

Decision No. 6850

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of )  
EAST BAY WATER COMPANY, a corporation, ) Application No. 4841.  
for an order adjusting and fixing )  
rates. )

In the Matter of the Commission's )  
investigation into rates, rules and ) Case 1008.  
regulations of EAST BAY WATER COM- )  
PANY. )

BY THE COMMISSION.

OPINION ON PETITIONS  
FOR REHEARING.

This Commission in its Decision No. 6755, in the above entitled proceedings, rendered October 11, 1919, established a schedule of rates to be charged by the East Bay Water Company for water. Included in this schedule were certain charges to be paid by the various East Bay municipalities for service rendered to them by the East Bay Water Company.

Subsequent to this decision, the cities of Oakland, Berkeley, Alameda, San Leandro and Richmond, filed petitions asking that this Commission grant a rehearing, it being alleged that the Commission had erred and exceeded its authority in establishing a basic charge, or any charge, for the service rendered by the East Bay Water Company to them, and also in finding that the East Bay Water Company is entitled to an increased revenue.

The further contention, set out in these petitions, that no portion of the East Bay Water Company's system is devoted to the service for these municipalities is obviously absurd. The very municipalities now applying for rehearing submitted evidence to show that this service rendered by this company for municipal purposes is inadequate. Furthermore, the record shows that the company has been engaged in supplying water to the municipalities, the latter using the water for such purposes as it chooses.

Not one of those appearing at the hearing could suggest a method <sup>of</sup> fixing the charge for municipal service, and it was admitted that it is impossible to determine with exactness the value or cost of this service. The evidence clearly shows that the charge established is not more than the service is reasonably worth.

In Decision No. 6755, it was found that the East Bay Water Company is entitled to a certain annual revenue. Inasmuch as there is a material municipal service rendered, it is obvious that if no part of this sum is assessed against the East Bay municipal governments, the consumers at large must pay more than is fair for the service rendered to them. Clearly this Commission cannot require one consumer to pay for service rendered to another. The burden of the cost of this service cannot be transferred to water users at large, and if the municipalities insist upon and receive service without paying just compensation, the utility would be required to maintain a portion of its system at its own expense for use by the city. Municipal service is a service to the entire community, and being paid for out of taxes the burden falls upon property owners, whether water users or not. Certain

municipal officials urge upon this Commission that the entire charge, except a nominal amount, be collected from the water users in the form of rates, thus concealing a charge which should properly be a part of taxes, and requiring the consumer at large to pay a sum greater than justly he should pay.

It is apparent that failure to charge for each class of service approximately in accordance with its proportional cost, results in discrimination. In the decision heretofore rendered in this matter, this principle was recognized and the charges allocated, so far as possible, so that discrimination would not result. We will not now depart from this principle. This Commission would be derelict in its duty to the public if it burdened householders and other water consumers with increased rates in order that cities might escape payment of a just charge, thus permitting a reduction of taxes at the expense of the water rate payers.

The petitions for rehearing filed herein by the cities of Oakland, Berkeley, Alameda, San Leandro and Richmond have been given careful consideration, and it appears to the Commission that no data or facts are presented therein which have not heretofore been considered in its Decision No. 6755 heretofore issued in the above-entitled proceeding.

O R D E R .

IT IS HEREBY ORDERED, that the petitions for rehearing of the cities of Oakland, Berkeley, Alameda, San Leandro and Richmond be, and the same are hereby denied.

Dated at San Francisco, California, this 19th  
day of November, 1919.

Erwin C. Edinger  
H. S. Loveland  
Frank R. Devlin  
H. H. Brundage

Commissioners.