amount not specified representing interest during construction. This claim is presented on the comparative plant method. Mr. Burns testified that the going value used by him is the difference between the value to a purchaser of the plant as it now stands and the cost of building a plant to serve the same territory and of building up the business.

In this computation, Mr. Burns assumes a construction period of two years. Of the sum of \$31,175., \$7,865. represents estimated present worth of excess value of going plant during the assumed first year of construction and \$8,546. represents such estimated present worth during the assumed second year of construction. Mr. Armstrong testified, and I believe properly, that by no means should a construction period in excess of one year be allowed with reference to this Company's property in Santa Monica. The amount claimed by City Water Company must accordingly be reduced ^{by at least} ~~to~~ this extent. I desire to draw attention also to the fact that the

computation assumed the continuance of the present rates and that the evidence shows that these rates will yield a return considerably in excess of the return generally allowed by the Railroad Commission in such cases. The annual report of City Water Company for the year ending December 31, 1914 shows an operating revenue from the Company's property in both Venice and Santa Monica amounting to \$52,600.73. Operating expenses during this year are stated to be \$17,780.90. An amount of \$10,000. was arbitrarily set aside in the depreciation fund. That this amount is considerably in excess of the sum which should normally be set aside in the depreciation fund is shown by Mr. Armstrong's testimony in Case No. 700, Strickler vs. City Water Company, in which case he testified that a normal sum to be set aside annually for depreciation on the 4% sinking fund basis would be \$2,911.36, of which amount \$858.46 is assignable to the Santa Monica property and \$2042.90 to the Venice property. By adding the amount thus estimated by Mr. Armstrong for normal depreciation to the operating expenses for the year 1914 a total of \$20,692.26 appears for operating and depreciation expenses, leaving a balance of \$31,908.47 for return on the investment. In Case No. 700, Mr. Armstrong estimated the fair value of the Company's entire lands and physical structures to be \$189,546. Some additional allowance must undoubtedly be made to this amount for intangibles. It shows that City Water Company made a return in 1914 of something over 17% on the value tentatively assigned by Mr. Armstrong to the lands and physical structures of City Water Company. It must be distinctly understood that these figures are merely tentative and that when the necessary allowance is made for intangibles that the percent of profit will no doubt be reduced. Nevertheless, it is clear that, in any event, City Water Company is making a return in excess of that

usually allowed by the Railroad Commission and that any estimate of going value based on a continuance of these returns is to that extent subject to valid criticism.

City Water Company unquestionably has a very good business. Its business has a real going value and an appropriate allowance must be made therefor.

V.

SEVERANCE DAMAGES

As has already been indicated, the city intends to acquire only that portion of the property of City Water Company which is located in the City of Santa Monica. The evidence shows that approximately 30 per cent of the company's total physical property is located in Santa Monica and that almost exactly one-third of the total revenue is secured from its customers in Santa Monica. If the Santa Monica property is now severed from the Venice property, City Water Company will be deprived of the revenue which it has hitherto derived from its customers in Santa Monica. This revenue, under the rates now in effect, amounted in 1914 to approximately \$17,533.57. On the other hand, there will be a reduction in interest charges, depreciation and operating expenses. The entire depreciation and interest properly chargeable to the Santa Monica property will be eliminated. A portion of the present operating expenses will also be saved-- for instance, the expenditure for maintenance of the distributing system in Santa Monica will be eliminated as well as a portion of the so-called office and overhead expenses. It is quite evident, however, that the reduction under the head of operating expenses, will not be as great proportionally as the reduction in revenue. City Water Company will continue to need practically the same managerial and operating force as at present. Under these conditions it seems perfectly clear that the total reduction in revenue caused by the severance of the Santa Monica property will not be compensated for by the corresponding reduction in interest, depreciation and

operation charge.

City Water Company presented no definite allowance to be made for severance damages. It is difficult to reach an exact conclusion in a matter of this kind. After careful consideration I have reached the conclusion that it would be fair and reasonable to allow to City Water Company the amount of \$25,000. for severance damages.

I submit herewith the following findings.

FINDINGS

City of Santa Monica, an incorporated city, having filed with the Railroad Commission a petition setting forth the intention of said city to acquire under eminent domain proceedings, or otherwise, a portion of the lands, property and rights of City Water Company of Ocean Park, a public utility, and asking the Railroad Commission to fix and determine the just compensation to be paid to City Water Company of Ocean Park for said portion of its lands, property and rights, and public hearings having been held and the Commissioner who heard the evidence having made a personal inspection of the Ozone and Marine Street pumping plants, of the reservoir used by said Company and a portion of its distributing system, and being fully apprised in the premises,

The Railroad Commission hereby finds as a fact that the just compensation to be paid by City of Santa Monica to City Water Company of Ocean Park for the portion of said Company's lands, property and rights, which is specifically described in Exhibit No. 1, attached hereto and made a part of these findings, is the sum of \$82,500.

The Railroad Commission further finds as a fact that the just compensation to be paid by City of Santa Monica to City Water Company of Ocean Park for the damages caused to said Company's remaining property by reason of the severance of the property described in said Exhibit No. 1, which damages are to be paid by City of Santa Monica in addition to the compensation specified in the preceding paragraph, in case the City of Santa Monica acquires the property described in said Exhibit No. 1, is the sum of \$25,000, thus increasing the total just compensation to be paid by City of Santa Monica to City Water Company of Ocean Park to \$107,500.

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 30th day of June, 1915.

Max Thelen
H. S. Loveland
W. J. Gordon
Edwin O. Edgerly
Francis R. Decker
Commissioners.

EXHIBIT NO. 1.

Lands, property and rights of City Water Company of
Ocean Park as follows:

LANDS

Lot 1, Block 5, Fountain Glen Tr. No. 2,
Santa Monica.
Lot 1, Block 7, Fountain Glen Tract No. 3,
Santa Monica,
Lots 1 and 2, Block 8, Fountain Glen Tr.
No. 3, Santa Monica.
Lots 51, 52 and 53, Block 42, East Santa
Monica Tract, Santa Monica.

PHYSICAL STRUCTURES AND IMPROVEMENTS.

<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT.</u>
<u>MARINE ST. PUMPING PLANT.</u>		
Main Pumping Bldg., frame	1	each
3/16" Steel oil tank 4' dia. x 12' long with roof,	1	"
Concrete pit for same tank	1	"
Sand-trap, concrete & special C.I. casting, complete	1	"
<u>PUMPING EQUIPMENT.</u>		
32 H.P. Fairbanks Morse C.E. complete, installed with all pipings, fittings and clutch	1	"
Concrete foundation for same	1	"
Ramsey Triplex, double acting, single plunger deep well pump installed complete with all pipe and fittings,	1	"
Steel and lumber foundation for same	1	"
Belting - 40-12" 6-ply & 72'6" 6-ply canvas	1	"
<u>WELLS</u>		
9-16" #12 Gauge Cased Wells, total depth,	842	foot

Well pit 11" dia. x 42 1/2" deep inside 8" brick walls	1	each
Tunnels-3' top, 4' bottom, 4 1/2' high, lumbered with 8x8 bents, 8' centers, 44" lagging	184	"
Meter testing outfit	1	each

OZONE PUMPING PLANT

Frame pump bldg.	1	each
Steel oil tank-9 1/2' dia. x 2 1/2' high, completed		"
Sand trap. conc. & special C.I. Casting	1	"
Main Oil Supply Tank	1	"

PUMPING EQUIPMENT

20 H.P. Lambert Gas Engine, with piping and fittings complete	1	"
Concrete foundation	1	"
Gould, single acting, Triplex, with all pipings, fittings, etc.	1	"
Steel and concrete foundations for same	1	"

WELLS

5-16" #12 Gauge wells, of which 4 are 76' deep and one is 450' deep	754	foot
Pit-8'8" Dia. x 34 1/2' deep, 8" brick walls with 8'x8'x3' arched recess at bottom	1	each
Tunnel 1-4' bottom, 5' top, 5' high, 6"x6" bents with 8' centers, 2"x1" 2 course lagging	260	foot

MEMBERS

5/8" Tridents	5	each
3/4" "	1	"
1" Keystone	1	"
1" Trident	1	"
2" Trident Crest	1	"
4" Trident Compound	1	"

SPECIAL METER CONNECTION WITH
OCEAN PARK WATER COMPANY

6" Trident Crest, in manhole	2	"
8" " " "	2	"
Gate Valves, C.I. fittings & connections for above	1	lot
3 manholes, brick, coner. & steel for above	1	"

SERVICE CONNECTIONS

1/2" Galv. Services	598	each
3/4" " " "	239	"

1" Blk. Services	14	each
2" " "	28	"
4" Distribution Mains	1	"
1" S.S. Galv. Pipe	150	foot
2" " " "	8758	"
2" " Black pipe, dipped	5172	"
4" " " "	5972	"
4" " Galv. Pipe	410	"
4" O.D. Casing, dipped	1857	"
4" C.I. Class B Pipe	600	"
6" C.I. Class B Pipe	3352	"
8" C.I. Class B Pipe	65	"
8" O.D. Casing, dipped	2565	"
10" C.I. Class B Pipe	2923	"
<u>HYDRANTS</u>	27	
<u>WANKOLES</u> , brick and iron	48	
" -wood	13	

ALL WATER AND WATER RIGHTS owned by City Water Company of Ocean Park in connection with or appurtenant to any of the real property hereinbefore described, including water developed on Lot 1, Block 5, Fountain Glen Tract No. 2 and Lot 1, Block 7, Fountain Glen Tract No. 3.