Decision No. 5944

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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| In the matter of the application of J. Benton Van Nuys, Kate Van Nuys Page, and Annis Van Nuys Schweppe, a co-partnership, doing business under the name of Van Nuys Water System, for increase of water rates of said system. | Application No. 3303 |

Oscar C. Mueller for applicant

H. S. Farrell for City of San Gabriel.

LOVELAND, Commissioner:

OPINION ON PETITION FOR REHEARING

Applicant and petitioner herein filed a petition with this Commission on March 2, 1918 asking that Decision 5093, made in the above entitled proceeding on February 2, 1918, be modified or that a rehearing be granted.

Evidence was submitted at a public hearing held in Los Angeles on March 30, 1918 on the question whether a rehearing should be granted. It was stipulated at the hearing that if the Railroad Commission should be of the opinion that a rehearing should be granted, the evidence presented would be the evidence on such rehearing.

Petitioners contend that the order of the Commission is in error, first, in not finding a separate value for real estate and second, in the amount included for that item and, third, in not including 5 acres of land as the area used and useful and, fourth, that an amount less than the value of the land for its water production use was included in the value of the system established.

Evidence was submitted at the hearing to show that certain items of plant which this Commission eliminated



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as not used and useful from the rate base, should be included.

It has been held, in numerous cases, by the courts and by this Commission that the value of the utility property under consideration must be found as an inclusive amount and that the separation of the elements making up the total cannot be made a requirement.

However, a synoposis of the evidence presented as to the value of real estate was included in the opinion and order heretofore rendered. The value of the real estate in question in only approximately 3% of the total value of the plant. If all the various items not exceeding this in importance were discussed and separate findings made, it would lead to useless refinement. This Commission desires to clearly set out in each instance the elements of value going to make up the total, and in this instance it is apparent from previous discussion that the sum of $5,000 was included for real estate used for the convenience of the public.

The evidence submitted of the value of real estate is not conclusive, one witness having testified as to its agricultural value only, another as to its agricultural value plus its value for subdivision purposes plus what he termed its strategic value because of its water bearing properties and still another as to its value without considering its uses as a water producer. Mr. Edwin G. Hart testified for applicants, stating that in his opinion all land bordering on Huntington Drive and from there north and as far east as San Gabriel Boulevard had a value of $2500 per acre. This estimate he later qualified by stating that the land in question did not front on Huntington Drive, which would detract from its value. Mr. R. W. Hawley, Hydraulic Engineer of this Commission, testified that the Commission had found

in a previous proceeding a value of $1175 per acre for similar adjacent lands. Counsel for applicants is here contending, in effect, that this land has certain values for agricultural, residential and water production uses and that its value for the combined uses is the sum of these elements. This, I believe, is manifestly and fundamentally wrong for assuredly if land has a value of say $1500 per acre for agricultural purposes, to pay $4000 per acre for it because of the fact that its value for all of the various uses to which it may be put total that sum would be absurd. After having carefully considered all the evidence on land values, I am still of the opinion that the sum included in Decision No. 5093 is fair.

It is contended by applicant that all of its wells and equipment are used for the convenience of its consumers. This Commission held in its decision that two of the plants of this company are unnecessary for the service rendered and their value should not be included in the rate base. Mr. George A. Damon, engineer testifying for applicant, stated that not more than one of the plants of those excluded by the Commission could be justified as a reserve. The records of draft and capacity of pumps show that one of the plants now in use, namely #65, could alone produce a sufficient quantity of water to meet the draft except during the maximum month and that during maximum month it could, in conjunction with plant $127, and the quantity available in storage, furnish an adequate quantity of water to meet not only the maximum draft but also any emergency that might reasonably occur. The value of the above-mentioned plants is included in the rate base. The wells and pumps excluded, and the tunnel connecting them with the reservoir, have been in service for many years and have been superseded by others which produce not only larger

quantities of water but also are operating more efficiently, thus they have become fully depreciated due not only to physical depreciation but also to obsolescence and are continuing in operation solely because in place. However these wells and equipment have a service value because water flows from them by gravity into the reservoir during the rainy season when the ground water level is high, thus effecting a saving in cost of pumping. The sum of $5870. was included in the value fixed in the decision heretofore rendered as the service value of this equipment. The annuity established includes an allowance for obsolescence and thus if the value of this equipment is included it would be duplication and the utility would receive more than it is justly entitled.

It is hereby found as a fact that the equipment above referred to is unnecessary for the service of consumers and is obsolete and that its value, except as to its service value be eliminated from the rate base.

It was contended by counsel for the City of San Gabriel that the rate of $25 per month for the fire service rendered is, in his opinion, too high and he asks that a lesser rate be established. Evidence was produced by him of rates for fire service in nearby communities, in each of which communities, however, the plants were municipally owned and consequently not comparablewith the plant in question. A charge for fire protection does not necessarily vary with the quantity of water used for this purpose but rather with the amount of protection afforded. The Wisconsin Railroad Commission has determined, after detailed investigation, that from 25% to 75% of a water system is properly chargeable to fire protection. This Commission has held in a number of instances that rates

higher than those established herein are reasonable. I am of the opinion that the charge established for this service is equitable and should be continued in effect.

I shall recommend that the petition for rehearing be denied and suggest the following form of order:

## O R D E R

J. BENTON VAN NUYS, KATE VAN NUYS PAGE and ANNIS VAN NUYS SCHWEPPE, a co-partnership, doing business under the firm name of VAN NUYS WATER SYSTEM, having filed its application for a rehearing herein and a public hearing having been held and the matter having been submitted,

IT IS HEREBY ORDERED that the said application be and the same is hereby denied.

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 11th day of October, 1918.

Edwin O. Edgerton

H. D. Loveland

Alex Gordon

Commissioners.