

Decision No. 28423

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
FELTON WATER CO. for permission to  
raise certain water rates. } Application No. 19674.

ORIGINAL

H.C. Wyckoff and A.M. Anthony,  
for Felton Water Co.  
Raymond J. Schirm, for Holmes  
Lime & Cement Co.  
R.L. Young, for certain consumers.  
W.H. Glass, for Tanglewood Water Co.

BY THE COMMISSION:

O P I N I O N

Felton Water Co., a corporation engaged in the public utility business of selling water for domestic, industrial and irrigation purposes in and in the vicinity of the Town of Felton in Santa Cruz County, asks the Commission to establish an increased rate to be charged its consumer Holmes Lime & Cement Company,<sup>(1)</sup> and requests a readjustment in its rate schedule to increase or eliminate commercial agricultural irrigation service and to permit also bona fide permanent residents to pay monthly rather than annually as now provided.

Public hearings were held in this proceeding before Examiner MacKall at Felton.

The present schedule of rates is as follows:

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1. Hereinafter referred to as the Lime Company.

FLAT RATE SERVICE

For the first four consecutive months in which service is rendered during any calendar year, payable in advance----\$ 8.00  
(Service may be commenced at any time during the calendar year at this rate.)

For each additional month over four----- 1.25

Flat rate consumers may, if they so desire, secure service during the entire calendar year by a payment in advance of----- 16.00

For lime kilns per month----- 7.00

All other service, including hotels and other large users of water, to be at metered rates.

MEASURED RATE SERVICE

For the first four consecutive months in which service is rendered during any calendar year, payable in advance, and for water use not exceeding 500 cubic feet per month-----\$ 6.00  
(Service may be commenced at any time during the calendar year at this rate.)

For each additional month over four, for water use not exceeding 500 cubic feet per month----- 1.25

Measured rate consumers may, if they so desire, secure service during the entire year, for water use not exceeding 500 cubic feet per month, on payment in advance of----- 14.00

For water use in excess of 500 cubic feet per month consumers shall be billed for such excess use at the following rates:

From 500 to 5,000 cubic feet, per 100 cubic feet-----\$0.20  
Over 5,000 cubic feet, per 100 cubic feet----- 0.15

MONTHLY METER QUANTITY RATE  
FOR WATER DELIVERED FOR  
AGRICULTURAL IRRIGATION PURPOSES

First 500 cubic feet per month at regular domestic rates.

All use in excess of 500 cubic feet per month,  
per 100 cubic feet-----\$0.03

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The above schedule was established by this Commission in Decision No. 14262, dated November 17, 1924, with the exception of

the irrigation rate which was filed by the utility on June 19, 1930, as the result of a controversy with certain of the irrigators. Applicant contends that this rate was understood by it to be temporary only. The rate actually charged the Lime Company is four dollars (\$4.00) per month and is based upon a contract entered into by and between applicant and the Lime Company under date of June 1, 1924, providing, among other things, for a flat rate service at a charge of four dollars (\$4.00) per month. In addition to a request to alter the terms of this service agreement, the Water Company asks for the readjustment of its present rate structure upon the following basis:

PROPOSED SCHEDULE OF WATER RATES

	<u>Flat</u>	<u>Meter</u>
First four consecutive months-----	\$ 3.00	\$ 6.00
Additional per month-----	1.50	1.25
Calendar year in advance-----	16.00	14.00
Monthly rate-----	1.50	1.25
Lime Company per month-----	7.00	

Meter and Quantity Rates:

500 to 5,000 cubic feet, per 100 cubic feet-----	\$00.20
5,000 to 10,000 cubic feet, per 100 cubic feet-----	.15
10,000 to 20,000 cubic feet, per 100 cubic feet-----	.10
20,000 to 50,000 cubic feet, per 100 cubic feet-----	.07
50,000 to 100,000 cubic feet, per 100 cubic feet-----	.06
100,000 cubic feet and over, per 100 cubic feet-----	.05
Disconnection charge-----	\$ 1.00
Connection charge-----	1.00

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The Water Company's principal sources of supply come by gravity from Bull Creek and from Bennett Creek. Usually, during the peak demands in summer, pumping is necessary. The Water

Company and Lime Company both own lands riparian to Bennett Creek; the former claims to have used water from this source since 1895. On June 1, 1924, an agreement was entered into between these two riparian owners whereby the Water Company was to supply the Lime Company with certain water for the operation of its plant at a flat rate of four dollars (\$4.00) per month, reserving to the said Lime Company the right to install and use a 2-inch pipe in Bennett Creek, in return for which the Water Company could use the remainder of the Bennett Creek water. The evidence in connection with the company's use of water in Bennett Creek is very meagre and by no means clear or conclusive. The Lime Company is an upstream riparian owner as far as the Water Company is concerned and at no time, in so far as this record is concerned, ever dedicated any of its water rights in said creek to the public use except to the extent it permitted such use by the Water Company under the said agreement of 1924. At the time of the last rate case involving this utility no evidence was submitted showing the existence of this instrument which explains the establishment of a different rate for service to the Lime Company than that set forth in the agreement. As far as the evidence in this proceeding is concerned, this agreement must be considered as involving private interests of the Lime Company and not subject to the jurisdiction of the Railroad Commission. It should be noted in passing that the increased revenue demanded by applicant from this source, amounting to not in excess of thirty-six dollars (\$36.00) per annum, could not possibly compensate it for the loss of the use of the Lime Company's rights to Bennett Creek water, as it has under the

terms of the said agreement the power to recapture in case of breach thereof by the Water Company. The contract rate to the Lime Company therefore will not be altered in this decision.

Permanent Residents:

Since the establishment of the present schedule of rates in 1924, the character of water demand has changed considerably. From strictly vacation use there has been a gradual transition until now a large number of consumers reside upon their premises throughout the year. Existing rates provide only for a summer-resort type of structure. The utility and permanent residents request a rate by which the latter may pay for water service monthly as a matter of convenience. This request will be granted.

Agricultural Irrigation Service:

At present there are four consumers who use water for agricultural irrigation purposes, mainly in growing berries and in commercial truck gardening. These users operate tracts of land varying from one-half to about six acres in net area. All claim that when they purchased their respective properties they were led to believe that all water required would be available at a flat rate of eighteen dollars (\$18.00) per year. While there was a community of interests among the owners of the lands sold to these irrigators and those in control of the water corporation, nevertheless applicant and its predecessor in interest have been a separate public utility corporation for a great number of years prior to the sale of these lands to the irrigators. No private contractual or other rights to water service at the

above flat rate price were produced by any of these irrigators; neither would such a low rate for so large a use of water be fair to other consumers under existing conditions.

The testimony shows that this water works essentially is designed only as a domestic system serving water in mains under pressure; that the water supply is limited, requiring pumping during periods of peak demand during summer months. Testimony further indicates that the demand of the irrigators in the late summer results in the inability of the utility to supply adequate water to its domestic consumers. It is also clear that applicant cannot supply irrigation water at the present rate of three cents (3¢) per 100 cubic feet except by placing a discriminatory and unfair portion of its cost of production and distribution upon the domestic user. The irrigation water users who have their own wells cannot produce water from these sources except at a higher rate. However, the rate asked by applicant for irrigation water is not justified by existing conditions. The schedule of charges for this class of service established in the following Order will equalize the costs of water more reasonably between domestic and irrigation consumers and eliminate existing unfair discrimination.

The following table shows the average monthly agricultural irrigation water use during the summer irrigation season for three years under present rates, those requested by applicant and the rates established in the Order herein:

Year:	Seasonal Monthly Average Use	Charges		
		Present	Proposed	Order
1932	24,000 cubic feet	\$ 8.30	\$30.55	\$13.00
1933	34,000 cubic feet	11.30	37.55	17.90
1934	40,000 cubic feet	13.10	41.75	21.00

The request for authority to charge summer residents one dollar (\$1.00) for connection and the same amount for disconnection of service each year being admittedly unnecessary was withdrawn.

Apparently, through a misinterpretation of the rules and regulations, applicant has charged several summer residents for turning on and off water connections to their premises. Such a charge being unauthorized, Mr. Fetherston, President of applicant utility, has agreed to make refunds in these cases. Accordingly, on or before the thirty-first day of December, 1936, Felton Water Co. shall refund to all water users, who have been so assessed within a period of two years immediately preceding the year 1936, all charges made for shutting off and turning on water, except in cases of delinquent bills, said refunds to be made either in cash or by way of credit on water bills.

Swimming Pool:

Certain consumers contended that a swimming pool located in Felton Acres and controlled and operated by Mr. George Fetherston, President of applicant company, obtained water from the utility system during the summer months without proper accounting therefor. The evidence presented on this subject was not only contradictory but insufficient for any direct finding thereon. Mr. Fetherston

claims a private right to appropriate certain waters from Shingle Mill Creek for use in connection with the swimming pool and other purposes separate and distinct from any water rights owned and/or controlled by the utility and flatly denies that any use whatsoever has at any time been made of the utility water service without payment therefor, or when the use thereof would work a hardship on the public utility water users. Unfortunately, no data was submitted concerning the low flow of Shingle Mill Creek either at the Water Company's point of diversion or at the lower point where water is diverted to the swimming pool through a 1½-inch pipe. In order to eliminate, in so far as possible, controversies arising in the future over the use of utility waters for this swimming pool, it is suggested that a meter be placed upon the service pipe connected to this pool and the utility system and that a monthly record be kept of the registration of said meter during the entire period of operation of said pool.

O R D E R

Felton Water Co. having made application to this Commission as above entitled, public hearings having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that Felton Water Co. be and it is hereby authorized to file the following schedule of rates to be charged for service rendered its consumers on and after the first day of January, 1936:



FLAT RATE SERVICE

Domestic:

For the first four consecutive months in which service is rendered during any calendar year, payable in advance-----\$ 8.00  
(Service may be commenced at any time during the calendar year at this rate.)

For each additional month over four----- 1.25

Flat rate consumers may, if they so desire, secure service during the entire calendar year by a payment in advance of----- 16.00

All other service, including hotels and other large users of water, to be at metered rates.

METERED RATE SERVICE

Domestic:

For the first four consecutive months in which service is rendered during any calendar year, payable in advance, and for water use not exceeding 500 cubic feet per month-----\$ 6.00  
(Service may be commenced at any time during the calendar year at this rate.)

For each additional month over four, for water use not exceeding 500 cubic feet per month----- 1.25

Metered rate consumers may, if they so desire, secure service during the entire year, for water use not exceeding 500 cubic feet per month, on payment in advance of----- 14.00

For water use in excess of 500 cubic feet per month consumers shall be billed for such excess use at the following rates:

From 500 to 5,000 cubic feet, per 100 cubic feet-----\$0.20  
Over 5,000 cubic feet, per 100 cubic feet----- .15

PERMANENT OR ALL-YEAR CONSUMERS

Domestic:

Flat Rate:

Minimum Monthly Charge-----\$ 1.50

Measured Rate:

Minimum Monthly Charge for water use of 500 cubic feet or less-----\$ 1.25

Use over 500 cubic feet to be charged for under regular schedule as set out above.

MONTHLY METER QUANTITY RATE  
FOR WATER DELIVERED FOR  
AGRICULTURAL IRRIGATION PURPOSES

First 500 cubic feet, per month-----\$1.25  
Over 500 cubic feet, per 100 cubic feet----- 0.05

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IT IS HEREBY FURTHER ORDERED that Felton Water Co. be and it is hereby ordered and directed to refund, on or before the thirty-first day of December, 1936, to those consumers entitled thereto, all amounts collected for connection and/or disconnection of water service during the years 1934 and 1935, excepting such charges, if any, as may have been incurred as a direct result of delinquencies in the payment of water bills; said refunds to be made either in cash or by way of credit on water bills.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of December, 1935.

Leon White  
M. J. Ann  
W. B. Lewis  
Matthew W. ...  
Stuart R. ...  
Commissioners.