

Decision No. ~~22613~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
S. J. CLAEYS, doing business under
the name of RODEO WATER COMPANY, to
sell, and of EAST BAY MUNICIPAL
UTILITY DISTRICT, a public corpora-
tion, to buy the whole of the system
and properties of said Company.

ORIGINAL

Application No. 22613.

T. P. Wittschen, by Harold Raines,
For Applicants.

Joseph Longo, For the Rodeo Fire
District.

BY THE COMMISSION:

O P I N I O N

In this proceeding S. J. Claeys owner and operator of the Rodeo Water Company, a public utility water system serving in and in the vicinity of the town of Rodeo, Contra Costa County, asks for authority to sell the entire water system and appurtenances to the East Bay Municipal Utility District, a public corporation, which joins in the application.

A public hearing on this matter was held before Examiner M. R. MacKall at Rodeo.

The Rodeo Water Company since 1926 has purchased its water from the Hercules Water Company which company in turn obtains its water from the East Bay Municipal Utility District* under the terms of a contract entered into in 1908 by the Hercules Water Company and the Peoples Water Company, predecessor in interest to the District. This contract provides, among other things, that water

*Referred to hereinafter as the District.

not to exceed 300,000 gallons per day shall be furnished to Hercules Water Company at a charge of ten cents per 1,000 gallons. Water to Rodeo Water Company is sold by Hercules Water Company at the regular consumer rates and is limited to 50,000 gallons per day. The water supply for Rodeo obtainable from Hercules Water Company is restricted further by the small size of the transmission line and limited storage. Water is conveyed from the Hercules Water Company system through a four inch line several thousand feet in length to a storage tank of 73,000 gallons capacity located about one mile south of Rodeo. According to testimony presented in this proceeding the quantity of water now obtainable and the facilities for storage are inadequate to meet the present and future needs and additional water is now urgently needed.

The East Bay Municipal Utility District is a public corporation organized and existing under the laws of the State of California and in the business of producing and retailing water in the East Bay Cities and unincorporated territory extending from southeast of Hayward through Oakland, Piedmont, Berkeley, El Cerrito, Richmond and the town of San Pablo, embracing a population in excess of 540,000. The District has in operation a 24-inch water main extending from Richmond to the sugar refinery at Crockett, passing through one section of the town of Rodeo. This pipe line has a capacity of 7,000,000 gallons per day with a present daily demand of about 2,500,000 gallons, the surplus being available for sale. The District, however, at this time refuses to provide water for resale purposes and has therefore refused to install a service connection for the Rodeo Water Company.

The rates which the District proposes to put into effect in Rodeo upon the acquisition of the system are its regular rates

applicable to service outside the district boundaries. These rates will result in a reduction of charges for use of water amounting to 300 cubic feet or less per month and an increase for monthly water consumption of 400 cubic feet or more. According to the testimony 264 of the 508 consumers in Rodeo used 300 cubic feet or less for the month of March 1939 and the total billings for all consumers for that month computed at the Rodeo Water Company and District rates were \$1,022 and \$1,037 respectively. Rodeo may by vote of its citizens elect to become a part of the District and thereby be entitled to the rates applicable for service rendered inside its boundaries which are considerably less than those charged to outside users. Rates of the District for fire hydrants are \$39.60 and \$52.80 per annum for each four-inch and six-inch hydrant respectively, as compared with \$18 per annum per hydrant now charged by the Rodeo Water Company.

Mr. Joseph Longo, representing the Rodeo Fire District, protested against the application of the District's regular fire hydrant rates in Rodeo for the reasons that the local fire hydrant flow is generally substandard and the Fire District has already reached the limit of its taxing powers. The testimony of Fire Chief Cooper shows that the distribution mains are inadequate to furnish proper fire protection and this was corroborated by the recent report of the Board of Fire Underwriters of the Pacific.

The District proposes to zone the distribution system so that those in the higher sections will have a greater pressure. There are to be two such areas with a pressure regulating valve between. There are also sets of preliminary plans drawn up for the installation of 1,000 feet of six-inch main on Fourth Street

and 1,650 feet of six-inch main on Parker Street, both to be constructed possibly during the first year of operation. Negotiations are now in progress for the purchase by the District of one of two reservoirs to be used for storage to insure uninterrupted service from the Crockett line.

The sales agreement recites that Mr. S. J. Claeys is to receive \$35,000 for the water works. The District is to take over all of the consumers of the Rodeo Water Company and will acquire all of its facilities. Consumer deposits amounting to some \$250 now held by the Rodeo Water Company are to be returned to the consumers and the Order herein will require such deposits to be refunded to the consumers prior to the completion of the transfer.

It appears that Mr. Claeys is facing a most serious problem in increasing main and storage capacity and acquiring an additional water supply immediately. Water cannot be obtained in either adequate quantity or quality from wells. Reliance must be placed upon the District. While the District has not actually agreed to make any specific improvements at any definite time, it is clear that service under its plans and proposals will be to the best interests of the public with the possible exception of service for fire protection supplied to the Rodeo Fire District. The proposed increase in fire hydrant rates from \$18.00 per year to \$39.60 and \$52.80 per annum will be a staggering blow to the finances of the Fire District and to the community as well. However, it seems more than probable that the Directors of the District can be prevailed upon to agree to some fair and reasonable deviation from their present announced policy in such cases, in order to provide in the interests of public safety for the necessary continuance of the service of water to the Fire District for its hydrants by a method of payment reasonable under the conditions

peculiar to this specific case.

The consideration for the transfer of this utility property appears to be not unreasonable under the existing circumstances. It appears that approval of the transfer as requested by applicants herein should be granted at this time.

O R D E R

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

IT IS HEREBY ORDERED that S. J. Claeys, operating under the fictitious firm name and style of Rodeo Water Company, be and he is hereby authorized to sell and transfer the whole of his public utility water system supplying water in and in the vicinity of Rodeo, Contra Costa County, to the East Bay Municipal Utility District, a public corporation, substantially in accordance with the terms and conditions set forth in the agreement filed in this proceeding and which is hereby made a part of this Order by reference, and

IT IS HEREBY FURTHER ORDERED that said S. J. Claeys be and he is hereby relieved of all further public utility obligations and liabilities in connection with said water system, subject to the following terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before July 31, 1939, and within thirty (30) days from the date of the transfer a certified copy of each final instrument of conveyance shall be filed with this Commission by S. J. Claeys.
2. On or before the date on which said S. J. Claeys actually relinquishes control and possession of the property herein authorized to be transferred, he shall refund all amounts, if any, due consumers

for deposits made for main extensions, meter or service connections, and/or any other purpose.

3. Within ten (10) days from the date on which said S. J. Claeys actually relinquishes control and possession of the property herein authorized to be transferred, he shall file with this Commission a certified statement to the effect that the terms and conditions of the foregoing paragraph 2 have been complied with and also a certified statement indicating the date upon which such control and possession were relinquished.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this 9th day of May, 1939.

Frank R. Sullivan
Ray H. Wiley
Justice J. Casner
COMMISSIONERS.