

ORIGINAL
Decision No. 660

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
LAWSDALE LAND AND WATER COMPANY to
purchase the water system of Lawndale
Water Company; to issue stock; to mort-
gage its property; to issue bonds; and
to change its rates from a flat basis
to a meter basis; and of LAWSDALE WATER
COMPANY to sell its water system.

Applications Nos.
370 and 426.

Bert Campbell and Hartley Shaw, for Lawndale
Land and Water Company;
T.K. Kase, for water users.

LOVELAND, Commissioner.

O P I N I O N.

This is an application by Lawndale Land and Water Com-
pany for authority to purchase the water system of Lawndale Water
Company; to issue 1,500 shares of its capital stock of the par
value of \$100.00 each; to mortgage its property to secure a bond-
ed indebtedness; to issue sufficient bonds to raise \$40,000.00 to
pay existing obligations and to provide for extensions of its wa-
ter system; for authority to change from a flat rate basis to a
meter basis; and by Lawndale Water Company to sell its water sys-
tem to Lawndale Land and Water Company.

Lawndale Land and Water Company was incorporated on May
17th, 1912, nearly two months subsequent to the effective date of
the Public Utilities Act. In the face of the Public Utilities Act,
however, the company proceeded to take over by purchase the Lawndale
Water Company and to issue its stock to the amount of \$150,000.,
consisting of 1,500 shares of the par value of \$100.00 each. The
company, thereafter proceeded to raise its rates. These acts were
in violation of the provisions of the Public Utilities Act which
require that a public utility must obtain the approval of the Rail-
road Commission for the purchase of another utility, for the issu-
ance of its stock or for an increase in its rates. The attention
of the Commission was called to the company's attempt to raise its

rate by the water patrons. The Commission, thereupon, directed the Lawndale Land and Water Company to restore its previous rate and to make application to the Commission if it desired to change its rate schedule. The company, thereafter, applied for authority to change from a flat rate basis to a meter basis, for authority to issue bonds, and asked that the Commission issue an order validating its purchase of the Lawndale Water Company and its issue of stock.

Two distinct applications were made. At the hearing held in Los Angeles they were consolidated and will be considered together in this Opinion.

Lawndale Land and Water Company is engaged in the business of distributing and selling water at Lawndale, a suburb of Los Angeles. It has 232 patrons. It has been serving them on a flat rate basis of \$1.25 per month.

As amended at the hearing, and as finally presented to the Commission for its consideration, the application of Lawndale Land and Water Company may be summarized as follows:-

1. Application by Lawndale Water Company to sell its system and by Lawndale Land and Water Company to buy said system.
2. Application by Lawndale Land and Water Company to issue 1,500 shares of stock of the par value of \$100.00 each, to Charles B. Hopper and A. E. MacFarland for the properties of Lawndale-~~Land~~ ~~and~~ Water Company.
3. Application by Lawndale Land and Water Company for authority to mortgage its property to secure a bonded indebtedness.
4. Application by Lawndale Land & Water Company to issue bonds sufficient to raise \$40,000.00 to be issued under its mortgage and deed of trust to Los Angeles Title & Trust Company, dated July 1, 1912, providing for an issue of \$50,000.00 six per cent bonds maturing July 1, 1932.
5. Application by Lawndale Land and Water Company to

change its rates from the present basis of a flat rate of \$1.25 per month for a 3/4 inch tap to the following schedule:-

(a) Minimum rate per month of \$1.25 for any part of the first 500 cubic feet, with an additional charge of 10 cents per 100 cubic feet for all additional water used in excess of 500 cubic feet.

(b) Special Rate No. 1- To consumers who agree to pay a minimum monthly bill of \$2.00, 10 cents per 100 for first 1,000 cubic feet; 7½ cents per 100 cubic feet for any additional water used.

(c) Special Rate No. 2- To consumers who agree to pay a minimum monthly bill of \$3.00, 7½ cents per 100 cubic feet for all water used.

There is also before the Commission in this matter the application of Lawndale Water Company to sell its properties to Lawndale Land and Water Company.

I shall consider first that feature of the application in which Lawndale Land and Water Company asks for authority to purchase, and Lawndale Water Company to sell, the water properties. The properties consist of a well and distributing system at Lawndale. The same parties who control Lawndale Water Company also control Lawndale Land and Water Company. The transfer was merely for convenience and I see no reason why this part of the application should not be granted.

I shall consider next the question of rates. Lawndale Land and Water Company has been operating on a flat rate basis of \$1.25 per month for 3/4 inch tap. It has submitted a statement of earnings which shows clearly that the revenue from these rates has not been adequate. Applicant states that the rates which it desires to put into effect will not yield it an adequate return upon the value of its investment, but it states that it will be willing to proceed under those rates satisfied that they will enable it to take

care of its operating expenses and such other obligations as it must meet. A detailed engineering report was submitted by the applicant with the following estimates of value:-

Original cost.....	\$58,522.58
Reproduction value.....	\$74,152.81
Present value.....	\$67,375.58

During the past six years of operation of these water properties, Lawndale Land and Water Company and its predecessor, Lawndale Water Company, have accumulated a deficit of \$10,699.04.

In establishing a rate schedule applicable to the present situation, provision must be made for domestic service and for irrigation use. Many of the holdings in Lawndale are in acre and half-acre lots and the owners thereof are engaged in the business of truck gardening.

It has been repeatedly stated in decisions of this Commission that a meter basis is often to be preferred to a flat rate basis in the distribution of water. The applicant in this case has submitted estimates of its earnings, if allowed to put into effect the proposed rates, and has expressed its satisfaction with the returns to be derived therefrom.

At the hearing, Mr. Lathrop, engineer for the applicant, submitted a statement of probable earnings based on an increase in the number of consumers on contemplated extensions. In these estimates, he used a minimum of 750 cubic feet per month. Mr. Lathrop estimated that, with the extensions which the company proposes to make, it could add 119 new consumers, bringing its total number of patrons to 351.

It would appear that instead of a minimum of 500 cubic feet, as originally proposed, the applicant could attain results practically as satisfactory by placing its minimum at 750 cubic feet.

It was stated at the hearing that the persons engaged in truck farming would find it difficult to operate successfully under the changed rates.

Many applications analagous to the one under consideration have been brought before the Commission and, doubtless, many others will be. But in nearly every instance, the Commission finds that the facts surrounding these applications differ to a greater or less extent. Hence, we have repeatedly announced that each application must be considered and judged by the conditions and facts surrounding it.

Application No. 5 and Application No. 392, heretofore decided by this Commission, present features analagous to the present application yet differing sufficiently to require the difference which will be found in the Opinions and Orders in those cases and in the Opinion and Order in the present application.

In its Opinion and Order on Application No. 5, the Commission approved of the following rates:-

Meter rates:

Minimum charge, \$1.25 per month for 750 cubic feet or less.

Next 750 cubic feet, 12½ cents per month. Per 100 cubic feet.

Over 1,500 cubic feet, 10 cents per month. Per 100 cubic feet.

Flat rate, \$1.50 per month.

In Application No. 392, the following rates were approved:-

Flat rate of \$1.00 per month for water applied to one lot only, when such lot is occupied by one family, 60 feet to be regarded as the maximum width for one lot. Additions to or in excess of one lot shall pay an additional sum as follows:-

If a consumer is paying \$1.00 per lot and if he owns an adjoining lot he shall pay \$1.50 for the two. If he owns a lot and one-half he shall pay \$1.25 and in such ratio for anything he may own in addition to one lot, provided the additional property joins the original lot, and provided, further, that he uses water on the additional land.

That where there is more than one house on a lot the price shall be as follows:-

For one occupied house on lot, \$1.00;

For two occupied houses on lot, \$1.50, total, or 75 cents for each house.

If there are three or more occupied houses on a lot, the price shall be \$2.00 per lot divided equally among the occupants thereon.

That where meters have been or have to be installed, the minimum charge shall be \$1.00 per month per 1,000 cubic feet, the cost of such installation of meters to be borne by the owners of the water company, and 10 cents per 100 cubic feet for excess over the minimum of 1,000 cubic feet.

It will be noted that there is considerable difference, not only in the minimum rate, but also in the quantity to which consumers are entitled under the minimum rate, which difference, however, is easily explained when the plant value and operating expenses are considered, and also when consideration is given to the fact that especially in Application No. 392 the owner of the utility testified that he was entirely satisfied with the minimum of \$1.00, provided that minimum applied to but one lot. It should be remembered that in the case at bar, instead of consumers having one lot, while there are some lots, many of the holdings are acre and half-acre lots. This is true, to a greater or less extent, of Application No. 5.

It appears from the testimony which was given at the hearing that it is the intention of applicant to install meters throughout its entire system and it is to that purpose that a part of the money realized from the bonds is to be devoted. It cannot complete such installation at once and in view of the fact that some of the holdings are so large, and the further fact that some of the consumers having such holdings may prefer a flat rate, I suggest that if there be any who prefer the flat rate of \$1.50 minimum, instead of the meter rate of \$1.25 minimum for 750 cubic feet, that such rate be approved until such time as the company can install the meter. This cannot be burdensome upon the person having a small holding as he has the recourse of immediately asking for a meter and receiving the meter rate.

Holders of acre tracts have been gardening successfully under these rates. The rates I shall recommend for Lawndale are somewhat lower than those in force on the Hawthorne Tract.

As an alternative in such instances where no meter is provided, I shall recommend that a flat rate of \$1.50 per month be used.

I recommend that Lawndale Land and Water Company be given authority to change from its present flat rate basis and to establish the following schedule of rates:-

1. Flat rate \$1.50 per month, or
11. (a) \$1.25 for any part of the first 750 cubic feet, and 10 cents per 100 cubic feet for water in excess of 750 cubic feet.

(b) Special Rate No. 1- To consumers who agree to pay a minimum monthly bill of \$2.00, 10 cents per 100 for first 1,000 cubic feet; 7½ cents per 100 cubic feet for any additional water used.

(c) Special Rate No. 2- To consumers who agree to pay a minimum monthly bill of \$3.00, 7½ cents per 100 cubic feet for all water used.

I shall now consider that part of the application in which Lawndale Land and Water Company asks that the Commission validate its action previously taken in issuing 1,500 shares of capital stock of the par value of \$100.00 each. Applicant's stock is owned by Charles B. Hopper and A. H. MacFarland. Two other parties qualify as directors.

There would appear no reason why stock to the amount of \$150,000.00 should be issued by this company. I recommend that the applicant be authorized to issue not to exceed \$75,000.00 in stock. This figure is not taken to represent the value of the properties, but it more closely approximates the value than does the sum of \$150,000.00 and it affords an easy basis of exchange. The present shareholders may, without inconvenience, surrender their stock and receive stock in return on a basis of one share for two.

That part of the application in which Lawndale Land and Water Company asks for authority to mortgage its property may readily be granted. The company desires to make extensions which are necessary in the conduct of its business.

I pass now to that portion of the application in which Lawndale Land and Water Company asks for authority to issue its six per cent bonds in sufficient amount to raise \$40,000.00. It is proposed to issue these bonds under a mortgage and deed of trust to Los Angeles Title & Trust Company dated July 1, 1912 providing for a total issue of \$50,000.00, maturing July 1, 1932.

The applicant herein proposes, from the proceeds from the sale of these bonds, to pay existing indebtedness to the amount of.....\$15,773.79, and to provide for additions and betterments to its property..... 24,303.60
 Total.....\$40,077.39

I find that the indebtedness which the applicant desires to pay from the proceeds of its bonds consists of the following:-

Hopper MacFarland Construction Company
 for money advanced.....\$12,383.07
 F. A. Lathrop for engineering report..... 1,120.00
 M. H. Bennett..... 100.00
 Kello and Brown..... 95.50
 Henry R. Worthington Meter Company..... 1,747.00
 Southern California Edison Company..... 43.60
 Loopost Binding Company..... 26.25
 United Casting Company..... 216.65
 Typogravure Company..... 15.50
 E. R. Boynton Company..... 26.22
 Total.....\$15,773.79

It appears that the amount due the Hopper MacFarland Construction Company for money advanced represents, in reality, the applicant's deficit. Hopper MacFarland Construction Company is largely controlled by Mr. Hopper and Mr. MacFarland who own the stock of Lawndale Land and Water Company. I am of the opinion that bonds should not be issued for this deficit. The payments made by the construction company on behalf of Mr. MacFarland and Mr. Hopper may be regarded as payments made upon their stock to make good the losses of the applicant. Of the other indebtedness which the company desires to refund from the proceeds of its bonds, I find, with two exceptions, that the other items are chargeable to operating expenses. These two exceptions are the Henry R.

Worthington Meter Company, \$1,747.00, and F. A. Lathrop for engineering report, \$1,120.00. A portion of the expense incurred in the Lathrop report may properly be charged to capital and a portion may be charged to operating expenses.

The additions and betterments which the applicant desires to finance from the proceeds of its bonds are enumerated as follows:-

200 meters.....	\$ 1,500.00
Labor of installation, at \$5.00 each.....	1,000.00
4-inch casing, including cost of laying and fitting.....	4,160.00
10-inch casing, including laying and fitting.	7,543.60
Replacement of 4-inch casing.....	2,000.00
20,000 ft. of 4-inch casing.....	<u>8,000.00</u>
Total.....	\$24,303.60

To this may be added the sum due the Henry R. Worthington Meter Company of.....\$ 1,747.00, making a total of.....\$26,050.60.

It appears, however, that in the above list are items properly chargeable to replacement to an amount of at least.....\$ 2,000.00, leaving a balance of.....\$24,050.60.

The testimony shows that by further extensions, additional patrons may be obtained by applicant. I recommend, therefore, that.....\$ 1,000.00 additional be provided for extensions, making a total of.....\$25,050.60.

I shall recommend, therefore, that the applicant herein be authorized to issue bonds not to exceed \$25,000.00.

At the hearing, Mr. Hoyer, the president of Lawndale Land and Water Company, stated that he would be willing to guarantee

the bonds and I recommend that the guarantee be made both by Mr. Hopper and Mr. MacFarland. It was stated by Mr. Hopper that the bonds could be sold probably above 90.

Lawndale Land and Water Company has not kept its books in accordance with the Commission's uniform system of accounts. It should be required to open a proper set of books as a condition precedent to the granting of its application.

I shall recommend also that meters be placed at the request of the consumer or at the option of the company and that meters and their placement be at the expense of the company, and that all service connections be made at the expense of the company. This is in accordance with public policy as expressed in previous decisions of this Commission.

While I am not disposed at this time to recommend that the Commission proceed against the applicant herein for its violation of the Public Utilities Act in taking over the properties of the Lawndale Water Company and in issuing its stock without proper application to the Commission, I am constrained, nevertheless, to call applicant's attention to the provisions of the Public Utilities Act and to caution it that the Commission will not be inclined to pass lightly any further infringement of its terms.

I recommend the following form of Order:-

O R D E R.

Lawndale Land and Water Company having made application to this Commission for authority to purchase the water properties of Lawndale Water Company, and Lawndale Water Company having made application to sell its water properties; and Lawndale Land and Water Company having made application to the Commission for authority to issue 1500 shares of its capital stock of the par value of \$100.00 each; to execute a mortgage of its property to Los Angeles Title & Trust Company to secure an issue of bonds; to issue bonds sufficient to raise \$40,000.00 to be issued under its mortgage and

deed of trust to Los Angeles Title & Trust Company dated July 1, 1912 providing for an issue of \$50,000.00 six per cent bonds maturing July 1, 1932; and to change its rates from the present flat rate basis to a meter basis; and a hearing having been held; and it appearing that the public convenience can best be served by authorizing the sale of the water properties by Lawndale Water Company to Lawndale Land and Water Company;

And it appearing further that Lawndale Land and Water Company should be authorized to mortgage its property to secure a bonded indebtedness and to issue a portion of its stock and bonds as applied for and to change its rates from a flat rate basis to a meter rate basis;

And it appearing further that the purposes for which it proposes to issue its stock and its bonds are not, in whole or in part, reasonably chargeable to operating expenses or income;

IT IS HEREBY ORDERED: That Lawndale Land and Water Company be given authority, and it is hereby given authority, to purchase the water properties of Lawndale Water Company, and Lawndale Water Company is hereby given authority to sell the same.

IT IS HEREBY ORDERED: That Lawndale Land and Water Company be given authority, and it is hereby given authority, to mortgage its property to Los Angeles Title & Trust Company to secure a bonded indebtedness in an authorized sum of \$50,000.00.

IT IS HEREBY ORDERED: That Lawndale Land and Water Company be authorized, and it is hereby authorized, to issue 750 shares of its capital stock of the par value of \$100.00 each.

IT IS HEREBY ORDERED: That Lawndale Land and Water Company be given authority, and it is hereby given authority, to issue \$25,000.00 in bonds under its mortgage and deed of trust to Los Angeles Title & Trust Company dated July 1, 1912. Said bonds and said stock herein authorized to be issued shall be issued under the following conditions and not otherwise:-

(1) Said 750 shares of stock shall be issued to Charles B. Hopper and A. H. MacFarland in lieu of their present holdings of stock of Lawndale Land and Water Company and not in addition thereto.

(2) Said \$25,000.00 in bonds shall be issued for the following purposes:-

(a) Meters and installation.....	\$2,500.00
(b) Pipes, installation thereof, connections, etc. in extending ap- plicant's system.....	<u>22,500.00</u>
Total.....	\$25,000.00

(3) Said bonds shall be sold so as to net applicant not less than 90.

(4) Applicant shall, within 30 days, present evidence satisfactory to the Commission that it has opened a set of books in accordance with this Commission's system of accounts.

(5) Applicant shall submit, in a form to be approved by this Commission, a guarantee of the payment of said \$25,000.00 in bonds, both as to principal and interest, by Charles B. Hopper and A. H. MacFarland.

(6) Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month, it shall make verified reports to the Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of sale, moneys or properties realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, insofar as applicable, is made a part of this Order.

It is hereby found as a fact that the following rates are reasonable to be charged by Lawndale Land and Water Company for wa-

ter delivered to its consumers and the said rates are hereby established to become effective on the first day of June, 1913:-

1. Flat Rate \$1.50 per month, or

11. (a) \$1.25 for any part of the first 750 cubic feet, and 10 cents per 100 cubic feet for water in excess of 750 cubic feet.

(b) Special Rate No. 1- To consumers who agree to pay a minimum monthly bill of \$2.00, 10 cents per 100 for first 1,000 cubic feet; 7½ cents per 100 cubic feet for any additional water used.

(c) Special Rate No. 2- To consumers who agree to pay a minimum monthly bill of \$3.00, 7½ cents per 100 cubic feet for all water used.

IT IS FURTHER ORDERED: That meters be placed at the request of the consumer or at the option of the company and that such meters and their placement be at the expense of the company, and that all service connections be made at the expense of the company.

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 9th day of May, 1913.

Railroad Commission State of California

Fee \$ 250.00

MAY 13 1913

BY Herold
Assistant Secretary.

John M. Tubbs
W. D. ...
...

Commissioners.