

**ORIGINAL**

Decision No. 28765

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
EAST SIDE CANAL COMPANY, a corpora- )  
tion, for authority to increase its ) Application No. 16610  
rates for water service. )  
)  
In the Matter of the Application of )  
BUENA VISTA CANAL, INC., a corpora- )  
tion, for authority to increase its ) Application No. 16611  
rates for water service. )  
)  
In the Matter of the Application of )  
STONE CANAL, INC., a corporation, )  
for authority to increase its rates ) Application No. 16612  
for water service. )  
)  
In the Matter of the Application of )  
THE FARMERS CANAL COMPANY, a cor- )  
poration, for authority to increase ) Application No. 16613  
its rates for water service. )  
)  
In the Matter of the Application of )  
CENTRAL CANAL COMPANY, a corporation, )  
for authority to increase its rates ) Application No. 16614  
for water service. )  
)  
In the Matter of the Application of )  
KERN RIVER CANAL AND IRRIGATING )  
COMPANY, a corporation, for authority ) Application No. 16615  
to increase its rates for water )  
service. )  
)  
In the Matter of the Application of )  
PIONEER CANAL, INC., a corporation, ) Application No. 16616  
for authority to increase its rates )  
for water service. )  
)  
In the Matter of the Application of )  
KERN ISLAND CANAL COMPANY, a cor- )  
poration, for authority to increase ) Application No. 16617  
its rates for water service. )  
)

McCutchen, Olney, Mannon & Greene,  
by John T. Pigott, for applicants.  
Athearn, Chandler & Farmer, by Milton  
T. Farmer, for certain consumers.  
Arthur M. Free, for certain consumers.  
Jackson Mahon, for certain consumers.  
F.A. Chamberlain, for Farmers Protective  
Association.

BY THE COMMISSION:

OPINION AND ORDER ON FURTHER HEARING

The reopening of the above entitled applications on March 23, 1936, was occasioned by the decree of the District Court of the United States entered on March 10, 1936, permanently enjoining the enforcement of the order rendered by the Commission on November 13, 1933, fixing rates for these utilities.

Upon the entry of the decree of the Federal Court, the utilities filed their own proposed schedules of rates applicable to future water service, they asserting the legal right to file and publish such rates by virtue of the Court's decree. The filed rates are as follows:

| <u>Utility</u>                                       | <u>Rate per Acre Foot<br/>Delivered</u> |
|--|---|
| Kern Island Canal Company-----                       | \$1.60                                  |
| East Side Canal Company-----                         | 1.62                                    |
| Kern River Canal and Irrigating Company-----         | 1.44                                    |
| Stine Canal, Inc., and The Farmers Canal Company---- | 1.63                                    |
| Buena Vista Canal, Inc.-----                         | 1.20                                    |
| Central Canal Company-----                           | 1.76                                    |
| Pioneer Canal, Inc.-----                             | 1.75                                    |

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The matters having thus been reopened by the Commission, hearings were set and held before Commissioner Carr in Bakersfield on April 8th and 9th, 1936. Considerable evidence was then received to supplement the large record already made.

This evidence brought the record up to date. Consumers indicated they could secure water by pumping at a lesser cost than the proposed rates would entail. Various communications and arguments have been received accumulative of testimony in the record to the effect consumers could not afford to pay higher rates.

These rate hearings with the litigation following have extended over many years and there is nothing to indicate that further hearings would serve any useful purpose. It is claimed with much force by the utilities that the proposed rates will, on the average, yield a return of less than five per cent (5%) on the cost of their properties with land values reduced somewhat for depression conditions. On fair value they claim the return would be much less than five per cent (5%).

It is plainly the Commission's duty to give effect to the decree of the Federal Court. Although the utilities take the position that the rates they have submitted must under that decree be treated as their lawfully filed and published rates, doubt exists as to whether under the State law the Commission's express approval is not required before they become legally effective.

In view of the Court's decree, therefore, and the showing made by the utilities indicating that the rates submitted are not in excess of those reasonably necessary to yield compensatory returns, we feel compelled to conclude that they are justified and should be received for filing.

Inasmuch as each of the applicants herein sought increases in rates but have since voluntarily filed schedules which are now approved, our proper course will be to enter a dismissal of the several applications.

Therefore, for the reasons above expressed and good cause appearing,

IT IS ORDERED that the rates filed by the above named applicants on March 12, 1936, be and the same are hereby approved, effective May 1, 1936; and

IT IS FURTHER ORDERED that the applications herein, and each of them, be dismissed.

Dated at San Francisco, California, this 27th day of April, 1936.

Leon Whittell  
W. J. Can  
Walter Ware  
Commissioners

Commissioners Harris and Devlin, feeling themselves disqualified, have, therefore, not participated in this decision.