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Decision No. _____.

ORIGINAL

Decision No. 13376-

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

Henry J. Gremenger,

Complainant,

v.

The Diamond Ridge Ditches,

Defendant.

Case No. 994.

BY THE COMMISSION.

OPINION ON PETITION
FOR REHEARING

The Commission in this proceeding filed its Opinion and Order on the twenty-second day of March, 1917, in which it provided that service be restored to certain consumers of defendant along an old unused lateral which formerly supplied complainant and other consumers in that vicinity. The testimony at the hearing showed that service had in the year 1912 been withdrawn from this lateral and the Commission's engi-

neers estimated that in order to restore this service it would be necessary to lay a twelve inch riveted steel pipe at a cost of \$374. The order provided that of this cost \$60. should be advanced by the consumers. In addition thereto the order provided that the cost of cleaning the ditch, which was estimated at \$140, should also be advanced by the consumers, making a total to be advanced by them of the sum of \$200.

Subsequent to the effective date of the order, the defendant herein filed its petition for rehearing, in which it specified the following grounds for rehearing:

1. That the sum of \$200, hereinabove referred to, was premised on an estimate that the cost of cleaning the ditch, repairing the flumes and constructing pipeline would not exceed in all \$539, of which total the twelve inch riveted steel pipe constructed would cost but \$374. as was estimated, in which figures of said estimate defendant submits there is error. Petitioner claims that the pipe itself will cost at San Francisco not less than \$456.84.

2. That it would be just and equitable that the water users should advance one-half of the sum of \$950.84 (the same being the total expense necessary for the first season, as estimated by defendant in its application for rehearing) and that the defendant should also be allowed the annual operating expense on the sum so invested in such reconstruction and rehabil-

itation of such lateral service.

Addressing ourselves to the first point made by defendant in its petition for rehearing, we desire to call attention to the fact that in the original order but \$60. of the \$200. to be advanced by the consumers was allowed on account of the relaying of pipe to take the place of the former siphon which was installed for the purpose of serving the lateral in question. The Commission's engineers' estimate of this pipe is \$374. Defendant in its application for rehearing recites that the actual cost thereof under present prices would be \$456, or a difference of \$82. between the two figures. Since the original order only contemplated that of the \$200, \$60. was to be contributed towards the restoration of this pipe, it may be said that the order of the Commission contemplated only that the consumers should contribute thirteen per cent. of the cost of that pipe. The difference, therefore, to the company between the original order and the allowance sought by them for this pipe would amount to \$10.66. Small as this difference may seem, we believe that the difference may be obviated by permitting defendant in lieu of the twelve inch riveted steel pipe to use cement pipe, wood stave pipe, or greater length of flume construction of such size as will carry the equivalent in amount of water of the pipe ordered to be installed in the original order. This we ^{shall} ~~will~~ allow in our order.

2. With defendant's contention that it is but just and equitable that the water users served by the lateral in question herein should advance one-half of the cost of restoring that service we can not agree. The conditions surrounding the company in that particular are as follows:

After the effective date of the Public Utilities Act, and without any order of this Commission, the defendant company herein abandoned service along the ditch which served the consumers in this case.

They withdrew from this lateral a large siphon and certain pipe and placed the same elsewhere in their system. The reason for abandoning the service was given by the company as being because they were unable to get an estimate of the water which was to be used during the season of 1912. This lateral was a part of the general system of the Diamond Ridge Ditch Company. It was so called "lean" territory and was not producing revenue comparable to that produced on the main ditch.

The consumers along that ditch were entitled to the service and that service has been illegally withdrawn from them. If the company's system as a whole was not, or is not, producing revenue sufficient to pay a reasonable return upon their investment and the other charges in connection with the service, its remedy was to apply to this Commission for an increase in rates. We believe that the Commission has been very

liberal indeed in ordering any contribution whatsoever upon the part of the consumers for the restoring of the service which was rightfully theirs. The reasons for so doing were given in the original opinion and it is unnecessary to repeat them here.

There is no merit in petitioner's second point.

O R D E R

Application having been made by the defendant, DIAMOND RIDGE DITCHES, for rehearing and modification of the order of March 22, 1917, in this proceeding and careful consideration having been given to the same,

IT IS HEREBY ORDERED that the paragraph in said order of March 22, 1917, herein, which is as follows, to wit:

"IT IS HEREBY ORDERED by the Railroad Commission of the State of California that The Diamond Ridge Ditches do accept from consumers deposits to the amount of Two Hundred (\$200.) Dollars, if such deposits are offered to defendant, and shall within a period of fifteen (15) days from the acceptance of such deposits begin work on cleaning the ditch, repairing flumes and building the pipe line and rapidly push same to completion."

be, and the same is hereby, altered to read as follows:

"IT IS HEREBY ORDERED that the Diamond Ridge Ditches do accept from consumers deposits to the amount of Two Hundred (\$200.) Dollars if such deposits are offered to defendant, and shall, within a period of fifteen days from the acceptance of such deposits, begin work on cleaning the ditch referred to in the Opinion herein, preparing flumes and building the pipe line and rapidly push the same to completion; it being understood that for the purpose of restoring this service to the consumers herein defendant be permitted, in lieu of the twelve inch riveted steel pipe referred to in the Opinion hereinabove, to use cement pipe, wood stave pipe or greater length of flume construction of such size as will carry the equivalent in amount of water of the pipe referred to in said Opinion."

IT IS FURTHER ORDERED that in all other respects the petition of Diamond Ridge Ditches for rehearing be, and the same is hereby, denied.

Dated at San Francisco, California, this 21st day of May, 1917.

Max Thelen

A. D. Howard

Edwin O. Edgerton

James R. Brown

Commissioners.