

Decision No. 6755

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
East Bay Water Company to adjust and) Application No. 4841.
fix water rates.)

In the Matter of the Commission's)
Investigation into the Rates, Rules)
and Regulations of Peoples Water)
Company.) Case No. 1008.
(In re protests of certain East Bay)
cities against the reimposition of)
charges for municipal service.))

W. E. Creed for Applicant.
Leon E. Gray, for City of Oakland.
Frank V. Cornish, for City of Berkeley.
W. J. Locke, for City of Alameda.
Harris P. Jones, for City of San Leandro.
T. C. Judkins, for City of Emeryville.
D. J. Hall, for City of Richmond.

EDGERTON, Commissioner.

O P I N I O N

This proceeding involves the rates and charges of the East Bay Water Company to residents of the communities on the east side of San Francisco Bay, in their relation to the increased costs of operation, the necessary increased capital investment and the proper allocation of the gross annual charges among the various classes of consumers.

By its Decision No. 5534, in the matter of the Commission's Investigation into the rates, rules and regulations of Peoples Water Company (Case No. 1008), decided July 1, 1918, the Commission

established certain rates to be charged by East Bay Water Company, successor to Peoples Water Company. This decision established certain basic annual charges to be paid for municipal service by the various East Bay cities and a rate schedule to be charged for other classes of service. This schedule increased the charges for water to be paid by municipalities for water used by them for fire fighting, street sprinkling and other purposes.

On receiving notice of this increase of rates the various municipalities made a showing to the Commission that their tax budgets had already been made up and it would be impossible to provide on such short notice for money to meet these increased charges.

The Commission thereupon made a supplemental Order (Decision No. 5684) dated August 13, 1918, continuing in effect the old rates to municipalities for the fiscal year, and allocating to consumers other than the municipalities the amount which would have been collected from the cities, had they the ability to pay. The Commission clearly stated in this supplemental order its purpose to reimpose the charges for municipal service at the earliest practicable moment, at which time it would also readjust the rates of other consumers, lightening their burden by the added amount derived from the cities.

On June 19, 1919, this Commission notified the various municipalities of its intention to so do, whereupon protest was made by some of the cities affected, praying that further hearing be granted.

On August 8, 1919, the East Bay Water Company filed application (Application No. 4841), alleging that it was necessary and just that increased revenue be contributed by consumers because of the increase in the cost of operating its water system, and its increased

financial needs, and in addition it requested that the charges of which the municipalities had been relieved be reimposed.

Thereupon the above entitled matters were consolidated for hearing and decision upon all of the matters involved, further investigations made, data presented and evidence submitted, and are now ready for decision.

It was urged by representatives of the East Bay cities that the increased charges for municipal service be not reimposed and that the amount which would be produced by these increased charges be added to the gross charges assessed against domestic and industrial consumers, thus increasing the rates paid by them.

The principal objections made against the reimposition of these charges are that the service rendered is not reasonably worth the charges proposed, that it is improper to impose upon the general tax payer the entire burden of the cost of fire service, street sprinkling and sewer flushing service, etc., and that the municipalities are financially unable to bear these increased charges.

Admittedly it is difficult to equitably distribute the expense of maintaining and operating a system such as this among the various consumers in proportion to the benefits derived by each. An exact allocation of the cost to the company of rendering a service such as is rendered to the cities is impossible. The amount of water used is not a proper measure, because the demand for fire purposes is wholly unexpected and the company must stand ready to deliver a large quantity of water within a short period at any point where the fire may occur. This has been designated a "readiness to serve" or "stand-by" service.

The utility is rendering a valuable service to the municipality and its tax payers which requires an investment and operating expense largely in excess of what would be required if domestic and industrial consumers only were served.

Reports and evidence submitted at the hearing show that the

charges heretofore established by this Commission are not in excess of what the service is reasonably worth and that in justice this burden should be borne by the municipalities and not by the other consumers. It is clear that a service of water for the extinguishment of fires in a community and for sewer flushing and other municipal uses is for the benefit of the community as a whole and that the expense of this service is most equitably spread when borne by the tax payers. Further, this Commission surely cannot refrain from assessing proper charges for public utility service merely because a consumer insists that it is inconvenient or difficult to pay. If this objection be given weight when advanced by the East Bay cities, then the same objection coming from private consumers would necessarily be persuasive. Manifestly it would be impossible to fix rates upon any sound basis if consideration be given to the contention that certain consumers found the charge established inconvenient or difficult of payment.

Obviously these charges should be borne by the municipalities and I recommend that the position heretofore taken by this Commission be maintained and that the charges heretofore ordered assessed against the cities be reimposed.

This leaves for consideration the application of the East Bay Water Company for an increase of revenue with the resultant increased rates.

The Water Company bases its application for an increase of revenue upon the grounds that its financial needs require an increased interest return and that the operating expenses have so increased that the sum included in the annual charges heretofore established is insufficient.

This Commission in its Decision No. 5534 in Case No. 1008, supra, issued July 1, 1918, determined that \$2,000,000 was the gross income which this company was entitled to receive from its consumers, and of this \$976,361 was the net earning to be used for the payment of

bond interest, dividends and additions to surplus.

Applicant reports \$11,559,900 of bonds authenticated by the trustee. In addition it reports that because of expenditures actually incurred or to be incurred prior to July 1, 1920, it will be obliged to call upon the trustee to authenticate additional bonds in the sum of \$1,586,700, making a total of \$13,126,620. Applicant urges that it should be allowed an annual interest return of \$1,082,946 in order that its bonds might be advantageously marketed. If such a return is allowed, applicant reports that it will use the \$1,082,946 for the following purposes:

To pay interest on outstanding bonds and notes.....	\$ 674,093
To pay dividend on Class "A" 6% preferred stock	308,848
To surplus	<u>100,005</u>
Total - - - - -	\$1,082,946

Applicant does not ask for a return which would enable it to pay dividends on either its Class "B" 6% preferred or on its common stock.

It is very important to provide a sufficient revenue to put the company's credit upon a sound basis so that it may obtain money at reasonable rates, thus preventing a heavier burden being placed upon the consumers. The production of this revenue, however, to care for the financial needs of this company, should not place an unreasonable burden upon its consumers nor should it be in excess of a reasonable return upon the value of the utility's property.

In order to determine whether or not the interest return based upon the financial needs of this company, provides interest for a sum in excess of a fair rate base, analyses of the appraisements and data relating to the value of these properties submitted in

prior proceedings before this Commission, were made by the Water Company, R. W. Hawley for the East Bay cities, and Lewis A. Hicks for the City of Berkeley. The following tabulation shows these rate bases, and interest computed at 8%, with expenditures for San Pablo project included and also excluded:

Submitted by--	RATE BASE		Interest at 8% On Rate Base	
	Including San Pablo	Excluding San Pablo	Including San Pablo	Excluding San Pablo
East Bay Water Co.	\$17,747,756	\$13,951,507	\$ 1,419,820	\$1,116,121
R. W. Hawley.	16,345,907	12,549,656	1,307,672	1,003,972
Lewis A. Hicks.	12,000,000	9,832,292	960,000	786,583
Hawley (undepreciated)*	18,961,555	15,165,304	1,517,000	1,212,000
Hicks (undepreciated)*	14,615,648	12,447,940	1,170,000	998,000
Interest to meet finan- cial needs as claimed by Applicant,.....			1,082,946	

* Accrued depreciation of \$2,615,648 added to base submitted.

Messrs. Hawley and Hicks have used as the basis of their reports the sum of \$14,100,000 which this Commission found as the fair depreciated value of the properties for the purpose of reorganization in its Decision No. 2586, In the Matter of the Application of Peoples Water Company for Reorganization, Application No. 1551, (Vol. 7, page 597, Opinions and Orders of the Railroad Commission of California). Attention is directed to the fact that this Commission in the above mentioned proceeding found the then depreciated value of the plant and that the replacement fund included in the rate base in Case 1008, supra, was computed by the sinking fund method. If Mr. Hawley's or Mr. Hicks' rate base is to be used, either the sum of \$201,199 which is the replacement fund computed by the straight line method of depreciation, should be included in the rate base instead of the sinking fund annuity of \$80,000 which was included, or there should be added to the rate bases submitted accrued depreciation in amount equal to \$2,615,648. In order to make the rate bases submitted comparable, this latter sum has been added in the foregoing tabulation to the bases submitted by Messrs. Hawley and Hicks. It appears that Mr. Hicks has omitted a number of items of additions and betterments which would very materially increase the rate base submitted by him.

All of the rate bases submitted, including that submitted by applicant as a test rate base, exclude not only those properties which are clearly not used and useful, but also exclude lands within the watershed areas. Although the Commission found in its decision that filtration is a better method of protecting the water supply of the East Bay communities than ownership of watershed lands, and that the consumers should not be burdened with the investment which would be necessary if all watershed areas were owned by the utility, it

appears that at the time of the acquisition of these lands by the predecessor in interest of this Company, that the governments of the various East Bay municipalities urged upon the utility the purchase of these watershed lands. In view of these circumstances a forced immediate sale might work undue hardship upon the utility, and it is doubtful whether or not their value could be legally excluded from a rate base.

Representatives of the East Bay cities contend that expenditures for the construction of San Pablo Reservoir should not be included in a rate base at this time. A careful analysis of all of the facts submitted shows that undoubtedly San Pablo Reservoir is of use to the present consumers. However, it is unnecessary to determine the extent of the value of this use for this proceeding. Other elements of value which have been consistently claimed by the utility in all its proceedings before this Commission are not included in the above rate bases.

While not passing at this time upon the value of this company's property, nor a proper interest return, I desire to point out that the smallest rate base submitted, if corrected would produce an interest return at least equal to the amount which applicant claims is necessary to meet its financial needs. It therefore appears fair to include an interest allowance of \$1,082,946 in the annual charges.

The following tabulation has been compiled from the data and evidence submitted at the hearing of estimated operating expenses for the year July 1, 1919-1920. It also shows the actual expenditures for the first seven months of 1919:

COMPARISON OF OPERATING EXPENDITURES AS
SUBMITTED AT HEARING OF CASE NO. 1008, -APPLICATION NO. 4841.

	East Bay Water Co.	Hawley for City of Oakland	Commission Engineers	Actual Ex- penditures 7 Mos. 1919.
Pumping	\$ 493,020	\$ 187,626	\$ 492,134	\$ 304,558
Distribution	107,616	93,500	107,616	58,375
Commercial	128,624	121,000	128,624	68,798
General	187,290	213,500	187,290	94,927
Taxes	<u>266,504</u>	<u>222,275</u>	<u>266,504</u>	<u>126,000</u>
	\$1,183,054	\$ 836,901	\$1,182,166	\$ 652,558

Only two items of operating expenditures of material moment as submitted by applicant were attacked. These are pumping expenses and taxes. Much difference of opinion existed as to the advisability of the water company's continuing the pumps in operation as at present. Mr. R. W. Hawley, engineer for the East Bay cities, contended that the draft upon underground sources of supply should be discontinued, which would eliminate in large part the operation of the pump plants and materially reduce expenses. His plan of operation is to draw from the impounded waters of San Pablo and San Leandro reservoirs the necessary amount to meet all of the demands of the consumers and discontinue pumping until such time as the impounded supply is exhausted. He estimates that by this method there would be a reduction in operating expenses of some \$300,000 during the year July 1, 1919-1920. The assumption upon which his plan is based is that in all probability there will be sufficient rain fall during the coming rainy season to replenish the impounded supply. If this does not occur, it would mean, as stated by Mr. Hawley, that the underground sources of supply would be drawn upon to the capacity of the present available equipment and it would be necessary to restrict water consumption in the East Bay cities, owing to the fact that the

present available underground supply and transmission facilities are insufficient to deliver to the consumers the amount consumed by them. In other words, Mr. Hawley contends that the underground supply should be used as a reserve instead of the impounded surface waters.

Mr. Wilhelm for the East Bay Water Company, pointed out that it would be impossible to operate the plant by the method set up by Mr. Hawley, due to the fact that with the present transmission and distribution facilities sufficient water cannot be delivered to certain districts. Among these are Alameda and Richmond.

I agree with Mr. Hawley that both the underground and impounded surface supplies should be considered as an available reserve. However, neither of these supplies should be so depleted that it would be necessary to restrict water use if it can be avoided.

After having carefully considered all of the plans of operation submitted, I am of the opinion that in view of the fact that the entire industrial activity of the East Bay cities and the welfare of a population of some 400,000 are dependent upon this water supply, it would be inadvisable for the East Bay Water Company to operate its system in any other manner than one which gives absolute assurance of sufficient water. I recommend that it be permitted to continue the operation of its pumps as heretofore and be required to submit a statement to this Commission each month showing the quantity of available impounded water, the draft upon sources of supply, and consumption.

The other main element of difference between Mr. Hawley's estimate and that submitted by the company, is taxes. Mr. Hawley segregates taxes as to operative and non-operative property, and arrives at the sum of \$222,275 as the proper sum to be included in the annual charges. Mr. Creed, for applicant, contends that

if this be done there should be excluded from the gross revenue of the company some \$52,000 which it receives as non-operative revenue. Mr. Hawley eliminates from taxes approximately \$44,000. These two items, therefore, approximately balance, and by including in revenue the amount produced by non-operative properties, no injury will be worked either the utility or the consumers. Adding the above discussed items to Mr. Hawley's estimate so increases it that it is in excess of the amount claimed by the utility. It is therefore recommended that the sum of \$1,182,166 be included in the rate base for operating expenses.

It is estimated that the present rate schedule will produce a gross revenue of approximately \$2,000,000 for the year July 1, 1919 to July 1, 1920, which is less than the annual charges set out above by some \$350,000. The rates for municipal or public use service established herein will yield approximately \$130,000 in addition to the amount heretofore received for this service, leaving a remainder of approximately \$220,000 to be produced by increased rates, which is 10 per cent of the gross revenue.

I am convinced from the showing made that it is necessary to at least temporarily increase the revenue of the East Bay Water Company, and that such increase should be made by imposing a percentage surcharge on all rates.

I submit herewith the following form of order:

O R D E R

Application having been made to this Commission by East Bay Water Company for authority to increase its rates, and the cities of San Leandro, Richmond, Berkeley, Alameda and Oakland having protested against the reimposition of the charges for municipal service heretofore established in Decision No. 5534 in Case No. 1008, and a public hearing having been held and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the existing rates of East Bay Water Company, in so far as they differ from the rates herein after set out, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged its consumers for the service of water by said company, and basing its order upon the foregoing finding of fact and upon the further statements of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED that East Bay Water Company be and it is hereby authorized to establish the following rate schedule effective for all meter readings and bills rendered subsequent to September 30, 1919, and file same with this Commission within twenty (20) days of the date of this order:

PUBLIC USE CHARGE.

Basic charge annually as of the year 1917--

Alameda.....	\$22,000.
Albany.....	1,000.
Berkeley.....	43,000.
Emeryville.....	2,000.
Oakland.....	105,500.
Piedmont.....	5,000.
Richmond.....	11,000.
San Leandro.....	2,500.
El Cerrito.....	308.

Adjustment to be made in fixing the charge hereafter assessed by measure of net changes in the inventory of company pipe lines and hydrants from that of January 1, 1917, as follows:

For Fire Hydrants owned by
Municipalities:--

4-inch hydrants	\$3.00 per annum
6-inch hydrants	5.00 per annum

For Fire Hydrants owned by
East Bay Water Company:--

4-inch hydrants	3.00	"	"
6-inch hydrants	10.00	"	"

Per 1000 feet of street piped with:--

12" diameter or larger	50.00	"	"
6" to 12" diameter	30.00	"	"
4" to 6" diameter	10.00	"	"

Payments to be made for this service monthly.
The monthly bill to be one-twelfth of the
annual charge.

Cities and Towns Incorporated Subsequent to January 1, 1917:--

The charge to be determined by the number of feet of pipe and the number of hydrants within the incorporated district by applying the above charges.

Unincorporated Districts:--

4-inch hydrants \$36.00 per annum
 6-inch hydrants 48.00 " "

Municipal Use for Street Sprinkling and Sewer Flushing:--

Bills to be rendered at general use rates, except no service charge.

All water used for this purpose to be considered as taken from one service, although taken from various hydrants.

Metered Services for Municipalities:--

At same rates as general use.

Note:-- Bills to be rendered monthly for all municipal service at the rate of one-twelfth of the annual charge.

GENERAL USE CHARGES MONTHLY.

Service charge for each meter in use:

<u>Size Meter</u>	<u>Per Month</u>
5/8 inch	\$ 0.50
3/4 "	1.00
1 "	1.50
1 1/2 "	2.50
2 "	4.50
3 "	8.00
4 "	12.50
6 "	25.00

Unit price for water used up to 50,000 cubic feet, 23 cents per 100 cubic feet.

For water used above 50,000 cubic feet, 19 cents per 100 cubic feet.

UNMETERED SERVICE AND PRIVATE

FIRE TAPS.

<u>Size Service</u>	<u>Per Month</u>
1½ inch	\$ 1.50
2 "	3.00
3 "	6.00
4 "	9.00
5 "	12.00
6 "	18.00
8 "	30.00
12 "	50.00
16 "	100.00

SURCHARGE

A surcharge of 10 per cent to be added to all tolls and charges as computed from the preceding rate schedule.

IT IS HEREBY FURTHER ORDERED that the above established surcharge remain in effect until the further order of this Commission.

IT IS HEREBY FURTHER ORDERED that East Bay Water Company file with this Commission each month a statement setting out in detail its gross revenue, operating expenses, draft upon sources of supply, water supply in its impounding reservoirs, pumping operations, bonds authenticated or issued, and details of expenditures for which bonds are issued.

The foregoing opinion and order are hereby approved and filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this _____ day of October, 1919.

11th

Edmund K. Edgerton
H. J. Longmaid
Franklin D. ...
H. A. ...
Irving ...