

Decision No. 6274

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the EAST SIDE CANAL AND IRRIGA-)
TION COMPANY, a corporation, for)
authority to increase rates.)

Application No. 4135.

ORIGINAL

James F. Peck and McWilliams & Hatfield,
by R. L. McWilliams, for Applicant.

L. L. Dennett for certain consumers.

J. D. Niman, in his own behalf.

BY THE COMMISSION.

OPINION

This is the petition of East Side Canal and Irrigation Company for an increase of rates over the rates at present in effect, which were established by this Commission on March 31, 1914.

Hearings in this proceeding were conducted by Examiner Encell at Newman on October 21, 1918 and at San Francisco on February 10, 1919.

The rate at present charged by applicant is \$1.00 per acre per year for water furnished to consumers at the banks of the main East Side Canal and Collier Extension and transported by consumers through lateral systems to their lands. The company prays that this rate be increased to \$2.00 per acre per annum.

The petition recites that the applicant served some 9600 acres of land during the year 1917, and Exhibit "C" of applicant discloses that this acreage was increased to 10,006 during the year 1918.

It is claimed by applicant that the operating expense during 1917 was \$12,894^{and} for the first nine months of 1918, \$7,234, and that the total income collected on account of these years' operation is respectively \$9,841 for 1917 and \$10,486 for 1918.

Applicant contends that a fair allowance for maintenance and operation expense for 1919 is \$17,323, and that this sum should be included in the annual charges.

The annual depreciation of the property of the company at the time of the establishment of rates by this Commission was estimated at \$1,050. The company asks that \$79.00 additional for property, added since the time of the former rate establishment, be included in the depreciation allowance.

In addition to the foregoing, it is asked that interest at the rate of 6% per annum be provided on an investment of \$117,923. The aggregate annual charges indicated by the company total \$25,528. Assuming that the acreage watered will remain the same as in 1918, the granting of this application would provide returns amounting to \$20,012.

All previous actions involving this company and its public utility property have been made of record in this proceeding, and we will review briefly the points covered in former hearings and decisions of the Commission.

The affairs of this company were first brought to the attention of this Commission by complaint of W. D. Adams, filed during 1912. Preliminary hearing in this matter made it apparent that the entire matter of rates and practices of the company must necessarily be given consideration for determination of the Adams complaint, and the Commission initiated proceedings under Case No. 309. This was decided March 31, 1914, the Commission finding the company entitled to annual charges as follows:

Maintenance and Operation.....	\$9,300
Annual Depreciation.....	1,050
Interest at 6% on \$110,000.....	5,600
	<u>\$16,950</u>

It was noted in passing upon the property that the irrigating plant was built of sufficient size to irrigate 50,000 acres and had been put to use for the irrigation of only 11,000 acres, and that, therefore, it would be unjust to charge against the then consumers all of the capital expenditure. Certain rules and regulations were provided. At the time it was considered possible that the laterals might be considered the property of the public utility and the alternative rate of \$1.50 per acre was to be established, provided the utility was determined to be owner and should operate the lateral system.

The records show that there has been, since the time of the decision above referred to, much complaint against the public utility alleging inadequate service and discriminatory practice in the distribution of water. This culminated in a formal complaint by the Stevinson Water Users Association, John D. Carlson and J. E. Mount, against both the applicant herein and James J. Stevinson, a corporation. In its Decision No. 4222, dated March 31, 1917, the Commission found that it did not have jurisdiction over James J. Stevinson, a corporation, and directed that the East Side Canal and Irrigation Company proceed to remove sand and other foreign material obstructing its main canal, this having been the principal relief asked by complainants. As the record in this proceeding shows, the East Side Canal and Irrigation Company failed to fulfill the order of the Commission even though there were further formal hearings and supplemental orders directing further and more specifically that the obstruction should be removed.

At the first hearing under this application, the Hydraulic Engineer of the Commission and protestants made reference to the

failure of the company to fulfill the Commission's orders and to operate in accordance with the rules and regulations established by the Commission, and stated that no increase of rates should be authorized until the company had complied fully with the Commission's orders or satisfied the Commission that the proper measures would be taken. At the most recent hearing it was established by applicant that a dredge had been purchased and was being installed in applicant's main canal; that an experienced dredge man had been employed, and that this equipment would be kept in service until the canal was in proper condition. This appears sufficient warrant that the company will now be enabled to provide as adequate service as conditions permit.

Objection was made at the hearing to certain items of operating expense claimed by applicant, and it was set forth that the sum reported as the expense for 1918 included certain expenses which are not recurrent annually, and a portion of which should be charged to capital. Among these are the expenses for extensive repairs and construction of the so-called Sand Slough Waste Gates. The thorough cleaning of the canals which was made necessary by failure to adequately clean and repair in previous years, necessitated a much larger expenditure during 1918 than will occur in 1919 or the average year thereafter.

By carefully considering all the evidence in regard to maintenance and operating expense, and the operation of applicant's system, it appears unnecessary to employ an assistant superintendent or to allow a greater sum than \$1,200 for manager's salary, in view of the fact that only a relatively small portion of the manager's time is required by his duties to this utility.

An analysis of the operating expenses and depreciation shows that a total of \$13,840 is reasonable for this item.

It appears that if the area irrigated remains the same as that irrigated in 1918, the requested rate will produce \$20,012. Deducting the above annual charges from this sum, we find that the remainder of the income will produce interest on \$106,200 at 6 per cent. It appears, therefore, that the rate asked by the company is warranted.

It is claimed by protestants that the payment of \$25.00 per annum was made by the majority of the present consumers when the land was purchased from James J. Stevinson, Inc., and that this payment was additional to that for land and was actually payment for a so-called water right which protestants urge should now be considered as establishing an equity in the utility's system.

As before stated by the Commission, we find it impossible to discern proof that payments were made and can be considered as requested by protestants, and suggest that this is a matter for the courts to determine, rather than for this Commission.

We will authorize this increased rate with the proviso that the requirements for betterment of facilities, as set out in Decision No. 5103 in Case No. 855, are completed and the canal system operated in accordance with the prescribed rules and

regulations. If this is not done, we will require that applicant return to its consumers any payment by them in excess of \$1.00 per acre per annum.

ORDER

East Side Canal and Irrigation Company having applied to the Railroad Commission for authority to increase its rates, hearings having been held, the matter having been submitted and being now ready for decision,

IT IS HEREBY FOUND AS A FACT by the Railroad Commission of the State of California that the existing rate is unjust and unreasonable in so far as it differs from the rate herein established and that the rate set forth in this order is just and reasonable.

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

IT IS HEREBY ORDERED that the East Side Canal and Irrigation Company be and it is hereby authorized to charge and collect \$2.00 per acre per annum for water delivered for irrigation of lands at turnouts provided along the banks of its main canal and the Collier Extension of same.

IT IS HEREBY FURTHER ORDERED that the East Side Canal and Irrigation Company shall distribute equitably among its consumers the available supply of water, and if the supply available is not sufficient to meet all demands of consumers, it shall be distributed proportionately in continuous flow or rotation.

IT IS HEREBY FURTHER ORDERED that in case the applicant herein fails to clear its canal of obstructions or to distribute water equitably, it shall rebate to water users \$1.00 per acre, determination on this point being subject to review by the Railroad Commission.

Dated at San Francisco, California, this 17th
day of April, 1919.

Edwin O. Edgerton

H. A. Loveland

H. A. Brundage

James Martin
Commissioners.