

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of Banning requesting the Railroad Commission to fix the just compensation to be paid by said City for the lands, property and rights of the public utility distributing electric current for light, heat and power in said City of Banning under the franchise granted by Ordinance No. 56 of said City.

Application No. 4609.

Frank L. Miller and James E. Barker
for City of Banning.

Halsey W. Allen for "The Light & Power
Utility" - Lizzie Chriest.

BRUNDIGE, Commissioner.

O P I N I O N

The City of Banning, hereinafter referred to as the City, on May 24, 1919, filed its petition asking that the Commission, under provisions of Section 47 of the Public Utilities Act, fix the just compensation to be paid by the City for all of the lands, property and rights then being used in the City of Banning, California, for the distribution and service of electric energy for light, heat and power by the public utility operating under Ordinance No. 56 of said City, granted to C. H. L. Chriest and C. H. L. Chriest, Jr., by the Board of Trustees of the City of Banning on the 18th day of August, 1914.

Hearings in this matter were held at Banning on September 23, 1919, and at Los Angeles on October 30, 1919,

when evidence was introduced relative to the various elements of value of the property.

The property to be acquired consists of certain real estate and buildings, together with an electric distribution system located within the City and operated under the title of "The Light and Power Utility" a fictitious name. The property is owned by the estate of C. H. L. Ghrlest, Jr., Deceased, for which Mrs C. H. L. Ghrlest is the sole legatee and devisee and executrix of the will. The original petition of the City of Banning did not include Mrs. C. H. L. Ghrlest as executrix and, at the hearing, it was stipulated by attorneys for the City and the utility that the petition be amended to include Mrs. C. H. L. Ghrlest as sole legatee and executrix.

Evidence relative to the valuation of the properties which the City desires to obtain was introduced by Mr. Paul Thelen, one of the assistant engineers of the Railroad Commission, and Mr. James E. Barker, a valuation engineer employed by the City of Banning. General evidence was introduced by Mr. C. H. L. Ghrlest, Manager of the property.

A valuation report was submitted by Mr. Thelen. This valuation of the property is an estimate of the cost to reproduce new, and of the cost to reproduce new less depreciation of the property as of May 24, 1919. The evidence shows that the estimates were based upon an assumed construction of the property during a period of 60 days prior to the date the application was filed with the Commission, unit prices being estimated upon the basis of costs of material, labor, etc. as of that average period. The report sets forth the estimated reproduction cost of the physical property only, and does not include any intangible items such as development cost, going-concern value, severance damage, etc., but does include the cost of the franchise owned by the company.

A summary of the estimates is as follows:

Electric Properties
"The Light & Power Utility"

May 24, 1919

Estimated Cost of Reproduction New	\$17,950.00
Estimated Cost of Reproduction New less Depreciation	13,529.76

Mr. Barker testified that the inventory and appraisal submitted by Mr. Thelen had been prepared jointly by Mr. Thelen and himself; that he did not have a report to submit but concurred fully with the report submitted by Mr. Thelen.

It was stipulated by parties to the proceeding that any records which may tend to establish value which may be of record and in the files of the Commission may be considered as evidence in determining value so far as they have any relation to this proceeding.

Testimony of Mr. Ghriest was to the effect that in his opinion certain of the labor costs were below what would actually be required to do the work during the period in question and that the value of certain structures and real estate was higher than estimated. In accordance with the stipulation the Commission has had analysis made of unit costs of labor, material, etc., and such adjustment of the valuation figures, as seemed proper, has been made.

After careful analysis of the cost of construction I find that the fair estimate of the reproduction cost new and reproduction cost new less depreciation of the electric properties of Banning is as follows:

C.R.C.A/c No.	Item	Cost to Reproduce	
		New 5/24/19	Reproduction Cost Less Depreciation
C- 1 and 5	Organization & Land	\$ 1,042.00	\$ 1,025.00
C-14 - 28	Structures & Equipment	15,793.00	11,545.00
C-31 & 32	Overheads	1,579.00	1,263.00
	Total	\$18,414.00	\$13,833.00

Mr. Ghriest urged a value of \$2,000.00 for the franchise owned by the company. The actual cost of the franchise as shown by the records of the company was \$138.50 and it is apparent that the City might grant another franchise to operate in the City at not to exceed that item. It would, therefore, appear that the present value of the franchise of \$121.00, as given in Commission's Exhibit No. 1, is correct.

Mr. Ghriest also urged that the contract for power with the Southern Sierras Power Company also had a material value owing to its having a considerable period to run, and that it would be impossible for the City to obtain as low a contract. This claim is erroneous as the rates and contract of Southern Sierras Power Company are subject to the jurisdiction of the Commission.

Claim was made by Mr. Ghriest that the business on his system was worth an additional \$5,000.00 due to the fact that since service was commenced the business has not, he believes, earned a reasonable return upon the investment, and, in fact, operated at a loss during part of the period, which loss was estimated at approximately the amount claimed as the value of the business. This claim, I believe, is unsound in principle and in fact. The records of this utility are not of a nature to allow a reasonably accurate determination of the losses incurred. It is established, however, that the business has not been profitable and that the owners have not been able, by reason of circumstances apparently beyond anyone's control, to earn a fair return notwithstanding the fact that reasonable rates had been collected for the service rendered. In this proceeding we are concerned with finding the actual value of this property, in order to determine just compensation. If, for any reason whatsoever, this property is more valuable than its actual cost, the owner is not to be deprived of this additional value. On the other hand if, for any reason, the property is less valuable than it would be under more advantageous conditions, the amount of "just compensation" cannot be arbitrarily increased by assuming

favorable conditions which do not exist in fact. If the Commission were to concur with Mr. Christi's reasoning, there would follow this absurd result: The greater the losses incurred in a utility business, the greater its value, and the less profitable the business the larger the "just compensation" to the owner. The mere statement of such a theory proves its absurdity.

It is established as a fact in this proceeding that there is no going-concern or franchise value in addition to the value of the property already discussed and I do not see how, in this case, any separate and additional allowance can be made for going-concern value.

Such additional value over and above the "bare bones of the plant" as there may attach to this property, by reason of the fact that it is an assembled plant in operation as distinguished from an aggregation of disconnected property items, is allowed in the valuation of the physical property. It will be noted that no deduction is made from the reproduction cost less depreciation estimate, inclusive of overheads, notwithstanding the fact that the operation of this assembled plant has resulted in a loss to its owner.

In view of these facts, and after a very careful analysis of all the evidence, it is my opinion that the total sum of "just compensation" for this property as of May 24, 1919, inclusive of all elements of value, is the sum of \$14,000.00.

I submit the following findings of fact and recommend the following form of Order:

FINDINGS AND ORDER.

The City of Banning having filed with the Railroad Commission its petition to fix the "just compensation" to be paid by said City for the property and rights of the public

utility distributing electric current for light, heat and power in said City of Banning under the franchise granted under Ordinance No. 56 of said City; public hearings having been held, the parties hereto having been accorded full opportunity for the presentation of evidence, this proceeding having been submitted, and the Commission being fully apprised in the premises;

The Railroad Commission hereby finds as a fact that the "just compensation" to be paid by the City of Banning to the owners of the property under consideration and operated under the fictitious name of "The Light & Power Utility" for all of the property described in Appendix "A" attached hereto and made a part of these findings, is the sum of \$14,000.00.

The foregoing Opinion and Findings are hereby approved and ordered filed as the Opinion and Findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of January, 1921.

H. H. Loveland
Frank W. Helm
H. K. Brundage
Dwight Martin
Commissioners.

APPENDIX "A."

Description of property to be acquired by the City of Banning from the owners of the Public Utility distributing electric current for light, heat and power in said City of Banning and operating under the name of "The Light & Power Utility," as covered in Application No. 4609.

A full and complete description of the public utility rights which it is intended to acquire is as follows:

All of the lands, property and rights now being used in the City of Banning, California, by the public utility operating under the franchise granted by Ordinance No. 56 of said City, and serving in the distribution to said City and certain of its inhabitants of electric current for light, heat and power under said franchise, together with all rights covered by said franchise, the said property being more particularly described in the report of the Engineering Department of the Railroad Commission of the State of California, dated September 11, 1919, and marked "Commission's Exhibit No. 1," which description in said report is hereby referred to and made a part hereof.

(Accompanying decision No. _____ of the Railroad Commission of the State of California, in Application No. 4609, decided _____, 1920.)