

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
the City of Los Angeles and the Board
of Public Service Commissioners of the
City of Los Angeles that the Railroad
Commission fix and determine the com-
pensation to be paid the Southern
California Edison Company for its
electrical distributing system.

ORIGINAL
Application No. 1424

BY THE COMMISSION

OPINION ON PETITION FOR REHEARING

The City of Los Angeles and the Board of Public Service Commissioners, petitioners in the above entitled proceeding, have filed their petition asking for a rehearing on Decision No. 3625, made and filed herein on September 6, 1916, fixing and determining the just compensation to be paid by petitioners for certain property of Southern California Edison Company.

We believe that we have the right to expect that petitions for rehearing on decisions of the Railroad Commission will be filed in a spirit of helpfulness and for the purpose of aiding the Railroad Commission, by specific reference to the testimony and to the authorities bearing thereon, to determine whether or not an error has been made. The petition for rehearing herein is not of this character.

The petition herein consists principally of mere general allegations expressing petitioners' views, with only a casual reference to three decisions which were fully considered by the Railroad Commission in its decision herein, and without a single reference to any portion of the transcript.

Petitioners' allegation that the Railroad Commission took no account of depreciation is directly contrary to the facts, as appears from the face of the opinion herein.

Petitioners' comparison between the reports of the engineers with reference to the cost to reproduce the physical

property now less depreciation and the sum fixed by the Railroad Commission as the just compensation to be paid for the property to be taken is incomplete and misleading, for the reason that it confuses physical property with the property as a whole, viewed as a going concern.

Petitioners' declaration that the Railroad Commission's decision in the Town of Antioch case "is contrary to law" is of no moment, in view of the fact that both parties to the case accepted the Railroad Commission's decision and that the decision is abundantly supported by the authorities.

Petitioners' declaration that the sum of \$4,750,000.00 fixed by the Railroad Commission as the just compensation to be paid for the property to be taken includes "a substantial allowance for capitalization of future earnings" is contrary to the facts, as shown by the face of the opinion herein.

On the vitally important question of severance damages, the petition presents simply a number of general allegations, without a single reference to the transcript or the citation of a single authority.

Other portions of the petition, which are based on sentences plucked out of their context and even parts of sentences ^{in the opinion herein} ~~quoted~~ as though they were entire sentences, without reference to the remaining portions of the sentences, do not merit consideration from this Commission.

In rendering its decision of September 6, 1916, the Railroad Commission gave full, careful and detailed consideration to all material matters set forth in the petition for rehearing herein. The decision was based on a careful and painstaking review of the entire evidence and all the exhibits and on a study of all the decided cases which seemed to have any bearing on the issues presented. We are satisfied that the decision thus rendered was fair and just both to the City of Los Angeles and to

Southern California Edison Company.

We find that there is no merit in the petition for rehearing and that no good reason appears why a rehearing should be held.

The petition for rehearing should be denied.

ORDER ON PETITION FOR REHEARING.

The City of Los Angeles and the Board of Public Service Commissioners of the City of Los Angeles having filed a petition for rehearing in the above entitled proceeding on Decision No. 3265, made and filed on September 6, 1916, and careful consideration having been given to the same, and no good reason appearing why a rehearing should be had,

IT IS HEREBY ORDERED that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 11^E day of October, 1916.

Max Thelen

W. H. Shoveland

Elmer Gordon

Frank R. Deane

Commissioners.

DISSENTING OPINION.

Edgerton. Commissioner.

I dissent from the order denying a rehearing herein,

as I believe this whole matter should be completely reviewed after a hearing at which all parties could be heard.

After further consideration, I am convinced that the opinion and order of the majority, a review of which has just been refused, is not based upon a true conception of the law, the facts or sound economics.

To me it seems simple and clear that the function of the Commission is to put a price upon that which the City actually receives, to-wit, a physical plant with business attached. It is admitted that physical plant has depreciated, and to refuse to deduct depreciation from the value of the plant is to put a price upon plant, a part of which does not exist, to-wit, that part which has been eliminated by depreciation. No method of arriving at the price to be fixed for public utilities properties in condemnation proceedings has been proposed which so nearly approximates true conditions as that whereby the cost to reproduce is determined, and then a sum deducted which represents accrued depreciation, and the enhancement or increase of this figure to an amount which includes the value of business attached to the plant.

To measure the price of plant by investment is to inject into the determination an utterly false quantity. It is obvious that the amount which may have been invested in the enterprise is no measure of either the quantity of plant now existing, or its present value.

As to severance damage, I wish to point out that a majority of the Commission must have based its conclusion upon two principal assumptions, one, that this Company will continue to make approximate present profits if allowed to retain the part of the plant desired by the City of Los Angeles, and two, that the City is responsible for, and must compensate the Company in,

a sum representing a calculated loss of profits through the operation of the plant remaining to the Company outside of Los Angeles City.

The objections to these two assumptions to me are patent. To make the City pay for loss of profits on plant not to be taken, is to at once relieve the Company from all of the risks of the business, which it and every public utility company in California faces, and to at once place the Company in a position where it is protected in advance against competition either by public or by private concerns, and against all of the risks of changes in methods of production and distribution of electric current.

A perhaps more serious and vital objection is that obvious and known conditions are disregarded. No account, for instance, is taken of the probability of some arrangement being necessary between the City and the Company after severance whereby the City will absorb all or the major part of the surplus supply of electric current produced by the Company. Obviously a price could be paid for this surplus power used by the City which would keep the Company in an excellent earning position, and do away with all or the larger part of damage caused by severance. Furthermore, the possibilities in consolidation of this Company with other companies are overlooked. It may very well be that the result of a consolidation of Southern California Edison Company with other power companies after severance would result in such a re-adjustment of the load and diversity factors as to eliminate damage.

I cite these possible conditions to illustrate the absurdity of determining in advance that certain loss of profits will occur.

To urge that none of these things can be taken into

consideration by the Commission in a proceeding of this kind, is to say that the Railroad Commission of California must thrust its head into the sands and thus blind itself to actualities. Surely it cannot successfully be argued that a body constituted as the Railroad Commission is under the Public Utilities Act, must proceed by excluding from its consideration vital and important factors universally known to exist.

Edwin O. Edgerton
Commissioner.