

Decision No. 9830

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

---oOo---

In the Matter of the Application of)
WESTERN STATES GAS AND ELECTRIC COM-)
PANY, a corporation, for an order) Application No. 6886
increasing its electric rates in its)
Stockton Division.)

In the Matter of the Application of)
WESTERN STATES GAS AND ELECTRIC COM-)
PANY, a corporation, for an order) Application No. 5942
increasing its gas and electric rates) First Supplemental
in its Stockton Division.) Application.

In the Matter of the Investigation on)
the Commission's own motion into the)
reasonableness of rates of the WESTERN) Case No. 1664
STATES GAS AND ELECTRIC COMPANY for)
service of gas in the City of Stockton.)

Chickering & Gregory, by Allen L. Chickering
and Evan M. Williams, and Nutter, Hancock
& Rutherford, by W. B. Nutter, for Wes-
tern States Gas and Electric Company.

Stanley M. Arndt, for intervenors.

Stewart & Louttit, and Stanley M. Arndt, for
National Paper Products Company.

Chas. W. Slack and Edgar T. Zook, by O. K.
Patterson, for Natomas Company of California.

M. P. Shaughnessy, for City of Stockton.

MARTIN, Commissioner:

O P I N I O N

Application No. 6886 is a petition of Western States
Gas and Electric Company for an increase of electric rates in

its Stockton Division. The request is based upon the contention that since the rates now in effect were authorized, applicant's costs of operation have increased on account of increased cost of power purchased and increases in taxes, and further, that owing to decrease in the amount of business supplied by it applicant's net return will, under present rates, be less than found reasonable by the Commission.

Prior to a hearing being set in this application and at the urgent request of the Stockton Chamber of Commerce that the Company withdraw its application, Western States Gas and Electric Company thru its attorneys requested, under date of June 25th, 1921, that the matter be withdrawn and dismissed without prejudice. On the same day that the petition for withdrawal was received a petition of intervention was filed by W. D. Buckley and others thru their attorney, Stanley M. Arndt. This petition denied in general the allegations set forth in the Company's application and presented a counter-application requesting that the Commission deny the application of Western States Gas and Electric Company and make an investigation and determination of the electric rates and order such decreased rates as seem just, and that the rates for gas service be investigated and reduced rates be established. Request was made that pending such decision Western States Gas and Electric Company be required to hold the sum of 6 cents per thousand cubic feet for all gas supplied based on meter readings taken on and after July 1st, 1921 subject to the order of the Commission. In view of the petition for intervention and its later amendment, Application No. 6886 of Western States Gas and Electric Company was not dismissed but set for hearing.

First Supplemental Application No. 5942 is a petition of Western States Gas and Electric Company for authority to re-

duce its gas rates by 5 cents per thousand and for the determination of a basis of variation in the cost of gas by which its rates might be automatically modified with change in price of oil without the necessity for formal hearings. This request for reduction in rates was based upon general reduction in the cost of oil to applicant.

Case No. 1654 was instituted by the Commission on its own motion into the reasonableness of the gas rates of Western States Gas and Electric Company in its Stockton Division in view of the reduction in the price of oil and the position taken by Western States Gas and Electric Company relative to the intervention and cross-complaint filed.

Application No. 6886 and Case No. 1654 were set for hearing at Stockton on September 6th, and at the hearing attorneys for Western States Gas and Electric Company agreed that First Supplemental Application No. 5942 might be considered in connection with the other proceedings.

Hearings were held at Stockton on September 6th and 7th and at San Francisco on September 13th, at which time evidence was introduced by Western States Gas and Electric Company in support of its petition and by the Commission's engineers and certain exhibits were filed by the intervenors. At the hearing Western States Gas and Electric Company again offered to withdraw its petition as urged by the Stockton Chamber of Commerce contingent upon the dismissal of the entire proceeding including the counter proceeding in intervention. This proposal was not accepted by the intervenors.

The three proceedings were consolidated for hearing by the Commission and by agreement of counsel for parties the

various proceedings were deemed as submitted on September 13th for the purpose of an emergency and preliminary order by the Commission, with the understanding that any exhibits or reports submitted by the Commission's engineers on a check of the exhibits submitted by the Company be filed with the various parties and the parties have the right to ask for further hearing or submit statements or briefs relative to such additional evidence.

Report upon the electric operations was submitted by Assistant Chief Engineer L. S. Ready to the various parties under date of October 14th and the proceeding is now submitted in so far as it refers to preliminary or emergency order and the matters are ready for decision.

The present gas rates in effect in the Stockton Division of the Western States Gas and Electric Company were established by this Commission's Decision No. 8459 in Application No. 5942, dated December 20th, 1920. In this decision the rates were based upon a price of oil of \$2.30 per barrel f.o.b. Stockton. Taxes were estimated at the then existing rate of taxation, and it was found by the Commission that the Company was entitled to a return of \$168,000 per annum for interest and depreciation on the basis of the year ending June 30th, 1921. Since the time of the decision there have occurred two reductions in the price of oil, totaling for Western States Gas and Electric Company 60 cents per barrel, making the present price \$1.70 per barrel. There has been additional capital invested in the property and the rate of taxation has been increased. In view of these facts Western States Gas and Electric Company applied for authorization for a reduction of 5 cents per thousand cubic feet and the placing in effect of an automatic rate

which would vary with the price of oil.

Western States Gas and Electric Company's estimate of operating revenues and expenses for the year ending June 30th, 1922 with a reduction in rates of 5 cents per thousand cubic feet below the present rates show an estimated net return for interest and depreciation for that period of \$181,923. Exhibits were introduced by the Commission's Assistant Chief Engineer L. S. Ready setting forth a revised estimate of the operating revenues and expenses for the same period, showing a net revenue if existing rates were continued in effect of \$221,200 based upon existing price of oil and other conditions,

and, if the rate of return heretofore found reasonable should be continued and a reasonable return allowed on additions and betterments installed during the period, that a possible reduction of 8.05 cents per thousand cubic feet could be made at the present time. A comparison of the estimates submitted by Mr. Kahn, General Manager of the Western States Gas and Electric Company, and Mr. Ready is set forth in Table No. 1:

TABLE NO. I

WESTERN STATES GAS & ELECTRIC COMPANY

STOCKTON - GAS

COMPARISON OF ACTUAL AND ESTIMATED
REVENUE AND EXPENSES

	Actual Year Ending 6/30/20	Actual Year Ending 6/30/21	Company Est. Year Ending 6/30/22	L.S. Ready Estimate Year Ending 6/30/22
Gas Output-M cu.ft.				
Natural	183,700	179,597	174,208	175,000
Artificial	239,300	294,226	336,655	332,000
Total	<u>423,000</u>	<u>473,823</u>	<u>510,863</u>	<u>507,000</u>
Gas Sales - M cu.ft.	371,658	411,529	444,451	444,450
Oil - Bble.	49,474	58,894	67,385	67,200
Gas Revenue (Gas Sales)	\$400,311	\$480,425	\$523,652*	\$545,000#
Operating Expenses				
Production				
Oil	\$ 89,312	\$124,044	\$116,538	\$114,200
Other	54,953	58,137	67,676	64,000
Distribution	24,018	30,214	35,655	32,700
Commercial	11,882	13,448	15,434	14,500
General and Misc.	32,785	42,983	51,351	45,000
Taxes	29,340	38,828	52,758	48,900
Insurance	<u>3,537</u>	<u>4,158</u>	<u>4,707</u>	<u>4,500</u>
Total Expense	\$245,827	\$311,812	\$344,129	\$323,800
Net for Depr. & Ret.	\$154,484	\$168,613	\$179,523	\$221,200
Reasonable Return based on Commis- sion Estimate in Dec. 8459		\$168,000		\$188,000
Excess				\$ 33,200
Average Reduction Possible-Cents per 1000 cu. ft.				7.48¢
Modified by Miscellaneous Revenue of \$2500	"	"	"	8.05¢
Oil Price Variable-Cents per 1000 cu. ft. per 10¢ change in oil price		1.49¢		1.49¢

* Present Rates Reduced 5¢
Present Rates Continued.

The main difference between the two estimates is that under the item of "revenue" Mr. Kahn has estimated revenue at a rate of 5 cents per thousand cubic feet below the present rate, while that submitted by Mr. Ready is at the present rate. Operating expenses submitted by Mr. Ready have been estimated somewhat lower than those submitted by the Company based upon a comparison of the increase in previous operating expenses and also upon the basis that with the reducing price of commodities the operating expenses should not increase at a greater rate than the increase in business. In a preliminary order such as this and in the absence of very complete showing, the estimate of operating expenses for a given year should not be increased to a greater extent than increase in business.

The question is raised regarding whether there should be included the item of miscellaneous revenue, covering primarily non-operative revenue, in determining the rate of return which the Company receives. The rate determinations for gas service of the Western States Gas and Electric Company have been based in the past upon a comparative rate of return with the pre-war period and it appears that in determining this rate of return the item of miscellaneous revenue was included, as has also been included certain operating expenses pertaining thereto. Under such circumstances I believe that it is reasonable to accept Mr. Ready's estimate of operating expenses and revenue for the purpose of this proceeding. Intervenors urge a lesser return for both interest and depreciation than estimated by Mr. Ready. From a careful study of their reasons and the evidence I find no justification for changing that amount.

The rates for gas service of the Western States Gas and Electric Company are at the present time practically equal

to the rates charged in similar communities where straight artificial gas is served. The rates in these communities have been fixed based on an oil price of \$1.72 per barrel. With the reduction herein ordered the rates in Stockton, based on \$1.70 per barrel for oil will be approximately 8¢ per 1000 cubic feet or 7% lower than are charged in similar cities where artificial gas alone is served. It may be reasonable to assume that under conditions of artificial gas service a rate averaging 7% higher than herein fixed would be necessary.

Western States Gas and Electric Company supplies about 60 per cent artificial gas and 40 per cent natural gas in its Stockton Division. Analysis of the operations shows that a change of 10 cents per barrel in the price of oil results in a change of approximately 1½ cents per thousand cubic feet in the cost of gas supplied to consumers. Western States Gas and Electric Company asks that a rate be fixed which will vary automatically with the change in the price of oil. Such a type of rate or differential has been made effective on other systems and has resulted in the maintenance of reasonable rates under fluctuating oil prices. The Order herein will include such a modification. I find that the gas rates should be reduced 8 cents per thousand cubic feet and that an automatic variation of 1½ cents per thousand cubic feet for each 10 cents change in the price of oil should be made effective.

The present rates for electric service in the Stockton Division of the Western States Gas and Electric Company were fixed by this Commission's Decision No. 8459 in Application No. 5942, effective December 30, 1920. In the Decision fixing the electric rates the Commission based the return

upon an estimated average rate base for the year ending June 30th, 1921 of \$4,541,000 and found that the Company was entitled to a net of \$476,805 for depreciation and return based upon that year's operations. Applicant has introduced herewith estimates of the operative capital, operating revenue and expense for the year ending December 31st, 1921, claiming as a rate base for that year the sum of \$5,072,950.97, this including increases in capital due to additions and betterments and increase in working cash capital and materials and supplies. Applicant has estimated that its net earnings would be \$429,683 for depreciation and return for the same period, or an average return of 8.47% including depreciation, or approximately 6.22% exclusive of that item. Applicant's estimate is based upon the operations for the calendar year 1921 and not upon conditions as they are at the present time or may occur in the future and it is apparent from the evidence herein that the operating costs during the first half of the year were in general greater than may be expected to occur in the future. It, therefore, appears that the estimate as set up is not a correct measure of what future rates should be.

In accordance with the understanding between the parties, an investigation and check of the Company's estimate was made by Assistant Chief Engineer L. S. Ready for the Commission and a report submitted as heretofore stated. In this report Mr. Ready made an estimate of the probable rate base, operating revenues and expenses for a 12 months' period, using the property and business for the year 1921 but ^{taking} conditions as they exist at the present time in determining the reasonableness of existing rates. This estimate indicated that on the

basis of present rates and present conditions the net earnings for the period of 12 months would be approximately \$506,873. The estimate made by Mr. Ready has been the subject for the filing of briefs by Western States Gas and Electric Company and intervenors.

Table No. II sets forth the actual revenues and expenses for the year ending August 31st, 1921, the Company's estimate for the year 1921 and Mr. Ready's estimate for the 1921 basis:

TABLE NO. II

REVENUE, OPERATING EXPENSES & RETURN

ELECTRIC DEPT. - STOCKTON DIVISION

WESTERN STATES GAS AND ELECTRIC COMPANY

1921 Basis

	<u>Actual 12 mos. end. 8/31/21</u>	<u>Company's Estimate 1 9 2 1</u>	<u>L.S. Ready Estimate 1921 Basis</u>
Rate Base		\$5,072,951	\$4,700,000
Gross Revenue	\$1,357,443.59	\$1,414,229	\$1,430,000
Operating Expense:			
Production			
Hydro	53,970.46	62,560	60,720
Steam	53,791.43	59,218	54,893
Purchased Power	394,307.04	418,402	395,976
Credit energy to other Depts.	15,110.94*	15,960*	15,960*
Total	<u>\$486,957.99</u>	<u>\$524,220</u>	<u>\$495,629</u>
Transmission	44,958.32	49,735	49,735
Distribution	84,984.63	82,727	82,727
Commercial	32,785.78	35,155	35,155
General & Miscellaneous	120,548.99	138,531	115,000
Taxes	118,092.87	135,147	125,850
Insurance	19,287.45	19,031	19,031
Total Expense	<u>\$907,616.03</u>	<u>\$984,546</u>	<u>\$923,127</u>
Net Return for Interest and Depreciation	\$449,827.56	\$429,683	\$506,873
Rate of Return for Depr. & Return on Rate Base Estimated		8.45%	10.76%

* Deduct.

Western States Gas and Electric Company in its brief pointed out that in determining a relative rate base for the period in question Mr. Ready had excluded certain property which is operative. To the extent that this is so, such item should be increased. It appears that Mr. Ready excluded certain hydro-electric properties amounting to \$125,426.42 which may be considered operative, also that his estimate of additions and betterments should be increased \$5,000. It would appear that for this decision the comparative rate base should be increased to \$4,825,000.

Applicant urges that in estimating gross revenue there should be excluded from Mr. Ready's estimate the miscellaneous non-operating revenue, which it estimates at a net of \$5,310. Altho in complete investigations of rates, where all corrections for expense in connection with miscellaneous non-operating revenues are deducted, this item has generally been excluded, it appears that in the past in electric rate proceedings of this Company the item of miscellaneous non-operating revenue has been included in determining the reasonableness of the electric rates and the comparative rate of return allowed and it would appear consistent to follow the same procedure herein. I find from a consideration of the evidence that a reasonable estimate of gross revenue on the 1921 basis is \$1,425,000. It appears that the basis of estimating the cost of energy on the present rates effective in determining the reasonableness of the present rates as used by Mr. Ready is sound. However, as suggested in Mr. Ready's report, an additional allowance should be made for the cost of purchased energy to cover the increase due to correction in method of billing by the Pacific Gas and Electric Company. A recomputation of the rates for delivery of service at Natomas and Stockton shows that an increase should be made of \$7,250 to cover this item, bringing the total estimated cost of purchased power to \$403,226.

Considerable difference exists between the Company's and Mr. Ready's estimate of general and miscellaneous expense, one item being the amortization of the cost of damage suit amounting to \$12,000 per year, covering one-third of the cost to the Company of the damages and expenses therewith of a suit covering an accident which occurred about 1910, judgment on which was rendered in 1920. Mr. Ready has allowed approximately \$5,000 to cover a normal allowance for injuries and damages, while the Company's estimate included \$12,000 for this item alone.

From a study of public utility commission decisions and court decisions it appears that in general allowance is made in operating expenses for either the reasonable insurance to cover public liability or reasonable cost of carrying such insurance, and that allowance for excess damages over insurable amounts should not be made. The amount in question is in excess of insurance carried. Applicant at this time is carrying public liability insurance and I must recommend that even the amount included by Mr. Ready be eliminated.

Applicant has estimated a very material increase in general expense between 1920 and 1921, the increase in percentage being far in excess of either the percentage increase in business or revenue. It is possible that applicant's general expense was below a reasonable amount in 1920. However, in an emergency proceeding such as this it does not appear that a materially greater general expense should be allowed without a full and careful presentation of the entire matter justifying such greater expense. This is especially true when it is considered that the peak of prices has passed and the tendency should be to a lesser rather than a greater expense. There is also the question of the reasonableness of the H. M. Byllesby charge of $2\frac{1}{2}$ per cent of the gross revenue for general supervision.

Evidence does indicate certain increases in general expense which have occurred due to enlarged offices and extended service which would justify somewhat greater increase than that estimated by Mr. Ready. I find an allowance of \$115,000 to be a proper amount to be included in determining in this proceeding the reasonableness of rates.

Western States Gas and Electric Company has included in the item of taxes, state taxes on the estimated 1921 gross revenue, also Federal income tax, certain non-operative tax, capital stock tax and taxes paid on tax free securities. The

general method followed by this Commission in estimating taxes is to include taxes which become a lien on the property during the period in question. In this instance, however, the year 1921 has been used as a period for measuring the reasonableness of present rates. The determination of rates, however, at this time is to cover rates for the future. Since the rates were increased at the first of 1921 by approximately 10% and any action herein will cover rates for the future, it follows that the method used by Mr. Ready, in which the tax was estimated upon the business for 1920 at existing rates, is sound. A recheck of this estimate, however, shows that this estimate is slightly below the amount which would be determined by this method. The state income tax should be increased to \$100,000. Intervenors object to the including of Federal income tax. The Commission has in a number of instances included

Federal income tax as a part of the cost of operation and eliminated it from consideration in the determination of the reasonable return allowable to the Company. For the purpose of this proceeding it is deemed proper to follow the same practice and consider the points raised by protestants in the main proceeding. I find a fair allowance for taxes in this proceeding to be \$127,350.

The following table sets forth the estimated rate base, revenue and expense on the basis of the year 1921 found to be reasonable from the evidence herein. On this basis the Company's rates would give a net return of 10.2% for interest and depreciation. In Decision No. 8459 it was considered that a return of 10.5% for interest and depreciation should be considered reasonable. On this basis the total net return should be \$506,625, or \$13,502 more than the above estimate. This is approximately 1.0% of the gross revenue. In view of the above and the fact that Western States Gas and Electric Company twice requested that the application be dismissed I must conclude that no emergency exists justifying any increase in electric rates at this time.

TABLE NO. III

REVENUE, OPERATING EXPENSES & RETURN

ELECTRIC DEPT. - STOCKTON DIVISION

WESTERN STATES GAS AND ELECTRIC COMPANY

1921 Basis

Rate Base		\$4,825,000
Gross Revenue		\$1,425,000
Operating Expense:		
Production - Hydro	\$	60,720
Steam		54,893
Purchased Power		403,226
Credit energy to other Depts.		15,960*
Total	\$	502,879
Transmission		49,735
Distribution		82,727
Commercial		35,155
General & Miscellaneous		115,000
Taxes		127,350
Insurance		19,031
Total Expense	\$	931,877
Net Return for Interest & Depreciation	\$	493,123
Rate of Return for Depr. & Return on Rate Base Estimated		10.2%
Return at 10.5% previously allowed	\$	506,625
	\$	13,502

I recommend the following form of Order:

ORDER

Western States Gas and Electric Company having applied,
in Application No. 6886, for an increase in electric rates, a

petition of intervention by Mr. W. D. Buckley et al having been filed therein requesting a reduction in gas and electric rates, Western States Gas and Electric Company having applied for authority to reduce its gas rates 5 cents per thousand cubic feet and for the fixing of a variable gas rates, First Supplemental Application No. 5942, and the Commission having instituted a proceeding on its own motion, Case No. 1664, for the determination of reasonable gas rates of Western States Gas and Electric Company, hearings having been held and the proceedings submitted in so far as they refer to immediate or emergency modification of rates and now ready for decision.

The Railroad Commission hereby finds as a fact that no emergency exists justifying an increase or decrease in electric rates at this time on Western States Gas and Electric Company's system in its Stockton Division, and also finds as a fact that the rates for gas service by Western States Gas and Electric Company in its Stockton Division should, under present conditions, be reduced by 8 cents per thousand cubic feet below the present rates.

Basing its Order on the foregoing findings of fact and the other findings of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that petition of Western States Gas and Electric Company for an increase in electric rates, Application No. 6886, in so far as it refers to emergency action, is hereby denied.

IT IS HEREBY FURTHER ORDERED:

1. That Western States Gas and Electric Company reduce its present rates per thousand cubic feet for gas service in its Stockton Division by the amount of 8 cents per thousand cubic feet effective for all meter readings taken on and after

December 30th, 1921, and that said rates shall be further modified to include the following clause:

"The above rates are subject to increase or decrease on the basis of $1\frac{1}{2}$ cents per thousand cubic feet for each 10 cents increase or decrease respectively in the cost of oil above or below the price of \$1.70 per barrel at Stockton upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent."

2. In case of a reduction in the price of oil Western States Gas and Electric Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil, and shall thereafter, upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined herein.

3. Should at any time an increase in the price of oil occur, Western States Gas and Electric Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined herein.

4. Western States Gas and Electric Company shall, within ten (10) days of the date of this order, file with the Commission the revised schedules of rates as herein ordered.

5. First supplemental application No. 5942 is hereby dismissed.

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 1st day of December, 1921.

H. B. Brundage
H. H. Boardman
Wm. M. Martin
Charles H. Howell

Commissioners.