

Decision No. 29126

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
C. W. CLARKE CO., 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)
Modoc and Lassen, State of California.)

Application No. 20408

ORIGINAL

BY THE COMMISSION:

OPINION AND ORDER DENYING REHEARING

A petition has been filed asking for a rehearing in this matter, the Commission by Decision 29021 having granted the application of the C. W. Clarke Co. for an increase in water rates, and having also authorized the discontinuance of certain deliveries for stock purposes during the non-irrigation season.

We are of the opinion that a rehearing should be denied. But, in so doing, we desire to make clear the Commission's position in the unfortunate situation here presented.

The decision which the water consumers ask the Commission to reconsider was the third in which we granted, on the petition of the Company, drastic increases in the irrigation rates charged. There now remain only four consumers with 265 acres of irrigated land. It may be, as they allege, that they are unable to pay rates as high as those last established. But it is obvious, also, that the Company intends to demand rates sufficiently high to assure it full compensation for the public use of its property and, failing this, will claim the right to abandon the service entirely.

Regrettable as the situation may be, we have felt compelled thus far to grant the Company's petitions, having assumed that we had jurisdiction in the matter by force of the decree of the Superior Court of Modoc County, affirmed by the Supreme Court, seemingly declaring that the waters involved were devoted to a public use and the Company to be a public utility. It may be, however, that such was not the effect of the decree, particularly in view of the fact that the Superior Court has since questioned the jurisdiction of the Commission to regulate that part of the service referred to as stock water use. If it was the intention of the Court to declare a private right rather than a public right to this part of the waters, or any of them, that question should again be presented to the Court, not to this Commission.

The Commission's endeavor in these proceedings has been to minimize the extent of the rate increases justified by effecting a reduction in the operating costs of the Company. It thought that by eliminating the expenses incident to the service of stock water throughout the year this might be done. If it is essential that the consumers have a continued supply of this water, and it is in fact a public rather than a private service, then it seems inevitable that the Company will be entitled either to higher rates or to be relieved altogether from its public obligation.

The record before us seems entirely sufficient. We deem it unnecessary to hear the matter further. Therefore, for the reasons above expressed:

IT IS ORDERED that the petition herein for a rehearing of the

above entitled matter be denied.

Dated at San Francisco, California, this 21st day of
September 1936.

M. B. Harris
John A. Devlin
W. J. Linn
W. H. Devlin
Commissioners

Commissioner Devlin, feeling himself disqualified, has
not participated in this decision.