

ORIGINAL

Decision No.       

Decision No. 3134

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application of the Citizens Water Company of San Jacinto, a corporation, to change and increase its rates for water ser- vice.	}	Application No. 994
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McFarland and Irving for applicant.  
 C. C. Haskell for protestants.  
 H. S. Dukes for J. P. and Mary E. Perrine.  
 Frank Snyder for the San Jacinto Land Company.  
 Goudge, Williams, Chandler and Hughes for  
 the bondholders.

EDGERTON, Commissioner:

O P I N I O N

Applicant asks in this proceeding that its rates for water be substantially increased.

Some of the consumers appeared by counsel, and introduced evidence and filed briefs seeking to show that the increase in rates should not be permitted.

Counsel for some of the consumers argue that applicant is not a public utility, and, therefore, not under the jurisdiction of the Commission, while counsel for other consumers argue that applicant is a public utility. Applicant's counsel insist that it is a public utility.

The Commission has so frequently announced its conclusions as to its jurisdiction in this class of cases that it is useless to review the entire subject here.

It is a fact that applicant does now, and for years past has, served water to consumers other than its stockholders

and has received for such service compensation in money. Section 23 of Article XII of the Constitution of California, as amended on October 10, 1911, provides, in part, that

"Every private corporation, and every individual or association of individuals, owning, operating, managing or controlling . . . any plant or equipment within this state . . . for the production, generation, transmission, delivery or furnishing of heat, light, water or power . . . either directly or indirectly to or for the public . . . is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the Legislature . . . . . The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities in the State of California, and to fix the rates to be charged for commodities furnished or service rendered by public utilities as shall be conferred upon it by the Legislature, and the right of the Legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provisions of this Constitution."

Under the authority of the Constitution, the Legislature has, in the Public Utilities Act, given full power to the Railroad Commission to regulate water companies such as applicant is clearly shown to be.

Objection is made by some consumers to the fixing of rates by this Commission because the charges now made for water are based on the provisions of two classes of so-called water certificates, Class "A" and Class "B". In Class "A" the charge is less than in Class "B", and the argument is made by protestant consumers that this Commission has no power to impair the obligations of these certificates, which they insist are contracts.

This matter, also, has been so thoroughly discussed by the Commission, in opinions rendered in the past, that I will only refer to Decision 536, application of Murray and Fletcher,

Vol. 2, page 464, Opinions and Orders of the Railroad Commission.

In that proceeding full consideration was given to the law with relation to the power of the Commission to fix rates and prescribe service, regardless of the existence of contracts in which service or rates were fixed and agreed upon, and it was determined, after mature consideration, that the law clearly gave this Commission <sup>authority</sup> to fix rates and prescribe service for public utilities, regardless of the fact that contracts were outstanding in which service and rates, or either, were fixed.

Of course, it does not follow that this Commission must fix rates different than those in contracts, but it is obvious that where under different contracts different rates are prescribed uniformity is impossible unless the Commission disregards at least some of the contracts and fixes a common level of rates.

In this proceeding I see no equity in permitting a lower rate to be received by Class "A" certificate holders as compared with Class "B" certificate holders. The mere fact that Class "A" certificates were purchased prior to the purchase of the Class "B" certificates does not appeal to this Commission as sound reason for permitting them to retain an advantage in the price of water. All certificate holders are getting the same quality of service and there is nothing in the evidence to indicate that any difference in price should be made for this service.

Applicant owns and operates a water system in the San Jacinto Valley in the County of Riverside, and irrigates lands in the neighborhood of the town of San Jacinto and in and about a community called Fruitvale. The water is obtained by gravity flow and pumping from the San Jacinto River and what is called the Cieneja.

The present rates for water are:

Under "A" Certificates.

\$3.00 for 1/5 of a miner's inch continuous flow per certificate from March 14th to October 16th.  
 Extra water 10 cents per miner's inch day.  
 Winter water 5 cents per miner's inch day.

Under "B" Certificates.

\$3.00 for 1/7 of a miner's inch continuous flow per certificate from March 14th to October 16th.  
 Extra water 10 cents per miner's inch day.  
 Winter water 5 cents per miner's inch day.

Applicant proposes the following rates:

From March 15 to April 15	- -	7 $\frac{1}{2}$	per miner's inch day.
" April 15 " May 15	- -	10	" " " "
" May 15 " June 15	- -	12 $\frac{1}{2}$	" " " "
" June 15 " July 15	- -	15	" " " "
" July 15 " Aug. 15	- -	17 $\frac{1}{2}$	" " " "
" Aug. 15 " Sept. 15	- -	20	" " " "
" Sept. 15 " Oct. 15	- -	20	" " " "
Winter Water	- - - - -	5	" " " "

The engineers of the Railroad Commission propose the following rates:

Minimum- \$3.00 for each 1/7 of a miner's inch continuous flow, payable on or before March 15th of each year.

For water used between March 15 and June 15	- - - - -	\$.10	per miner's inch day
For water used between June 15 and October 15	- - - - -	.17 $\frac{1}{2}$	" " " "
For water used the remainder of year	- - - - -	.05	" " " "

Appraisals were submitted by Mr. C. C. Brown for the consumers, Mr. Kingsbury Sanborn for the water company, and by the engineers of the Commission.

A comparative tabulation of the appraisal of the physical properties, including real estate, but not including water rights or intangibles follows:

	Sanborn for Water Co.	Brown for consumers.	Commission's engineers.
Estimated cost new	None shown	\$56045	\$153283
Straight line annual depreciation	None shown	1698	4824
Cost less depreciation	\$185045	47940	122707

The Commission's engineers submitted in their report  
 1916  
 the probable/maintenance and operation expenses based upon the  
 cost of pumping for 1914 and the labor expenses during 1915, as  
 follows:

Expense Operating - - - - -	\$ 1629
Repairs to Operating Capital - - - - -	549
Distribution System Labor & Expense - - - - -	1385
Collection & Promotion of Business - - - - -	60
Repairs to Distribution Capital - - - - -	458
General Expense - - - - -	2400
*Legal & Extraordinary Expense (Not included in General Expense) - - - - -	500
Total - - - - -	\$ 6981

\*Estimated

The M. and O. expense submitted by the Commission's  
 engineers includes an item of \$554, which is the cost of operat-  
 ing the Midway Ranch Pumping Plant, which plant supplies water  
 to lands on a higher elevation than the ditch. Applicant asks  
 for an additional rate of 11 cents per miner's inch day for the  
 cost of this additional service. The cost of this pumping  
 during 1915, as shown by the books of the company, is \$.112 per  
 miner's inch day.

I believe that the service of water to all land above  
 the level of the ditch should bear an additional charge of 11  
 cents to compensate for the additional cost of the service, and  
 shall so recommend.

I am not inclined in this proceeding to adopt Mr. Brown's  
 determination of value because he has arbitrarily excluded com-  
 plete sections of pipe in some instances, and in others, has cut  
 down the size of the pipe to what he considers a proper basis and  
 then expressed his opinion as to the value of the remainder.

On the other hand, the engineers of the Commission have  
 carefully considered the plant as it exists and have expressed the  
 opinion that present consumers should be charged with only about

one-third of the present value of the existing plant. And, adopting this latter method with the estimates of the Commission's engineers, we arrive at a figure of \$40,902.

Using the figures of the Commission's engineers, therefore, we get the following:

Maintenance and Operation - - - - -	\$ 6427.00
Annual Depreciation - - - - -	1608.00
Interest of 6% on cost less depreciation - - - - -	<u>2454.00</u>
Total - - - - -	\$10489.00

The gross income appearing on the books of the company for 1915, is \$12312, but this money has not all been collected as a considerable portion of it is in controversy in the courts. The rates suggested by applicant would produce about \$10,100 annually, which, it will be noted, is very close to the gross annual charges suggested by our engineers. It would appear that the company's proposed rates would result in cutting their gross revenue, but the fact is that the apparent gross revenue has not been realized, as the practice has been to attempt to collect rates on all certificates whether water was used or not, and this and other matters have caused controversies resulting in actions in the courts, and the applicant has been unable to collect part of its revenue.

Under the rates proposed by applicant or the rates recommended hereinafter by me, payment would be made only for water used, and this should dispose of much controversy and litigation.

It is apparent that under any reasonable consideration of values, the applicant is entitled to the increase in rates asked for, but the schedule of rates proposed with a different rate for each month, would, in my judgment, cause much annoyance and controversy.

I shall, therefore, recommend a schedule of rates which will produce gross income equal to that asked for by applicant, but which spreads the rates somewhat differently.

I shall set out no rules or regulations herein, but suggest that the company submit for our approval a complete set of rules and regulations governing service:

Herewith a form of order:

### O R D E R

Application having been made by Citizens Water Company of San Jacinto for authority to change and increase its rates for water, and a public hearing having been had and the Commission being fully apprised in the premises,

IT IS HEREBY FOUND AS A FACT that applicant is a public utility water company, serving consumers with water for irrigation purposes for profit and compensation.

IT IS HEREBY FURTHER FOUND AS A FACT that the present rates of applicant for such water service are unreasonable and unremunerative, and that the rates set out in this order are just and reasonable rates to be charged by applicant for service of water to all of its consumers.

Basing its order on 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 Citizens Water Company of San Jacinto is hereby authorized to put in effect on March 15, 1916, the following schedule of rates:

Minimum - - \$3.00 for each 1/7 of a miner's inch continuous flow, payable on or before March 15th of each year.

For water used between March 15 and June 15 - - - - - \$.10 per miner's inch day.

For water used between June 15 and October 15 - - - - - .17½ " " " "

For water used the remainder of the year - - - - - .05 " " " "

For all water furnished to lands above the level of the ditch to which applicant pumps water, 11 cents per miner's inch day in addition to the rates hereinabove established.

Applicant shall, within thirty days from the date of this order, submit for the approval of this Commission proposed rules and regulations governing the service of water to its consumers.

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 29<sup>th</sup> day of February, 1916.

Max Shelton

A. Stoveland

Edwin O. Edgerton

Frank R. DeWitt

Commissioners