

Decision No. 30012

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

CHARLES E. THOMAS, Jr., et al.,  
Complainants,

vs.

Case No. 3825

MONTEREY COUNTY WATER WORKS, a  
corporation,

Defendant.

Harry A. Encell, for Complainants.

Argyle Campbell, City Attorney of  
Monterey, for Monterey, Pacific  
Grove and Carmel, Interveners.

H. W. Thompson, in propria persona  
and Grove Laundry, Intervener.

Stanley Douglas, for Hovden Food  
Products Corporation, Sea Pride  
Packing Company, Del Mar Canning  
Corporation, Custom House Packing  
Corporation, Monterey Canning Com-  
pany, Carmel Canning Company, San  
Carlos Canning Company, California  
Packing Corporation, and F. E.  
Booth Company, Interveners.

Maurice Brenner, for Sea Pride Packing  
Corporation and Monterey Sardine  
Canners Association and San Xavier  
Fish Packing Company, Interveners.

D. M. Rogers, for Monterey Peninsula  
Garden Club, Intervener.

Charles E. Thomas, Jr., in propria  
persona, and other complainants,  
Eureka Dairy and W. R. Holman Depart-  
ment Store of Monterey, Interveners.

Reginald E. Foster, Special Counsel for  
the City of Pacific Grove.

Shelburn Robinson, for the City of Monterey.

Bacigalupi, Elkus & Salinger, by Charles de Y.  
Elkus, Claude Rosenberg, and Charles de Y.  
Elkus, Jr., for Defendant.

BY THE COMMISSION:

O P I N I O N

This proceeding involves a complaint by Charles E. Thomas, Jr., together with 49 other consumers, against the Monterey County Water Works, alleging that the rates charged for public utility water service rendered in the City of Monterey, Pacific Grove and Carmel are unjust and unreasonable.

After the filing of this complaint the water system of the Monterey County Water Works was acquired by California Water & Telephone Company, and at the hearings on this matter before Examiner MacKall it was stipulated by counsel that the complaint be directed against the latter company.

Although the hearings developed a considerable amount of evidence covering the issues usually involved in rate-fixing cases of this character, there is here presented the distinct and difficult question as to just what portion of the properties owned is used and useful in rendering a public utility water service. This problem arises from the fact that a considerable part of the facilities which are employed in supplying utility water service in these communities is used also in furnishing what is claimed to be a private service within the same general service area.

In order to understand the various issues which have been raised, it is necessary to consider the development of this water system and the use to which the various parts of the property are now devoted.

History of the Water System.

The early history of the water system in this territory was

set forth with some detail in former decisions of the Commission, particularly in Decision No. 1855 of October 8, 1914 (5 C.R.C. 530) and in Decision No. 3059 of January 25, 1916 (9 C.R.C. 91).

Water service was begun initially by the Pacific Improvement Company, a development company which constructed the original Hotel Del Monte. Finding its supply of water from the wells located on the hotel grounds to be inadequate, it purchased in 1884 about 6000 acres of land on the upper Carmel River, known as the Los Laureles Rancho, together with certain riparian lands located down stream. It then constructed a diversion dam on the river, a distribution reservoir near Pacific Grove, and a pipe line to transport the diverted water down the Carmel Valley, through Pacific Grove and Monterey, to the Hotel Del Monte. Through such newly constructed facilities, water was served generally to consumers in Pacific Grove and Monterey.

In 1905 the Pacific Improvement Company caused to be created a new corporation, the Monterey County Water Works, to which were transferred both its water storage and transmission facilities. In making that conveyance, however, the Pacific Improvement Company reserved to itself sufficient water for the needs of the hotel and grounds. For this water it agreed to pay the new corporation a flat sum annually. At about the same time a second pipe line was laid from the west line of the Los Laureles Rancho to Monterey, leaving a single line only from the point of diversion to the west line of the Los Laureles Rancho. With the exception of the subsequent construction of the Forest Lake distribution reservoir and the San Clemente storage reservoir, the water supply system as then completed remains substantially unchanged today.

The first proceeding before the Commission involving that water service was in the year 1914. This resulted from a complaint requesting a decrease in rates being charged, the Commission then es-

establishing schedules covering service both to general consumers and to the hotel itself, declaring the entire service to be public utility in character. (5 C.R.C. 530.) A petition was filed for a rehearing of that decision, the Pacific Improvement Company intervening to contend that the service rendered to the hotel was private in nature and not subject to regulation. The utility, at the same time, presented a petition for authority to reconvey to the Pacific Improvement Company a part of its water facilities. This petition the Commission granted on January 25, 1916 (9 C.R.C. 91), saying that its action would provide for the private use of the hotel properties "a substantially independent system."

Without attempting here to analyze in detail the terms of that reconveyance, or to picture the unusual situation thus created, it may be said in brief that it again placed in the hands of the Pacific Improvement Company title to the Carmel dam and a transmission line for the conveyance of water through its own facilities directly to the Hotel Del Monte. The Monterey County Water Works retained the exclusive ownership and use of the second line from a point on the westerly border of the Los Laureles Rancho where it diverged from the single line above, and reserved the right to have delivered to it at that point not less than 65 per cent of the water flow of the Carmel River. In addition, the utility reserved rights of way to enable it, if thereafter desired, to construct its own line for the conveyance of water from the river.

In 1919 the Pacific Improvement Company transferred its interests to the Del Monte Properties Company. In 1930 the latter company conveyed to Chester H. Loveland, who in turn transferred his rights and obligations to the Central California Water Supply Company. Mr. Loveland then acquired also the capital stock of the Monterey County

Water Works, and in 1935 he and his associates created the California Water & Telephone Company, which thereupon acquired both the Central California Water Supply Company and the Monterey County Water Works. Thus the ownership of both the utility water system and the so-called private system used in delivering water to the holdings of the Del Monte Properties Company in the Monterey Peninsula area became vested in a single corporation.

The California Water & Telephone Company, which we may hereafter refer to merely as the "Company," claims in this rate proceeding that the Commission must continue to recognize the existence of two distinct water services, one admittedly public in character and the other wholly private. It is claimed that the facilities employed in the latter service never have been dedicated to the public use or, at least, not since 1916 when the Commission authorized the partition of the properties into distinct systems, one public and the other private in character.

Representatives of the cities receiving utility service, although seemingly conceding that parts of the property are not dedicated to the public use, contend that there is no practical basis upon which they may be segregated into utility and non-utility uses, and urge, therefore, that the entire water properties be considered as a unit. Whatever may be the true fact as to the present dedication of all the water facilities, it cannot be said that this issue is presented under the pleadings in the instant case. We must here accept the Company's contention that not all of its waters and facilities now owned are impressed with a public use.

The primary problem presented, therefore, involves the segregation of these jointly owned properties into their public and private uses. The problem is complicated by the fact that, in spite of the evident intent of the Commission and the original operators in 1916, when carving out a practically independent system for the

purpose of serving the Hotel Del Monte, there has since been only a vague adherence to the agreement then executed. Not only has there been a gradual commingling of the use and operation of the so-called private system with the utility system, but new agreements have been made between the predecessor corporations which considerably alter the contractual relationship then established. It should be borne in mind that all of such agreements and conveyances were between corporations, one of which completely held the stock of the other.

#### Description of the Present System.

The San Clemente Dam on the Carmel River, completed in the year 1921 with a capacity of about 2000 acre feet, affords the Company a supply of stored water to supplement the normal stream flow. To Monterey, a distance of about 26 miles, the water is conveyed first through a 24-inch pipe to the old Carmel Dam below, thence for a distance of about 8 miles through an 18-inch main to a point referred to as the "Y" on the west line of the Los Laureles Rancho. All of the water users below, both public and private, are of course dependent upon the resources and facilities thus far described. Looking at the ownership of these properties as they appeared in 1935 just prior to their acquisition by the present Company, we find, however, that the 18-inch main crossing the Los Laureles Rancho was wholly owned by the Central California Water Supply Company, the private concern, while the reservoir, dams, watershed lands, and riparian rights on the river, together with the connecting 24-inch main, were jointly owned, a 65 per cent interest in these facilities being vested in the Monterey County Water Works and a 35 per cent interest in the Central California Water Supply Company.

From the "Y" on the westerly line of the Los Laureles Rancho there are two transmission lines, one practically parallel-

ing the other. The one commonly referred to as the 22-inch main, which has always been wholly utility owned, serves first to supply utility consumers along such line and in Carmel and vicinity; then, after discharge into the Forest Lake Reservoir, continues in various diameters to supply Pacific Grove and Monterey. The other main, varying in diameter from 12 to 16 inches, and which before 1935 was non-utility owned, served first the Pebble Beach area, by-passes but connects with the Forest Lake and Pacific Grove reservoirs, and then continues to the Hotel Del Monte and grounds. Before coming into the possession of the present Company, the Forest Lake Reservoir was wholly utility owned and the Pacific Grove Reservoir wholly non-utility owned.

These paralleling transmission mains below the Los Laureles Rancho are interconnected at various points, permitting the use of both in either utility or non-utility service. In fact, there are utility consumers' service lines which take directly off the non-utility main, and likewise there are some so-called private services which connect directly with the utility owned main.

The secondary mains and services used in the actual distribution of water may more easily be segregated into utility and non-utility categories. The distribution system of the utility includes those facilities employed directly in supplying its 6700 residential and commercial consumers in Carmel, Pacific Grove and Monterey, while the only distribution facilities which are privately owned are those of the Del Monte Properties Company located on the various portions of its own real estate holdings, namely, the Hotel Del Monte and grounds, including the golf links and polo field, the Pebble Beach Lodge and golf links, its sand plant near Asilomar, the Monterey Country Club, and the Cypress Point Golf Club. The last mentioned property was for a time served with water by the public utility and yielded a revenue of about \$12,000

annually, but when repossessed later by the Del Monte Properties Company, the service thenceforth was considered private in character although the physical facilities used in rendering the service remained unchanged.

A summarization of those portions of the total property which the record indicates are used jointly in rendering a dual service may be made as follows:

Jointly Used Water Properties

- A. 100% owned by predecessor utility, the Monterey County Water Works.

22-inch transmission line and right of way from the "Y" on Los Laureles Rancho to Forest Lake Reservoir; Forest Lake Reservoir, and land; 30-inch transmission line from Forest Lake Reservoir to Valve House below Pacific Grove Reservoir; distribution mains in Monterey Peninsula Country Club; meters on transmission line; certain general equipment.

- B. 100% owned by predecessor private company, the Central California Water Supply Company.

18- and 22-inch transmission line across Los Laureles Rancho; 15- and 14-1/2-inch transmission line from "Y" on Los Laureles Rancho to Pumping Plant No. 5 below Forest Lake Reservoir; 12-inch transmission line from Pumping Plant No. 5 to the Valve House below the Pacific Grove Reservoir; 20-inch transmission line from the Pacific Grove Reservoir to Valve House; Pacific Grove Reservoir; and land; 16-inch transmission line from Valve House to Hotel Del Monte; rights of way for above transmission lines.

- C. Jointly owned by utility and private companies.

Water rights; water-shed and San Clemente Dam lands; San Clemente Dam; Carmel Dam; 24-inch transmission line from San Clemente Dam to Carmel Dam; 18-inch transmission line from Carmel Dam to east line of Los Laureles Rancho; purification equipment; Booster Plant No. 10, and building; pumping equipment on Scarlett and Hatton ranches; rights of way for above transmission lines.



Segregation Theories.

The record contains a great amount of testimony relative to the respective uses to which the various portions of the Company's property are now devoted. The fact that there is actually a joint use made of much of the property is not disputed, the problem confronting all the witnesses being to find the most reasonable basis for the segregation of both capital and the expenses of operation.

The Company, through its witness Mr. Nenzel, advanced the theory that as to those portions of the property admittedly used jointly, a division should be made on the basis of the relative quantity of water delivered annually, namely, 75 per cent to the public utility service and 25 per cent to the non-utility service. The Commission's engineers presented exhibits setting forth a segregation on the basis of prior utility and non-utility ownership, namely, 65 per cent to one and 35 per cent to the other, the basis which the predecessor corporations had adopted in the keeping of their accounts and a segregation still reflected on the books of the present Company. Mr. Armstrong, the engineer for the cities involved, adopted like percentages.

The legal theories underlying the Company's claim are not applied with entire consistency. First, it insists that there has never been any dedication to public use of those properties and facilities which before 1935 were held in private ownership successively by the various private corporations. The fact that such properties are now owned by the same corporation which owns the public utility properties, it is claimed, does not alter their private status in the least.

Although thus contending that a large part of the whole property is held for a purely private use just as though it were still remaining in the ownership of a separate private corporation,

the Company contends, nevertheless, that for rate-fixing purposes the Commission must adopt a rate base reflecting the utility's actual use of the entire property. And the basis advanced for obtaining that portion of the total value to be assigned as a rate base for the utility is a division of the total jointly used capital in the proportion which the quantity of water used in utility service bears to the total quantity delivered. An exception is made, however, as to the claimed value of the water rights, the Company arriving at the utility's portion of total claimed value for this item using a 65 per cent ownership basis.

We cannot accept the Company's results thus obtained. If it is correct in its first and fundamental premise that none of the properties or interests owned by its predecessor, the Central California Water Supply Company, have been dedicated to the public use, it has no legal right to have those properties fully valued for utility rate-fixing purposes merely because one arm of the Company, the utility arm, may be accorded by the other the use of properties never dedicated to the public service. We do not mean to say that were the utility to show that it has a definite legal right to the use of the private property for public utility purposes it would not be entitled to have a fair value accorded to such a right. But the Company has in these proceedings expressly disclaimed that the utility has anything more than a mere permissive right to use that part of the property considered private, a use revocable at any time.

Possibly, in this respect the Company has conceded too much. The very nature of the water system thus developed over the years has compelled the joint owners, now a single owner, to recognize in some degree the advantages to be derived from its joint use and operation. Were the Company to discard the fiction that a large

part of the property is not dedicated to the public use, and were it to acknowledge that the utility part has a right to the use of the whole, its argument that the degree of actual use should be taken as the sole basis of valuation would carry more persuasion.

Therefore, in accepting the Company's fundamental premise that only certain parts of this water property have been dedicated to the public use, the Commission in valuing the property actually used in the utility service is compelled to give due consideration to the Company's admission that the utility use of some parts is by sufferance alone and that they do not have a definite status as used and useful property in the rendering of a public utility water service.

With this approach, we may turn now to an examination of the evidence presented relating to the question of property value.

#### Estimates of Value.

The Company claims that the fair value of its property used for utility purposes is not less than \$2,568,153. It adopts the term "operative property," and what it includes under this head, as already explained, is all the property exclusively used for utility purposes, plus 75 per cent of all jointly used property, regardless of prior non-utility ownership or dedication, except that its proration of water rights to utility use is 65 per cent of the total value claimed for that item.

The exhibits presented by the Company's witnesses do not show the division of total invested capital by the two predecessor corporations, nor do they show either the actual cost or the claimed value of those particular units of the system property which are partly utility used but not owned. The jointly used properties are clearly described, however, and the value of those units, at least on an historical cost basis, can readily be assigned.

Therefore, to aid in the presentation of figures which will reflect the relationship between the value of the system property and that part which has previously been utility owned, and also to show the amount of the jointly used property upon which the Company applies a 75 per cent factor to obtain the value of the part considered operative, the following Table I is presented to indicate such divisions. The figures indicating the historical cost of the non-landed capital, as well as the appraised value of system lands and rights of way, are those presented by the Commission's engineers. The Company's estimate for lands and rights of way is \$70,767 in excess of the Commission's figure, and for non-landed capital its historical cost estimate was about \$45,000 in excess of the amount here shown. The figures indicating the respective uses to which the system properties are applied, except as to those accounts specially noted, may fairly be taken to reflect the judgment expressed by all the witnesses in the proceeding.

TABLE NO. I

HISTORICAL COST OF STRUCTURAL PROPERTIES,  
WITH LAND AT MARKET VALUE AS OF DECEMBER 31, 1935

Acct.:	Classification	Prior Ownership			Exclusive and Joint Use		
		Combined System	Monterey County Water Wks.	Central Calif. Water Supply Co.	Excl. Use; Private Service	Excl. Use; Utility Service	Joint Use; Utility & Private
<u>TANGIBLE LANDED CAPITAL</u>							
C- 5	Land	\$ 126,167	\$ 103,203	\$ 22,964	\$ -	\$ 2,118	\$ 124,049
C- 5	Rights of Way	48,206	22,151	26,055	-	6,841	41,365
	Sub-total	\$ 174,373	\$ 125,354	\$ 49,019	\$ -	\$ 8,959	\$ 165,414
<u>TANGIBLE STRUCTURAL, NON-LANDED CAPITAL</u>							
C- 6	Buildings	\$ 13,643	\$ 13,178	\$ 465	\$ -	\$ 1,670	\$ 11,973
C- 7	Impounding Dams & Reservoirs	310,872	202,141	108,731	-	-	310,872
C-12	Collecting Reservoirs	9,635	6,891	2,744	-	-	9,635
C-14	Pump Equipment	24,969	24,049	920	-	22,456	2,513
C-16	Purification Equipment	2,198	1,860	338	-	-	2,198
C-17	Transmission Mains	753,293	354,337	398,956	-	-	753,293
C-18	Distribution Mains	760,714	760,714	-	-	705,772	54,942
C-19	Distribution Reservoirs & Tanks	261,409	192,488	68,921	-	21,856	239,553
C-20	Hydrants	29,476	29,476	-	-	29,476	-
C-21	Services	93,181	91,089	2,092	2,092	91,089	-
C-22	Meters	136,072	128,365	7,707	7,707	126,261	2,104
C-23	Misc. Distribution Equipment	258	258	-	-	258	-
C-24	General Equipment	33,853	32,975	878	878	-	32,975*
C-25	Undistributed Overheads	24,508	23,993	515	-	-	24,508*
	Sub-total	\$2,454,081	\$1,851,814	\$592,267	\$10,677	\$ 998,838	\$1,444,566
	<b>TOTAL TANGIBLE STRUCTURAL CAPITAL</b>	<b>\$2,628,454</b>	<b>\$1,987,168</b>	<b>\$641,286</b>	<b>\$10,677</b>	<b>\$1,007,797</b>	<b>\$1,609,980</b>

\* These amounts are subject to proration between the properties.  
Note: The basic figures are those set forth in O.R.O. Exhibits Nos. 30, 32 and 33 adjusted as per record.

13.

The Company's study of system property historical cost, exclusive of organization, with fee lands and rights of way appraised at their present value, is \$2,745,098. For non-landed capital it presents a cost figure of \$2,499,958, which corresponds closely with that given by the Commission's engineers and appearing in the foregoing table in the amount of \$2,454,081. The Company estimates the cost to reproduce new the same property at \$3,154,837. Thus, for the structural properties it claims a reproduction cost of approximately 16 per cent above their historical cost. Therefore, if a comparison is to be made between the claimed reproduction costs of the separately used and jointly used properties to correspond with the segregations made in the table above, the amounts there indicated may be increased by approximately 16 per cent.

Table II following summarizes the Company's cost studies covering the property deemed used and useful in the utility service. The "use basis" of segregation of the jointly used properties, as heretofore explained, assumes that 75 per cent is assignable to the utility service, whereas the "prior ownership basis" reflects the 65 per cent ownership of the utility in the same properties before their acquisition by the Company.

TABLE NO. II  
 COMPANY ESTIMATES  
 of  
 HISTORICAL AND REPRODUCTION COSTS AS OF DECEMBER 31, 1935

	UNDEPRECIATED			DEPRECIATED		
	Total	Monterey County; Central Calif.		Total	Monterey County; Central Calif.	
		Water Works	Water Supply Co.		Water Works	Water Supply Co.
<b>(a) HISTORICAL COST</b>						
(Use Basis)						
Land and Rights of Way	\$ 129,898	\$ 101,822	\$ 28,076	\$ -	\$ -	\$ -
Structural Property	2,499,958	2,129,194	370,764	-	-	-
Total	\$2,629,856	\$2,231,016	\$398,840	\$ -	\$ -	\$ -
<b>(b) REPRODUCTION COST NEW</b>						
(Use Basis)						
Land	\$ 156,090	\$ 115,258	\$ 40,832	\$ 156,090	\$ 115,258	\$ 40,832
Rights of Way	89,050	66,974	22,076	89,050	66,974	22,076
Sub-total	\$ 245,140	\$ 182,232	\$ 62,908	\$ 245,140	\$ 182,232	\$ 62,908
Structural Property	2,909,697	2,473,359	436,338	2,364,926	2,020,921	344,005
Total	\$3,154,837	\$2,655,591	\$499,246	\$2,610,066	\$2,203,153	\$406,913
<b>(c) REPRODUCTION COST NEW</b>						
(Prior Ownership Basis)						
Land	\$ 156,090	\$ 115,258	\$ 40,832	\$ 156,090	\$ 115,258	\$ 40,832
Rights of Way	89,050	66,974	22,076	89,050	66,974	22,076
Sub-total	\$ 245,140	\$ 182,232	\$ 62,908	\$ 245,140	\$ 182,232	\$ 62,908
Structural Property	2,909,697	2,157,076	752,621	2,364,926	1,816,482	548,444
Total	\$3,154,837	\$2,339,308	\$815,529	\$2,610,066	\$1,998,714	\$611,352

Note: Figures from Exhibits Nos. 20 and 23, adjusted as per record.

In further explanation of the Company's claimed utility property value of \$2,568,153 for rate-fixing purposes, it may here be noted merely that this figure is its estimate of the cost to reproduce the structural properties new (\$2,473,359), less accrued depreciation (\$452,438), and with lands and rights of way at their appraised value (\$182,232), estimated organization expense (\$15,000), water rights (\$130,000), going concern (\$200,000), and working cash capital (\$20,000) added.

The cities state in their brief that the fair value of the property actually devoted to the public use does not exceed \$1,900,000. This figure is arrived at, as we take it, principally by the addition of the net additions and betterments to the rate base used by the Commission in the 1926 rate proceeding.

A determination as to the most reasonable basis of segregating those properties jointly used in the utility and non-utility service necessitates a further examination of the method adopted by the Company based upon the water use in each part of its service.

#### Water Use and Sales.

If the water delivered by the Company is in fulfillment of a continuing obligation on its part to recognize the existence of a private right to thirty-five per cent of the total quantity of water delivered, we must first inquire into the boundaries of the private service areas or the particular water uses to which the private service may be said to be attached. Reference should here be made to the most recent contractual agreement upon this subject.

In the conveyance of April 22, 1930, by the Del Monte Properties Company to Chester H. Loveland (now succeeded by the Company), the grantee became obligated for a period of 50 years to furnish the grantor all the water required, not exceeding 35 per cent of the total supply developed on the Carmel River, for the present and



future needs of the grantor for use on the lands it then owned or that it might thereafter own, lease or operate, at a fixed charge based upon the actual quantity of water so delivered. The conveyance provided, however, that the character and nature of the uses to which the grantor should apply the water so delivered should be substantially the same as then existing. And the right to the use of such water was made appurtenant only to certain portions of the grantor's holdings, namely, the hotel and resort properties at Del Monte and Pebble Beach, including their grounds, golf courses, etc., together with its sand plant at Asilomar. The instrument expressly provided that as portions of the grantor's real estate holdings other than the three just mentioned were disposed of, the right to receive private water thereon should cease.

Water so delivered is metered at several points of distribution. Other than the three properties above mentioned to which private water is appurtenant, the principal water use is at the Monterey Peninsula Golf Club and the Cypress Point Golf Club. The latter service is claimed to be private because the club grounds are now owned by the Del Monte Properties Company, although for several years prior to 1932 they were served with utility water. Some private water is also delivered free of charge to the Presidio at Monterey.

An anomalous situation is thus presented. It is not at all certain that the water use at the Cypress Point Golf Club should be considered as a private use. And it is clear that the water which the Del Monte Properties Company purports to deliver without charge to the Presidio is not a part of its private supply. Aside from the question whether or not such free water service can be justified, it must be considered as a service of the utility rather than one of the private uses reserved to the Del Monte Properties Company.

By so segregating the water use between the public and private systems, the relative quantities delivered to each for a five-year period are shown in the following tabulation.

WATER DELIVERIES  
(In 1000 cubic feet)

Year	Public Utility Service			Total Utility Service	Total Private Service
	Domestic	Industrial	Public		
1931	72,529	12,073	993	85,595	29,653
1932	63,458	8,299	3,126	74,883	26,191
1933	58,129	10,193	2,932	71,254	24,091
1934	62,326	15,605	2,795	80,725	25,817
1935	60,784	16,276	2,641	79,700	26,440
5-Yr. Average	63,445	12,489	2,497	78,431	26,444
Per cent of total - public and private				75%	25%

It is upon these percentages that the Company mainly rests its claim that a reasonable segregation of the total jointly used properties between utility and non-utility uses should be approximately 75 and 25 per cent respectively. Opposed to this claim, the cities point out that the percentages are derived by comparing the total annual water delivery in each class of service, whereas, the actual burden resting upon the system property which arises from the obligation to deliver to the private user at all times a full 35 per cent of the total quantity developed has in the past been exceeded during the months of peak demand.

The objection of the Cities to the Company's contention is well taken. The figures presented in the record showing the total water deliveries by months of each year over a 5-year period indicate that the delivery for private use varies from a minimum of approximately 4 per cent to a maximum of approximately 40 per cent. The evidence shows also that the ratio between the maximum and minimum

monthly use on the private system varies to a greater degree than on the utility system. For example, the average deliveries in July for private use over a 5-year period were 13 times the average for the month of February, whereas the utility deliveries in July were only 1-3/4 times those in February. This lesser seasonal fluctuation in the utility use results in large degree from the stabilizing effect of the greatly increased water consumption by the fish canning industry during the winter months after the domestic load diminishes.

In our conclusion as to the fair value of the property used in the public utility service full consideration will be given to the degree to which the property is used in that service.

#### Reasonable Rate Base.

The Commission's valuation witness recommended the exclusion of \$87,241 of historical capital covering certain property believed to be non-useful because of extensions projected into presently non-profitable real estate subdivisions. To the extent that such distribution mains have already been classified as jointly used property and are to be prorated to utility use on a water use basis, such deductions would be unwarranted. Some contention was made also that the Pacific Grove Reservoir, representing about \$69,000, served no useful utility purpose. However, this too is classified as jointly used property and, although of value for stand-by purposes only, should not be entirely eliminated from the rate base.

It is our conclusion, after giving full consideration to all the claims of property value presented, including all intangible elements of value, that the fair value of the utility used property to be taken for the fixing of rates in this proceeding, including a proper allowance for working capital but without deduction for accrued depreciation, is \$2,215,000. Inasmuch as an appropriate sinking fund

annuity will be adopted, no deduction need be made from this sum to reflect the accrued depreciation in the property.

Gross Revenues.

The witnesses presenting estimates of normal water sales for utility uses each projected the trend of growth in the past, but differed considerably in their final conclusions. The actual revenue received over a 5-year period in both the public and private services are set out as follows:

GROSS REVENUES

Year	Miscellaneous	Industrial	Public	Utility Service	Total Utility Service	Total Private Service
1931	\$218,911	\$32,021	\$17,008		\$267,940	\$30,177
1932	194,399	21,809	19,897		236,105	26,739
1933	182,097	26,559	19,753		228,409	24,640
1934	187,067	40,333	18,310		245,710	26,265
1935	187,400	41,861	17,111		246,372	27,018

The Company's estimate of average future revenues for the years 1936 to 1940 is \$256,820. The cities' witness estimated average revenues over a 3-year period of \$296,915, while the Commission's engineer concluded that for the two future years they would average \$260,100. Although the utility sales for domestic purposes may vary considerably from year to year because of variations in rainfall and consequent water use for garden purposes, the above figures point to the obvious fact that there was a marked restriction of water use during the depression years. The Company reports actual revenues of \$267,178 in 1936, and although we are cognizant of the fact that 1936 was an abnormal year because of the lateness of the seasonal rains, the evidence clearly indicates that there will be a continued increase in water consumption, not only for domestic purposes but also for industrial purposes in the fish canning industry.

Something should be said at this point concerning the water service rendered to the Presidio at free or reduced rates and also to the City of Pacific Grove for its municipal golf links. In each of these services the Company has received a revenue of approximately one-half of its regularly published rates. Although the Commission would not suggest that the Company discontinue according a reasonable preference to such governmental agencies, it is recommended that such discounts as are accorded be applied on a uniform basis to all water delivered and that the charges be sufficient to at least meet the cost of the service rendered.

It is concluded that at the rates presently being charged the Company's average gross revenue reasonably to be anticipated from utility water sales, excluding the deliveries to the Cypress Point Golf Club, will be not less than \$270,000 annually.

#### Operating Expenses.

Coming now to an examination of the expenses incurred in maintaining and operating the properties considered used and useful in rendering utility service, it must be borne in mind that the costs incident to the properties employed jointly in public and private services are subject to allocation on some reasonable basis consistent with that adopted for the segregation of those properties themselves. Certain items of insurance, taxes, and annual depreciation charges are particular examples.

Since its acquisition of the property, the Company has segregated its total expenses of operation between utility and non-utility service to reflect as nearly as possible the actual expenses of each, but those incurred in maintaining and operating the jointly used property have been spread on the basis of prior ownership. It would be impossible here to set out in detail all the expense accounts upon which a judgment must be exercised in assigning them wholly or

partially to the utility function. Apart from the item of annual depreciation expense, the estimates presented by the witnesses of reasonable utility operating costs and the average actual reported expenses over a 5-year period are as follows:

	: Reported : Average : 1931-1935	: Company : Estimate : 1936-1940	: Commission : Engineer's : Estimate : 1936-1937	: Cities' : Estimate : 1936-1938
Source of Supply	\$ 1,405	\$ 1,575	\$ 1,200	\$ 1,300
Pumping	3,534	9,800	8,500	8,250
Purification	1,212	1,387	1,300	1,300
Trans. & Distr.	12,508	14,100	12,500	12,500
Commercial	15,228	15,580	14,500	14,780
General	25,644	26,600	27,000	23,729
Taxes	18,783	30,466	31,466	31,466
Total	\$84,314	\$100,108	\$ 96,466	\$ 93,325

The expenses charged by the Company to its private water service during the same 5-year period averaged \$9,056 per year. Thus, of its total 5-year average expenses of \$93,370 incurred in both services, about 90 per cent has been assigned on its books to the public utility operations.

Undoubtedly, most of the operating costs incurred are chargeable directly or in large part to the utility service. This results from the fact that the operation of a utility system, with its many consumers and extensive distribution facilities, necessitates an annual outlay for both maintenance and commercial expense far in excess of the cost to serve a single consumer through facilities which represent a minimum of distribution capital. After carefully examining all the expense items covering both the utility and non-utility service, we conclude that the total sums which have annually been assigned to the utility approximate the reasonable charges incurred, although the Company's allocation of particular accounts are not in all cases acceptable.

It is reasonable to conclude that for a future year the Company's expenses, without depreciation, will be \$98,000, a sum which will allow for increased operating costs and increased water deliveries heretofore indicated.

The annual allowance for depreciation must be added. The engineers for both the Company and the Commission computed their estimates on a sinking fund basis, the Commission's engineer arriving at an annuity relatively higher than that of the Company however, because of the use of somewhat shorter lives. This was approximately \$16,400, for use with a depreciable property value at book cost of approximately \$1,952,000. Adjusted to the valuation herein accorded, a reasonable allowance for depreciation expense, for use with an undepreciated rate base, will be \$17,000.

#### Result of Operations.

Our discussion thus far of the major problems presented in this rate proceeding must make it clearly evident that the net result of the utility's operations is dependent in an unusual degree upon factors of uncertainty. The primary test of the reasonableness of rates charged, the Company asserts, is a fair return upon the value of its property, but that value admittedly is governed largely by the extent of its use in the utility service. If rates were to be either decreased or increased sufficiently to materially influence water consumption by utility patrons, or for any other reason the relative quantity of water delivered in the utility service should be increased or decreased, the value of the utility property would be similarly influenced. The fixation of rates upon such uncertain factors may easily lead to an inequitable result unless more tangible guides for testing the reasonableness of rates can be found.

One such test was employed by the Commission's engineer, Mr. Stava, in presenting his study of the results of operation, he having pointed out the practical necessity of inquiring into the results of an assumed utility operation of the entire property. He found the actual net earnings available to the Company upon its entire property, but because its sales of water to the Del Monte Properties Company were at rates greatly less than those applicable to the utility service, he computed also the assumed revenues from all water sales at the existing utility rate schedules. He conceded, however, the possibility that, were rates to be fixed by the Commission for the entire service, the present utility scale of charges might not be deemed reasonable for the large quantity of water delivered the single customer.

The utility rate which Mr. Stava applied to the private water deliveries is 25 cents per hundred cubic feet for monthly quantities in excess of 1000 cubic feet, the lowest rate now available to utility consumers. The rate accorded the Del Monte Properties Company is 10 cents per hundred cubic feet for monthly use in excess of 30,000 cubic feet. Its actual average use monthly has been about 2,000,000 cubic feet, whereas only a few of the largest utility consumers use as much as 30,000 cubic feet. It would thus appear that the application of 25 cents as the utility rate to the entire private water delivery would not reflect a result reasonably to be expected were the entire service under the Commission's rate-fixing authority. Consideration must also be given to the fact that the large quantity of water delivered to this single consumer requires a minimum of investment in distribution facilities, such as service pipes and meters.

It is regrettable that there is not available more complete data upon which to premise a study of the actual cost of water production and transmission to that point where the respective utility and non-utility distribution facilities begin, for were such cost arrived



at, it could be taken to measure the minimum wholesale rate which the Company should charge to each branch of its service. Upon the record before us, it cannot be said that the so-called private water service rendered to the Del Monte Properties Company yields a net return so far below the range of reasonableness as to result in an unfair discrimination against utility consumers. It must be concluded, therefore, that the test applied by Mr. Stava, and urged also by the cities, serves only to show the range between the maximum and minimum net revenue which might be assumed from a utility operation of the entire property.

In a summarization of these conclusions, the net result of the Company's utility water operations reasonably to be anticipated under existing rates is here shown.

Result of Operations

Annual Gross Revenue . . . . .	\$ 270,000
Expense of Operation . . . . .	<u>115,000</u>
Net Revenue . . . . .	\$ 155,000
Rate Base . . . . .	\$2,215,000
Rate of Return . . . . .	7.00%

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The Cities contend that a rate of return of 5-1/2 per cent is adequate. The Company, on the other hand, demands a return of 7-1/2 per cent. We are of the opinion that neither extreme is justified. A return of approximately 6-1/2 per cent upon the property value herein found will amply protect the Company's credit and will be fully commensurate with the return earned by comparable business undertakings.

The evidence indicates, therefore, that the consumers are entitled to a reasonable reduction in the rates presently being charged. But what is equally important to the Company's patrons is that in revising existing rate schedules an attempt be made to more

equitably reflect the cost and value of the service rendered to classes of consumers and at the same time to promote the maximum use of water consistent with the economical development of the Company's supply. Something more should be said upon this point.

Rate Schedules.

The rates at present in effect were established by the Commission in its Decision No. 5997, dated December 21, 1918 (16 C.R.C. 293) and are as follows:

MONTHLY MINIMUM PAYMENTS

1/2 and 3/4-inch services . . . . .	\$1.10
1-inch services . . . . .	1.50
1-1/2-inch services . . . . .	2.25
2-inch services . . . . .	3.00
3-inch services . . . . .	4.00

MONTHLY QUANTITY RATES

First 300 cubic feet, or less . . . . .	\$1.10
Next 700 cubic feet, per 100 cubic feet . . . . .	.30
Over 1,000 cubic feet, per 100 cubic feet . . . . .	.25

PRIVATE FIRE SERVICE

2-inch and smaller . . . . .	\$2.00 per month
3-inch . . . . .	2.50 per month
4-inch . . . . .	3.00 per month

PUBLIC USE

Fire service, per month per hydrant . . . . .	\$3.00*
For sprinkling streets and roads, per 100 cubic feet . . . . .	.25.
Other use at meter rates.	

\*The \$3.00 fire hydrant rate was reduced in May of 1934 to \$2.50 per month.

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Representatives of the canning industry contended that the present rate schedule does not provide an industrial rate for large water users and they are compelled to pay the same rates charged the domestic user with no consideration being given to the lower cost of delivery of large quantities of water to single users. It was also pointed out that the canning industry demand for water occurs

during the fall and winter months when the domestic requirements are greatly reduced. For these various reasons the canners contended that they were entitled to an industrial rate that would be comparable to the rates charged under the Private Service.

Aside from the question of the reasonableness of the net earnings derived, it is evident that the Company's existing rate schedule needs some revision to effect a more equitable and non-discriminatory spread in the rate structure. The respective classes of water users are entitled to rates commensurate with the cost of service to each, but for the larger users the schedule should provide for adequate minimum monthly charges to assure the Company a reasonable return upon the more costly meters and services required.

#### Conclusion

We have felt compelled in this proceeding to accept the contention that not all of the Company's property employed in rendering water service to the Monterey Peninsula communities has been dedicated to a public use. It would be unfair to precipitate the Company into litigation upon that issue if such a result can be avoided. Yet, the present situation is an unfortunate one, conducive to suspicion upon the part of utility consumers that they are compelled to bear unnecessary costs of operation, and creating an unnecessary burden and expense upon both the Company and the Commission in the preparation of data covering the results of its utility operations for rate consideration purposes. The Company should, therefore, take all steps legally possible to bring its entire water service into the utility field and until that is accomplished should endeavor to so keep its records and accounts as to clearly distinguish between one branch of its operations and the other. Its public consumers are entitled to information through annual reports covering both branches of its service, and our Order herein will direct the Company hereafter to file such reports.

O R D E R

Complaint having been filed with the Railroad Commission as entitled above, public hearings having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the premises,

It is hereby found as a fact that the present rate schedule of California Water & Telephone Company (formerly Monterey County Water Works), in so far as it differs from the schedule of rates herein established, is unfair and unreasonable and that the rates herein established are just and reasonable rates to be charged for the service rendered, and

Basing this Order upon the foregoing finding of fact and on the further statements of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that California Water & Telephone Company be and it is hereby authorized and directed to file with the Railroad Commission, within twenty (20) days from the date of this Order, the following schedule of rates for water delivered to its consumers in and in the vicinity of Monterey, Pacific Grove and Carmel, said rates to be charged for all service rendered subsequent to the 10th day of September, 1937:

MONTHLY MINIMUM CHARGES

1/2-inch and 3/4-inch service . . . . .	\$ 1.10
1-inch service . . . . .	1.50
1-1/2-inch service . . . . .	2.25
2-inch service . . . . .	4.50
3-inch service . . . . .	8.00
4-inch service . . . . .	12.00
6-inch service . . . . .	16.00
8-inch service . . . . .	24.00

MONTHLY QUANTITY RATES

First	300 cubic feet, or less . . . . .	\$1.10
Next	700 cubic feet, per 100 cubic feet . . . . .	.28
Next	9,000 cubic feet, per 100 cubic feet . . . . .	.24
Next	20,000 cubic feet, per 100 cubic feet . . . . .	.22
Over	30,000 cubic feet, per 100 cubic feet . . . . .	.19

PRIVATE FIRE SERVICE CONNECTIONS

2-inch and smaller, per month . . . . .	\$2.00
3-inch, per month . . . . .	2.50
4-inch, per month . . . . .	3.00

PUBLIC USE

Fire service, per hydrant per month . . . . .	\$2.50
For sprinkling streets and roads, per 100 cubic feet . . . . .	.24
Other uses at meter rates.	

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IT IS HEREBY FURTHER ORDERED that California Water & Telephone Company be and it is hereby directed to file with the Railroad Commission special reports for its Monterey Division covering its service of water to the Del Monte Properties Company in a form similar to the special reports required to be filed showing the results of operations in its various divisions.

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 16<sup>th</sup> day of August, 1937.

W. H. [Signature]  
John [Signature]  
Frank [Signature]  
R. [Signature]  
Ray & Riley  
Commissioners.