

ORIGINAL

Decision No. 2802

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of Sweetwater Water Company, a corporation, for an order authorizing and permitting it to increase rentals, tolls and charges for water in the County of San Diego, State of California, outside of the limits of incorporated towns and cities.

Application No. 312.

F.S. Jennings and A.H. Sweet for applicant.  
Tyndale Palmer and E. T. Smith for protestants.

EDGERTON, Commissioner.

O P I N I O N

This is an application by Sweetwater Water Company for authority to charge increased water rates. Applicant supplies water for both irrigation and domestic uses to the incorporated cities of National City and Chula Vista and to the unincorporated territory called Sweetwater Valley, and a part of the Rancho Ex Mission of San Diego, all being in San Diego County.

The water rates in National City and Chula Vista were not within the jurisdiction of this Commission at the time of the hearing, therefore, the rates herein found to be reasonable will be made to apply to all rates charged by applicant except the rates charged for water delivered in National City and Chula Vista.

The rates now in effect outside of the cities of Chula Vista and National City were fixed by the Board of Supervisors of San Diego County and in these cities the rates were fixed by the respective Boards of Trustees. These rates are as follows:

In the county for irrigating acre property-  
For each acre, \$7.00 per annum for a maximum  
of 350,000 gallons per acre. Excess 2 cents  
per thousand gallons.

For dwellings, business houses, lot and block  
property- Flat rates with an option on the  
part of the company to install meters, with a  
meter rate of 15 cents per thousand gallons.  
If meter installed at written request of con-  
sumer, \$5.00 required from consumer to cover  
cost of setting meter, and company entitled  
to collect from such consumer specific amounts  
for maintenance and repair thereof.

The rates in the city of Chula Vista are:

Domestic- 30 cents per one thousand gallons.

Manufacturing- 8 cents per one thousand gallons.

Sprinkling- 10 cents per one thousand gallons.

Irrigation- Lot and Block 15 cents per thousand  
gallons.

Minimum on above uses- \$1.00 per month.

Irrigation Acreage- Minimum per acre per year \$7.00  
for 350,000 gal. to 400,000 gal  
per acre at 2 cents per 1000 gal.  
Above 400,000 per acre 5 cents  
per 1000 gal.

The rates in National City are:

Domestic- 25 cents per one thousand gallons.

Manufacturing- 10 cents per one thousand gallons.

Irrigation- Lot and Block- Under 5000 gal. 25 cents  
per 1000 gal. Above 5000 gal. 10 cents  
per 1000 gal.

Minimum on above uses, \$1.00 per month.

Irrigation- Acreage \$5.50 per year minimum for 100,000 gal  
Above 100,000 gal- 2½ cents per 1000 gal.

Applicant asks for an increase of its rate to 7 cents per one thousand gallons for irrigation and suggests that if this request is granted it may not be necessary to raise the other rates.

Consumers appeared by counsel who introduced considerable evidence and filed briefs protesting vigorously against the granting of this application.

Applicant's position is that it is entitled to maintenance and operating expenses, depreciation and a fair return upon the present value of its plant. It introduced in evidence statements from its books purporting to show the original cost of this plant and also introduced in evidence a complete inventory and estimate of value made by engineers on its behalf. Applicant claims as original cost the following:

Pipe System (74.64 miles) to September 30, 1912	- - - - -	\$ 630,254.57
Sweetwater Water Dam.		
Original Structure	- - - \$ 256,190.87	
Addition made in 1895	- - - 17,423.80	
Addition made in 1911	- - - <u>198,873.49</u>	472,488.16
Sweetwater Reservoir Lands	- - - - -	142,249.51
Meters	- - - - -	25,620.05
Pump Plants	- - - - -	33,835.18
Equipment	- - - - -	3,491.70
Buildings	- - - - -	3,298.91
Miscellaneous	- - - - -	<u>701.86</u>
Total Cost to September 30, 1912	- - - - -	\$1,311,966.94

Applicant claims a total present value of plant amounting to \$1,252,999.46. This total is made up as follows:

Adopting the depreciated reproduction cost found by P. E. Harroum, then the hydraulic engineer of this Commission, of-\$ 874,149.43

There is added for under estimate of lands in the reservoir site -----	40,000.00
For under estimate for the reproduction cost of concrete work in the dam -----	17,000.00
For under estimate of present value of the dam itself by reason of attributing to the reservoir a life of only 100 years -----	25,000.00
For what may be called comprehensive going concern value of the applicant's property -----	186,850.00
For value of riparian rights on the 6 or 7 miles of Sweet-water River below the dam -----	85,000.00
For the right to impound storm water -----	25,000.00
Total -----	<u>\$1,252,999.43</u>

Mr. Harroum after deducting certain charges such as the salary of the president who lived out of the State and performed no useful services for the company, and also expenses of the Boston office, found maintenance and operating expenses to be, per annum, \$22,438 and depreciation \$24,989. If, in addition to this, applicant is allowed 6 per cent on its claimed present value, the result would be as follows:

Maintenance and Operation	\$ 22,438
Depreciation	24,989
Interest	<u>75,178</u>
Total charges to be paid by consumers	\$122,605

As the total gross income reported by the company for the year ending December, 1914, is, in round numbers, \$66,000, it will be seen that if applicant's claims are allowed the consumers would have to pay such rates as would produce practically double the amount of income as is now received by the company.

The principal attack of the consumers is made upon the claim of the company to full consideration of the present value of its plant. The consumers claim that the value of this plant was fixed by a sale of this and other property, then in receivership, which sale was made in 1897 for a total price of \$869,163.33, and is contended that the value of the water plant was considered to be one-fourth of this sum or \$222,290.84. Therefore, it is urged

the value which should be allowed applicant is this sale price together with the cost of such additions and betterments as may have been made since.

Furthermore, at the hearing consumers' counsel offered to prove that this water system was built solely for the purpose of making possible the sale of large amounts of land owned by the persons who built the system; that the cost of this water system was added to the price at which the land was sold; that the land was sold for profits aggregating several million dollars, and that this should be considered in passing upon this application.

It appears that this water system was originally constructed by the San Diego Land and Town Company, a Kansas Corporation, which also owned large tracts of land, to irrigate which this system was built. The construction was commenced in 1886 and the plant was operated by this company up to 1895, when the company went into the hands of a receiver who managed the property until the 14th day of June, 1897, when all of the properties of the San Diego Land and Town Company of Kansas were sold by the receiver to a Committee of the Creditors of said company for \$889,163.55. This sale was approved by the Court on July 7, 1897 and thereafter the Committee of Creditors transferred this property to a corporation, organized for that purpose, called San Diego Land and Town Company, organized under the laws of the State of Maine. Thereafter, said last named corporation transferred the present water system to a new corporation, called Sweetwater Water Company, organized under the laws of the State of Maine, which company is applicant herein. The consideration for this last sale was \$1,200,000 par value of the capital stock of the water company.

On October 16, 1897 the Board of Supervisors of San Diego County fixed rates to be charged by San Diego Land and

Town Company of Maine for water furnished by this system. In fixing these rates, the Supervisors found a plant value of \$350,000. An appeal was made to the courts against this rate and the matter finally arrived in the Supreme Court of the United States, where in the case of San Diego Land and Town Company vs. Jasper, 189 U. S. 439, it was held that these rates were not confiscatory. Among other things, the court there states:

"The property of the company and its predecessor consisted not only of the water works but of a large amount of land. On the evidence the water works may be estimated at about a quarter of the total value . . . . The mortgage was foreclosed and all the property was sold . . . for the sum of \$889,163.33. . . . The purchasers organized the present corporation, and the above mentioned sum is the cost of the land and the water works to it. The appellant protests that this is not a fair value for the property of the company. We doubt whether it is not a liberal allowance. The officers of the two companies at the time thought that they got more than they could have got in any other way. But at all events, it is decided that the price is evidence, we might say more evidence than the original cost. (Dow v. Beidleman, 125 U.S. 680.)"

We are urged by counsel for consumers to hold that the decision of this court fixes for all time the value of this property as of the time considered, with the cost of additions and betterments made since. It is not necessary to pass on this contention because, if the value contended for by consumers with additions and betterments made since be taken, the rates herein prescribed are reasonable.

At the hearing the offer of consumers' counsel to produce evidence of the profits made by the builders of this water system in the sale of land was refused by me, and I believe this

ruling should be sustained at this time. To hold that profits made out of the sale of land, where a water system has been built primarily for the purpose of serving such land, should be offset against any value of the water system when it comes to fixing rates, would be to deny the owners of the water system the right of property therein.

Of course, if there had been any conveyance of the water property to the purchasers of land then it should be held that the consumers or land owners owned the system. But there is no evidence in this proceeding of any such conveyance. In fact, the evidence is that the title and possession of Sweetwater Water Company to this system is undisputed by anybody. Therefore, under the law, this Commission must treat the water plant as belonging to applicant, and profits made in a related enterprise cannot be used, in my judgment, to reduce the rates fixed for the service of water.

However, the whole history of this plant should be considered in arriving at rates. I do not believe that under the circumstances disclosed here applicant is entitled to a return upon the full cost or reproduction value of this plant.

In the first place, it is clear from the evidence that the plant was designed and built primarily to produce water to lands owned by its builders, and as a result of this, the distribution system was extended considerably beyond where it would have been if the system was designed only to serve consumers other than purchasers of land from these promoters.

Having built the system and carried it completely over their land holdings, the promoters sold parcels of land from time to time and we find present consumers who were purchasers of this land scattered over this system. Hence the consumers are not reasonably compact but are widely scattered, resulting in some instances in pipes being maintained for long distances without intermediate use, in order to serve consumers at the ends thereof.

Of course, it cannot now be stated that a considerable portion of these pipes are not used and useful because a main pipe line with one consumer on the end, strictly speaking, would be useful for his purpose. But, on the other hand, I believe it fair to all concerned to consider this condition in determining the matter of rates.

It is evident that applicant has justified an increase in rates, and I recommend an increase, not only in justice to the company, but also to make it possible to produce and maintain good service to the consumers.

Under existing rates I do not believe there is any inducement for the company to produce good service, and while the present manager is credited by consumers with being fair and efficient, it is apparent that the present service cannot be bettered, or perhaps even maintained at its present standard unless the revenue is increased.

The evidence herein shows that at times there has been a shortage of water and at other times conditions creating great doubt as to the sufficiency of the supply. It would, of course, be of great benefit to the consumers to have their supply of water put beyond doubt and while the evidence in this case does not justify a conclusion as to the best means of bringing this about, the company may be able to devise a plan whereby the water supply may be increased or safeguarded. If such a plan is put into effect the Commission may properly give consideration to a revision of the rates in view of the better service provided.

In fixing rates herein a conclusion has been reached as to reasonable rates which might be charged over the whole system and these rates have been applied to the territory affected by this decision.



The rates set out in the following order are made uniform and meters and service connections are to be installed at the expense of the company. Meters to be installed at the option of the company or the consumer.

Herewith a form of order:

O R D E R

Application having been made by Sweetwater Water Company for an order authorizing it to increase its rates and charges for water served consumers, and a public hearing having been had and the matter being submitted for the consideration of the Commission,

IT IS HEREBY FOUND AS A FACT by the Railroad Commission of the State of California that the rates now charged by Sweetwater Water Company for the service of water to its consumers outside National City and Chula Vista are unjust and unreasonable wherein they differ from the rates hereinafter found to be just and reasonable rates.

IT IS HEREBY FURTHER FOUND AS A FACT that the following rates are just and reasonable rates to be charged by Sweetwater Water Company for water served its consumers outside of National City and Chula Vista, to-wit:

For 400 cu. ft. or less per month \$1.00  
The next 1600 cu. ft. 15¢ per 100 cu. ft.  
All use for irrigation purposes above  
2000 cu. ft. 2¢ per 100 cu. ft.  
All use other than irrigation above 2000  
cu. ft. 7½¢ per 100 cu. ft.

Meters to be installed at the option of  
either the company or the consumer.

Meters and service connections to be in-  
stalled at the expense of the company.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that Sweetwater Water Company be allowed to put into effect on November 1, 1915, the rates herein just above found to be reasonable. The present flat rates to be continued as they now are, provided that prior to November 1, 1915, Sweetwater Water Company shall file with this Commission a schedule embodying the rates herein authorized.

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 2nd day of October, 1915.

*Mary Thelen*  
*H. H. [unclear]*  
*Edwin O. Edgerton*  
*Frank R. [unclear]*

Commissioners.