

Decision No. 9986.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.
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ORIGINAL

In the Matter of the Application of)
EXCELSIOR WATER AND MINING COMPANY,)
a corporation, for an order authoriz-)
ing and permitting an increase in the)
rates and charges for water furnished)
and services rendered by it in the)
counties of Nevada and Yuba, State of)
California.)

Application No. 6427.

C. F. Metteer, for applicant.

Robert M. Searls and Carroll Searls,
for Yuba Nevada Water Users Association.

BY THE COMMISSION.

O P I N I O N

Applicant, Excelsior Water and Mining Company, engaged in the business of selling water for irrigation purposes in Nevada and Yuba Counties, asks authority to increase the rates for water furnished its consumers, alleging in effect that the present rates are non-compensatory. It is further asked that the order of the Commission specify the time of payment of rates and provide that all payments becoming delinquent shall bear interest from maturity at a reasonable rate.

The Yuba Nevada Water Users Association filed a protest against the granting of the application, alleging that the system is overbuilt; that there has been a decrease in the value of farm products and that an increase in rates would place a burden on the consumers that would not be justified; and further, that an in-

crease in charges at this time would result in a decreased use of water, thereby reducing applicant's revenues and curtailing the agricultural industry of the area served.

A public hearing was held before Examiner Satterwhite at Nevada City, of which all of applicant's consumers were notified and given an opportunity to appear and be heard.

For the early history of the company and a description of the system reference is made to Decision No. 1361, dated March 19, 1914, in Application No. 934, entitled In the Matter of the Application of Excelsior Water and Mining Company for an order authorizing and permitting a change in the rates and charges for water furnished and services rendered by it in the Counties of Nevada and Yuba, State of California, page 438, Volume 4, Opinions and Orders of the Railroad Commission of California.

The rates in effect were established by this Commission in Decision No. 7022, dated January 9, 1920, in Application No. 4423, entitled In the Matter of the Application of Excelsior Water and Mining Company, a corporation, for an order authorizing and permitting an increase in the rates and charges for water furnished and services rendered by it in the Counties of Nevada, Yuba and Placer, State of California, page 664, Volume 17, Opinions and Orders of the Railroad Commission of California. These rates are as follows:

IRRIGATION

For all water delivered at the ditch or ditches of the company, 15 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount, 1 miner's inch per minute being equal to 1½ cubic feet.

POWER

Five cents (5¢) per miner's inch per 24-hour day for approximately 200 miner's inches used from the so-called Rough and Ready Ditch.....	\$10.00
Two and one-half cents (2½¢) per miner's inch per 24-hour day for approximately 110 miner's inches used from the so-called Newton Ditch.....	2.75
Total per twenty-four (24) hours for approximately 310 miner's inches.....	\$12.75

At the hearing applicant asked that the application be amend-

ed to show the change of name of the company allowed by the Superior Court since the filing of this application, the name of the company now being Excelsior Water and Power Company instead of Excelsior Water and Mining Company. There being no objections the request was granted.

This system was originally constructed for supplying water for hydraulic mining in the Smartsville district. Since the cessation of mining, efforts have been made to convert the system into an irrigation property, with varying success. The average acreage irrigated for the past three years is about 2,000 acres and consists of garden, alfalfa, orchard and rice. A small amount of water is used for domestic purposes and some for power development in mining. All water used for power purposes is recovered and again sold, and for this reason a lower rate has been granted for such use. This system has not yet realized its full irrigation possibilities, and may still be considered as in its development stage.

Water is obtained by diversion from the South Fork of the Yuba River and from Deer Creek and its tributaries. Applicant has a right to 2,000 miner's inches on the South Fork, while the quantity which may be diverted from Deer Creek is in litigation. The water is distributed through about 123 miles of ditches, varying from 2 to 45 cubic foot second capacity. There is no storage developed as yet, the supply being dependent upon the natural flow of the streams.

Mr. William Stava, one of the Commission's hydraulic engineers, submitted a report of an investigation of the system. This report shows that the estimated investment, as found in the Commission's Decision No. 1361, in 1914, was \$512,721, and that \$316,785 was held by the Commission to be a proper portion of the investment chargeable against the consumers. The additions and betterments since that date amount to \$55,674, but as the details of the former appraisal were not available, it was impossible to make proper credits for retirements of some of the replaced struc-

tures.

Mr. Chester E. Loveland, engineer for the applicant, also submitted a report of an investigation of the system which in the main substantiated the figures presented by Mr. Stava.

Based upon the Commission's findings in Decision No. 1361 and subsequent net additions to capital it would appear that at least \$350,000 is at this time properly chargeable against consumers.

Maintenance and operating expense, not including depreciation, were shown as follows:

Year 1919.....	\$23,442
Year 1920.....	27,970
Estimate for 1921.....	26,232
Average.....	25,881

Exception was taken by Mr. Stava and by Mr. W. L. Euber, engineer for the consumers, to the charges for overhead and legal expense on the ground that they are higher than corresponding costs on similar systems. It was recommended that items such as damages and Railroad Commission expense be amortized over a period of years inasmuch as they are not annually recurring costs. Apparently an allowance for maintenance and operating expense of \$24,000 for the immediate future will be fair alike to the utility and the consumers.

Mr. Loveland contended that the depreciation annuity, computed in the earlier proceeding and amounting to \$3,691, is not sufficient at this time, as the actual annual cost of replacements has exceeded this amount since 1914, having averaged \$7,953 per year, and that no annuity has been computed for new structures installed since 1914. It was also claimed that the quality of lumber now being produced does not have the same service life in the structures as the lumber used in the early days. It is apparent that there should be some adjustment in the depreciation annuity due to the comparatively short-lived structures installed since 1914, and

also to compensate for the installation of some permanent canal structures. It is believed that an allowance of \$4,200 will be ample for this purpose.

Annual charges based upon the foregoing items are then as follows:

Return upon \$350,000 at 8%	\$28,000
Depreciation Annuity.....	4,200
Maintenance and Operating Expense.....	24,000
Total.....	<u>\$56,200</u>

Revenues for the sale of water have been as follows:

Year 1919,.....	\$22,989
Year 1920,.....	29,226
Estimated for 1921,.....	25,075

The decrease in revenue for 1921 is accounted for principally by the discontinuance of operation of the Champion Mine, and represents a loss in revenue of about \$5,000 per year. There appears to have been no increase in the acreage irrigated during the last few years when farm products commanded a high price, but on the contrary the use of water was shown to have decreased.

The sales of water for irrigation in 1919 amounted to 175,517 miner's inch days; 168,685 in 1920; and it was estimated that the use in 1921 will be 152,884 miner's inch days. The area irrigated in 1920 was 2,061 acres, and 1929 acres in 1921.

The evidence shows that the applicant has in the past voluntarily reduced its rates to encourage agricultural development, but that this reduction did not result in any extensive increase in acreage or the planting of orchards and vineyards which can take a higher rate and increase the duty of water. On the contrary, the low rates encouraged the irrigation of pasture for dairying, for which the foothill region is not suitable as it requires a large quantity of water per acre, and, according to the testimony, cannot stand an adequate rate.

The consumers testified to the effect that they could not pay a higher rate for water for the reason that the price of dairy

products was falling; that it was impracticable to set out orchards on account of the remoteness of this particular area from a market, and the necessity of hauling their produce over poor roads to a shipping point; also that there is an insufficient supply of water in Deer Creek for any extensive development of orchards in the area served therefrom. Further testimony indicated that an irrigation district was being organized which will include the lands now supplied by applicant, and that a highway is being projected through the district.

It is apparent that the present rates do not produce sufficient revenue to cover maintenance and operating expense, and the evidence shows that the average rate charged by other utilities operating under similar conditions is approximately 25 cents per miner's inch day, or about 65 per cent higher than the present rate in force upon applicant's water system. It is therefore evident that an increase in rates is justified. It is further apparent, however, that an increase sufficient to produce the annual charges set out above would not only result in a rate beyond the ability of the consumer to pay but also in such a decrease in water use that revenues would probably diminish rather than increase. The rates set out in the accompanying order are therefore designed to do substantial justice to both the consumer and the utility, and it is estimated that they will produce sufficient revenue to cover maintenance and operating expense, depreciation annuity and some return upon the investment.

The consumers presented in evidence a contract dated June 27, 1921, between The Interstate Land Holding Company and the Excelsior Water and Mining Company which provides for the delivery by applicant of 1600 miner's inches continuous flow of water to the lands of the Interstate Company. This quantity of water could not be furnished from applicant's present supply or delivered through

the existing canals, but would require the installation of storage facilities and the enlargement of the canals at a considerable additional investment. No data were presented to show the cost of providing for the delivery of this water. This contract, however, has never received the approval of this Commission.

Applicant's request for the setting of a time for the payment of rates will be provided for in the accompanying order, by means of an initial payment being required of a consumer at the time application for service is made. This procedure will provide applicant with funds for the repair and operation of the system during the early part of the irrigation season.

Penalties for delinquent payments have been allowed in some instances by this Commission, and it is apparent that some method is required on this system whereby the prompt payment of bills can be provided for. This feature can, however, be best handled through proper rules and regulations.

O R D E R

Excelsior Water and Power Company, formerly Excelsior Water and Mining Company, having made application for permission to increase rates, a public hearing having been held thereon, and the matter having been submitted,

IT IS HEREBY FOUND AS A FACT that the rates now charged by Excelsior Water and Power Company for water delivered to consumers in Nevada and Yuba Counties are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

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

IT IS HEREBY ORDERED that Excelsior Water and Power Company be and the same is hereby authorized and directed to file with this

Commission within twenty (20) days from the date of this order the following schedule of rates, effective for all water delivered to its consumers subsequent to January 31, 1922:

IRRIGATION USE

For all water delivered at the ditch or ditches of the company, 25 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount. (1 miner's inch per minute equals 1½ cubic feet.)

\$15.00 per inch to accompany application for water, the balance to be due and payable on September 1st in the year of service.

MINING OR POWER USE

For all water delivered at the ditch or ditches of the company, 5 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount.

\$3.00 per inch to accompany application for water, the balance to be due and payable on September 1st in the year of service.

OTHER USE

All other water use to be paid for at the rates at present in effect.

IT IS HEREBY FURTHER ORDERED that Excelsior Water and Power Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this 12th day of January, 1922.

H. B. Anderson
H. D. ...
Dwight ...
W. J. ...
Commissioners.