

Decision No. 9690

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application
of CONELAND WATER COMPANY, a cor-
poration, for an order fixing just,
reasonable and non-discriminatory
rates for water.

Application No. 6680.

Richard C. Harrison and Douglas Brookman,
for Applicant.
McCoy and Gans, by A. M. McCoy, for Los
Molinos.
Fred C. Pugh, for A. McCullough and other
water users.
F. L. Butterway for W. P. Salsbury,
R. T. Moorehouse and others.

BY THE COMMISSION.

O P I N I O N

Coneland Water Company, applicant herein, is engaged in the business of furnishing water for irrigation purposes in the vicinity of Los Molinos, Tehama County, and applies for authority to increase its rates. Applicant alleges that the present rates are discriminatory because of certain contracts with its consumers, and are non-compensatory as they do not yield sufficient revenue to produce maintenance and operating expenses. It is further alleged that the contracts which are the basis of the present rates provide for the delivery of one-fifth of a miner's inch of water per acre but that the lands irrigated require a larger quantity and that

an adequate quantity has always been delivered. Wherefore the Commission is asked to establish a reasonable rate either on the old basis of one-fifth of an inch per acre or otherwise, and to determine if any portion of the supply is available for the irrigation of other lands than those which have heretofore been supplied.

In answer to the petition for increase of rates a number of consumers filed a protest, in which they raised the question of jurisdiction and claimed that they were entitled to receive the water as a matter of private contract. In addition there was filed at the time of hearing a counter petition on behalf of a large number of other consumers of the company, from which it appears that they are willing to accede to the jurisdiction of the Commission and to a reasonable increase in rates, upon the condition that the amount of water furnished would be increased, and that the additional revenues derived from such increased rates would be used by the Company for the repair of its ditches and other improvements of its distributing system.

Public hearings were held in Los Molinos and San Francisco before Examiner Gordon, evidence taken and the matter submitted.

The question of the jurisdiction of the Commission over this Company was fully considered and determined in two prior proceedings, namely: Case No. 610, Los Molinos Citrus Farms Company, et al., vs. Coneland Water Company, and Case No. 671, In the Matter of the Rates and Charges of the Coneland Water Company on the Commission's own motion. These cases were consolidated for hearing and decision, and the decision thereon was rendered September 4, 1915, -Decision No. 2742. By stipulation of the parties at the time of the hearing, the record in these prior proceedings was made a part of the record herein.

After a careful review of all the evidence both in this and the prior proceedings, it is our conclusion that the applicant

herein is a public utility, and that the Commission has jurisdiction to fix its rates and otherwise regulate its operations in the distribution of water for compensation to the public.

Concerning the history of this company and the character of its operations, the Commission made the following statement in its Decision No. 2742, above referred to:

"Coneland Water Company was incorporated on March 7, 1907. The articles of incorporation empower the corporation, in part, to engage in the business of diverting, appropriating and supplying water, furnishing the same for irrigation and all other beneficial uses and purposes, and to supply, furnish and distribute the same to others for compensation. The corporation is authorized to acquire water and water rights by appropriation, purchase, condemnation, eminent domain and in all other proper methods, and to collect rents and compensation for all water and water rights. Specific authorization is given to furnish and supply water and water rights to cities, towns and farming communities, and to sell, rent and distribute the same."

After referring to the appropriation of water by the predecessors in interest of the water company, the decision continues:

"Thereafter, Los Molinos Land Company, which owns the entire capital stock of Coneland Water Company with the exception of the shares to qualify directors, conveyed to Coneland Water Company water rights, rights-of-way, ditches, and other property for the purpose of enabling Coneland Water Company to distribute and supply water. ****"

The protestants in this proceeding are holders of water-right agreements originally issued to purchasers of land from the Los Molinos Land Company. While this and other circumstances suggest, in some respects, an analogy between this case and those wherein so-called water certificates have been held to constitute a private right, a consideration of all of the evidence leads us to a contrary conclusion. The apparent intention of this company was, from the outset, to engage in the sale and distribution of water to the public generally, including that part of the public occupying land sold by the Los Molinos Land Company. The fact that the water company did, at an early stage in its operation, make sales of water to others outside of the land sold by the Los Molinos Land Company, characterizes their enterprise as one of public rather than private interests. The

further fact that the water company accepted the Commission's Decision No. 2742, requiring it to deliver water to the plaintiff in that proceeding, indicates that its operations were recognized as those of a public utility.

As a preliminary consideration to the determination of rates, it is proper to refer briefly to the reasonableness and adequacy of service. Under the terms of the original water right agreement, each consumer is entitled to receive one-fifth miner's inch of water per acre per year. The evidence clearly indicates, however, that this quantity of water is insufficient to properly irrigate the lands supplied by this system. It further appears that the company has an adequate supply of water and can readily furnish double the amount originally undertaken to be furnished. The evidence further shows that two-fifths miner's inch per acre per year is necessary to properly irrigate the land. It further appears that extensive repairs are needed on the company's distribution system to prevent leakage. This repair work will not only conserve the water supply, but will also tend to mitigate the mosquito pest which has apparently been a serious condition for some years past in that locality. All these facts are referred to by the consumers who have joined in the counter petition herein consenting to a reasonable increase in rates, and asking that the proceeds therefrom be applied by the company to the repair of its distribution system. The company has agreed to this condition. The following agreement signed by 135 consumers and formally accepted by the company, was attached to the counter petition and filed at the time of hearing:

"IT IS HEREBY UNDERSTOOD AND AGREED by and between the undersigned water users under the Cone-land Water Company irrigation system, and the Company, that for and in consideration of the Company agreeing to accept a rate of not to exceed \$3.50 per acre, and a modification of the present water contracts as to amount of water to be furnished, rate and conditions to be such as are approved by the California Railroad Commission; and the further agreement to turn over the property of the Company to a legally created

Irrigation District at any time within two (2) years from April 1, 1921, at a price of one hundred and twenty-five thousand dollars (\$125000) and in the meantime to spend any surplus on permanent betterment the undersigned will not contest the granting of such rate as the Railroad Commission may decide to make, not in excess of \$3.50 per acre, which amount we believe to be a fair rate for both the Company and the water users."

Reference to this agreement will be made later in this opinion.

The area served by applicant consists of approximately 13,000 acres of valley land on the east side of the Sacramento River in Tehama County. This area includes the tract subdivided by the Los Molinos Land Company and such other lands as the applicant has supplied with water outside of this colony tract. The canal system necessary to irrigate this area, consists of about 125 miles of canals, varying from 100 second feet to 10 second feet capacity, so arranged that water can be delivered to practically every 10-acre tract within the area. The water supply is obtained from the Los Molinos River and from Antelope Creek. Both of these streams head on the slopes of Mt. Lassen and are supplied largely by streams rising at the base of the mountain. These streams are noted for their uniform flow in the irrigation season. The water rights of the applicant have been settled by adjudication or by agreement, and the quantity of water they are entitled to divert is adequate to fully irrigate the area served by its canal system.

Concerning the value of the applicant's property, used and useful in the public service in the maintenance of this irrigation system, there was evidence submitted at the hearing by both the applicant and the Commission. For the applicant, Mr. Thomas Means, a civil engineer, submitted an estimate of the reproduction cost, new, of the system, as of 1921. Mr. C. D. Conway, Superintendent of the Company, submitted an estimate of the original cost of the system, based on the quantities and costs shown by the records of the company. His testi-

mony shows that some of the construction work was done by contract, and some by the Company by force account. A report was also filed by Mr. Wm. Stava, one of the Commission's hydraulic engineers, in which he set forth the estimated original cost. A comparison of these estimates is shown in the following table:

	THEOS. MEANS Reproduction 1921	C.D. CONWAY Estimated Original Cost	Wm STAVA Estimated Original Cost
Rights-of-Way	\$ 33,540	\$	\$
Water Rights	26,000	26,000	
Canal System	285,648	181,062	186,908
Levees, etc.	21,500	21,500	10,750
Overhead	58,933	20,958	29,906
TOTAL:	\$425,621	\$249,520	\$216,814

For the purpose of this proceeding we find the amount estimated by the Commission's engineers to be reasonable and proper as the valuation to be placed on the property of the applicant, used and useful, in the public service. It is to be noted that no allowance is made therein for rights-of-way or water rights, also that the amount allowed for levees is one-half of that shown in the Company's estimate of original cost. This is due to the fact that the levees and bank protection for which this expenditure was made, were useful in maintaining and protecting the ditch system, but were also equally useful in protecting the land belonging to the Los Molinos Land Company and were, in fact, constructed as much for that reason as for the protection of the ditch system.

There have been numerous additions to and retirements from capital each year since 1916. These additions and retirements consist of renewals of wooden structures with concrete structures and concrete lining. The additions to capital since 1916 amount to \$14,211. Retirements during the above period were estimated as \$4,054.

Including above additions and deducting the retirements from capital, the estimated present investment is as follows:

Estimated original cost as of Dec. 31, 1914...	\$216,814
Additions and betterments, 1916-1920.....	14,211
	<u>\$231,025</u>
Deductions due to retirements.....	4,054
Estimated investment Dec. 31, 1920.....	<u>\$226,971</u>

A replacement annuity was computed on a 6% sinking fund basis and amounts to \$2,425. It is estimated that this sum accumulated annually will provide a fund to replace wornout properties.

In determining the proper allowance to be made for maintenance and operation, reference is made to the following tabulation, showing the operating expenses and revenues of the applicant as set forth in its annual reports filed each year with the Commission:

OPERATING REVENUES

	<u>1916</u>	<u>1917</u>	<u>1918</u>	<u>1919</u>	<u>1920</u>
Irrigation	\$12985.67	\$13108.40	\$14244.47	\$16507.50	\$16414.30

OPERATING EXPENSES

Operating	\$ 6496.18	\$ 6367.05	\$ 6168.00	\$ 7040.00	\$ 7031.51
Maintenance	8921.70	6969.67	5820.44	9465.05	15084.28
Taxes	898.90	1018.85	906.50	883.61	1035.60
Totals:	<u>\$16316.78</u>	<u>\$14355.57</u>	<u>\$12894.94</u>	<u>\$17388.66</u>	<u>\$23151.39</u>

The evidence shows that these amounts include expenditures for additions and betterments heretofore referred to, also attorneys' fees in the amount of \$372.14 in the year 1920, for a suit adjudicating water rights, which is also a capital charge. Deducting these items from the above statements, the corrected totals for operating expenses are as follows:

	<u>1916</u>	<u>1917</u>	<u>1918</u>	<u>1919</u>	<u>1920</u>
Additions and Betterments:	\$ 1971.28	\$ 1945.35	\$2099.03	\$ 3745.79	\$ 3538.94
Corrected M. & O.:	14345.50	12510.22	10795.91	13642.87	19612.45

Applicant also submitted an estimate of 1921 expenses, based upon the actual expenditures of 1920 and those of 1921 prior to July

first. The estimate submitted of \$19,500.00, is considered too high for the reason that it includes a certain amount of deferred maintenance, and also because it is based upon actual cost over a period when the price of labor and materials was at the peak. A large portion of the company's expenditures for maintenance is for labor and team hire. The prices paid by the applicant for these purposes in past years are as follows:

	<u>Labor Per Day</u>	<u>Team and Driver Per Day</u>
1916	\$ 2.00	\$ 4.00
1919	4.00	6.00
1920	5.00	7.00
1921	3.50	6.00

The downward trend of labor cost as well as other items of operating expenses is now apparent. In view of these conditions, we conclude that the sum of \$17,000.00 is the reasonable and proper maintenance and operation charge to be allowed.

Mr. Conway, for applicant, testified that the irrigable acreage within the area covered by the present ditch system amounts to 12,671 acres. The average acreage actually irrigated during the past two years is 10,016 acres per season. This would indicate that the project is 79% irrigated. The revenues of the company for the years 1919 and 1920 are shown as follows:

	<u>1919</u>	<u>1920</u>
Bills sent out.....	\$16,538.00	\$17,837.00
Amount collected to date.....	<u>16,507.50</u>	<u>16,414.30</u>
Amount uncollected.....	\$ 30.50	1,422.70

It developed at the hearing that certain lands held by the Los Molinos Land Company have been furnished with water without charge, the acreage being 1507 in the year 1919 and 857 in the year 1920. As a reason for this it was testified by Mr. Jay Lawyer, for applicant, that the Los Molinos Land Company had advanced money each year to the applicant to pay current expenses. The amount thus

advanced during 1919 was \$18,126.00 and in 1920 was \$22,400.00. Assuming an average of \$20,000.00 per year thus advanced by the Land Company as working capital--not that such amount would be in one sum, but as needed from month to month--then a reasonable interest charge thereon at 7% would be \$700.00. The irrigation of the Los Molinos Land Company's land free of charge was considered payment for such advances. It is clear that the Land Company profited considerably by this arrangement. The average acreage irrigated by the Land Company for the two years was 1182 acres per season, which, at the current rate of \$2.00 per acre per season, would yield to the Water Company \$2,364.00 per year.

It is clear that the proper way to have handled the matter was to charge the Coneland Water Company for money advanced each year, and for the Coneland Water Company, in turn, to charge the Land Company for the acreage irrigated. Allowance will be made in the method of payment of the rates hereinafter fixed to provide for working capital in order to obviate this dependence upon the Land Company for such working capital.

The fair valuation of the applicant's properties, used and useful, in the public service in the maintenance of this system was found to be \$226,971.00. It was also shown that this investment was made to supply water to an area which is at the present time only 79% developed. In determining the rate base in this proceeding, therefore, we shall allow a return on 79% of the larger amount of \$226,971.00. Confining the items that go to make up the estimated annual charges to those which are considered properly allowable in this proceeding, we have the following result:

Interest on \$179,307 at 8%.....	\$14,345
Replacement Fund (6% sinking fund)..	2,425
Maintenance and Operating Expense..	<u>17,000</u>
Total Annual Charges.....	\$33,770

This total of \$33,770 for annual charges greatly exceeds the present revenues of the company derived from the rates now in effect. A large number of the consumers, as shown by the agreement attached to the petition, have agreed to an increase of rates not to exceed \$3.50 per acre per season. It is interesting to note that an estimate of revenue at this rate upon the basis of 10,000 acres irrigated land last season will yield an annual income of \$35,000, which closely approximates the annual charges above set forth. By the terms of this agreement, the income from such increased rates will allow the Company to expend approximately \$16,500 per year (including \$2425 depreciation) for permanent betterments. This sum is, roughly, five times the annual expenditures heretofore made for improvements. The necessity for concrete canal linings and replacements of wooden structures by concrete structures was clearly shown by the evidence. The flat grade of some portions of the ditch system and the silty character of the soil traversed makes water-tight embankments impossible. High seepage losses, due to such conditions and to the rapid depreciation of wooden structures, have tended to greatly increase maintenance costs, and waste the supply available for irrigation.

We conclude that the evidence herein clearly shows that the rates of this utility should be increased, and that its service conditions should be improved substantially in accordance with the agreement between the applicant and those of its consumers who have filed a counter application herein, consenting to such increase of rates.

O R D E R

Coneland Water Company having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter being submitted,

IT IS HEREBY FOUND AS A FACT that the rates now charged by the Coneland Water Company, insofar as they differ from the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates to be charged by said company for water.

And basing its order upon the foregoing finding of fact and the other statements of fact contained in the opinion preceding this order,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that Coneland Water Company be, and it is hereby, authorized and directed to file with the Railroad Commission on or before the 25th day of November, 1921, the following rates for irrigation water, said rates to become effective for service rendered after December 1, 1921:

\$1.50 per acre, payable on or before
March first of each year.
\$2.00 per acre, payable on or before
September first of each year.

IT IS HEREBY FURTHER ORDERED that Coneland Water Company be, and it is directed, to file with the Railroad Commission within thirty (30) days from the date of this order a complete schedule of rules and regulations governing the distribution and sale of water to consumers supplied by it, said schedule to be effective on the date of its ac-

ceptance for filing by the Commission.

The effective date of this order is hereby fixed and designated as the 25th day of November, 1921.

Dated at San Francisco, California, this 4th day of November, 1921.

H. D. Bannidge
H. D. Loveland
Ernest Martin
Walter H. ...
J. C. ...
Commissioners.