

ORIGINAL

Decision 9936.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the complaint
of A. HANCOCK, C. S. FILLMORE,
E. E. RANKIN and over twenty-
five others,

Complainants,

vs.

Case No. 1250.

EAST SIDE CANAL COMPANY, KEERN
ISLAND IRRIGATING CANAL COMP-
ANY and the KEERN COUNTY CANAL
AND WATER COMPANY,

Defendants.

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

The Commission's opinion and order on rehearing was rendered June 30th, 1921. Thereafter, on September 24th, 1921, there was filed by the defendant, Kern Island Irrigating Canal Company, a petition for rehearing and for modification of the order of June 30th, 1921, Decision No. 9195.

Informal conferences were held before the Commission by attorneys representing the parties on the questions presented by the petition and thereafter a formal public hearing thereon was duly had on December 28th, 1921, and the matter submitted.

The portion of the order sought to be modified provides as follows:

"That Kern Island Irrigating Canal Company be, and it is hereby directed to deliver to East Side Canal Company for resale by that company to its consumers, a minimum of 25,500 acre feet of water per year, provided, however, that

in years of drought and consequent shortage of water supply, the amount delivered shall be decreased only in proper ratio to the decrease in supply, and in years in which an increased supply is available, the quantity of water delivered shall be increased and equitably prorated among all consumers."

The petition seeks a modification of the item of the order above quoted only in so far as it deals with the distribution of water in years of drought and consequent shortage of water supply and in years in which increased supply is available.

We believe it is clear, as shown by the opinion preceding the order, that the provision for decreasing the amount delivered in times of shortage "only in proper ratio to the decrease in supply" necessarily and properly refers only to the supply of the Kern Island Irrigating Canal Company available for distribution to its public utility consumers. However, an amendment of the form of this order in this respect to more clearly state the meaning as thus interpreted will be made.

As to that portion of the order dealing with the distribution in years of increased supply, we are convinced that a substantial modification is necessary. This is a proceeding initiated by complaint by the consumers of one distributing company, the East Side Canal Company, which, as the record shows, is only one of a number of public utility consumers of the Kern Island Irrigating Canal Company. All the public utility consumers of the Kern Island Company were not made parties to the proceeding, nor does the record show nor the order purport to fix the basic or normal supply to which such other consumers were entitled. In the case of East Side Canal Company this was done and the amount of 25,500 acre feet per year was fixed as the amount to which they are entitled. In making any order dealing with surplus water or with "increased supply" the interests of

all consumers are necessarily affected. It is a fundamental principle of public utility regulation that all consumers be placed on a basis of equality and that the total available supply of the utility, such as a water company, must be distributed equally among all consumers up to the maximum point of serving to consumers the amount of water reasonably required for their use. Provision is made by Chapter 80 of the Statutes of 1913 for a determination by the Commission, after proper hearing, of the extent to which a water company has reached its maximum capacity of service beyond which it can not go in taking on new consumers to the detriment of those already served.

The order in question could legally deal with the distribution of increased supply only to the extent of requiring the utility to furnish a maximum amount to guarantee reasonable service to all its consumers. As above pointed out, it is necessary that before making such an order all the consumers be brought in as parties and full consideration given to the amount normally required by each consumer. Since this proceeding was never extended to do this, it is proper that any reference to the distribution of increased supply be eliminated. The Commission recommends, however, that another proceeding be instituted for a proper determination of the normal amounts to which all public utility consumers of this company are entitled and the equitable basis upon which any increased supply should be distributed.

O R D E R

There having been filed herein, on the 24th day of September, 1921, by the Defendant, Kern Island Irrigating Canal Company (referred to in said petition as the Kern Island Canal Company) ^{a petition} for a rehearing on and modification of the order heretofore made herein June 30th, 1921, Decision No. 9195, a public hearing having been held thereon and the matter submitted,

NOW, THEREFORE, good cause appearing,

IT IS HEREBY ORDERED, that Item 4 of the order heretofore made June 30th, 1921, Decision No. 9195, as follows:

"4. That Kern Island Irrigating Canal Company be, and it is hereby directed to deliver to East Side Canal Company for resale by that company to its consumers, a minimum of 25,500 acre feet of water per year, provided, however, that in years of drought and consequent shortage of water supply, the amount delivered shall be decreased only in proper ratio to the decrease in supply, and in years in which an increased supply is available, the quantity of water delivered shall be increased and equitably prorated among all consumers,"

be, and the same is hereby, modified to read as follows:

"4. That Kern Island Irrigating Canal Company be and it is hereby directed to deliver to East Side Canal Company, for resale by that Company to its consumers, a minimum of 25,500 acre feet of water per year, provided, however, that in years of drought and consequent shortage of water supply the amount delivered shall be decreased only in proportion to the decrease in supply available for distribution to the public utility consumers of the said Kern Island Irrigating Canal Company."

The said order of June 30th, 1921, in all other respects to remain unchanged.

Dated at San Francisco, California, this 29th day of December, 1921.

H. B. Anderson
H. S. Loveland
Charles A. Rowell
W. H. Pennington
Commissioners.