

Decision No. 32679

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
WATER WORKS OF MONTA VISTA, LTD.,  
for an order adjusting and changing  
rates and charges for water to con-  
sumers thereof.

Application No. 22184

Paul A. McCarthy and Chester Damico, Jr.,  
for applicant.

Louis Stocklmeir and Max E. Merriman,  
for consumers.

Richard Woelffel, for certain water users.

BY THE COMMISSION:

O P I N I O N

Water Works of Monta Vista, Ltd. <sup>(1)</sup>, a corporation, engaged  
in the business of selling and distributing water for domestic,  
commercial and other similar purposes in and in the vicinity of  
the unincorporated Town of Monta Vista, requests the Railroad Com-  
mission to authorize certain proposed revised and increased rates. <sup>(2)</sup>

Public hearings in this matter were held in Cupertino before  
Examiner M. R. MacKall.

Monta Vista is located about twelve miles west of San Jose

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(1) Hereinafter this corporation will be referred to as the  
"Water Works."

(2) Prior decisions involving this utility - Decision No. 21362  
issued July 8, 1929 (33 C.R.C. 380) and Decision No. 22604 issued  
June 30, 1930 (34 C.R.C. 231) - show other details of history and  
operating problems.

along and near the Stevens Creek Road in Santa Clara County. The territory served comprises approximately 440 acres, a portion of which for many years has been subdivided into town lots. The water supply is obtained from two wells located along the banks of Stevens Creek, supplemented by the purchase of water from the well and pumping plant located upstream a few hundred yards, owned and operated by Tarrant Putnam, a neighbor utility. The water is delivered directly into the system by two electrically-driven, deep-well turbine pumps. The storage facilities consist of a 50,000-gallon redwood stave tank and a new 150,000-gallon steel tank, giving a combined capacity of 200,000 gallons. The tanks float on the line with a static head of 270 feet above the pumping plants. The distribution system consists of 56,000 feet of pipe, ranging from one to six inches in diameter, a large portion of which has been installed since 1930. At the present time, the water plant serves about 250 consumers, practically all of whom are metered. With the exception of one fruit cannery, all service is for domestic purposes to suburban and country homes and estates with some smaller demand for stores and similar commercial uses.

Set out below is the utility's present rate schedule which was established by this Commission in Decision No. 22604 and has been in effect since June 30, 1930:

RATE SCHEDULE

1. Meter Rates

Monthly minimum payments for metered service

5/8 x 3/4-inch meter-----	\$ 2.00
3/4-inch meter-----	2.50
1-inch meter-----	3.50
1-1/2-inch meter-----	5.00
2-inch meter-----	7.00
3-inch meter-----	14.00

Each of the foregoing "Monthly Minimum Payments" will entitle the consumer to the quantity of water which that monthly minimum payment will purchase at the following monthly quantity rates:

Monthly Quantity Rates

For the first 650 cubic feet, or less-----	\$ 2.00
Next 1,350 cubic feet, per 100 cubic feet-----	.20
Next 2,500 cubic feet, per 100 cubic feet-----	.18
All over 4,500 cubic feet, per 100 cubic feet-----	.15

2. Water for Public Use

To be charged for at regular quantity rates given above.

3. Summer Home Rates

Applicable to consumers using water for summer homes.

Annual charge payable in advance entitling consumer to 650 cubic feet of water each month for any period of six consecutive months (5/8 x 3/4-inch meter)-----\$12.00

Where water is used in excess of above allowance of 650 cubic feet per month, the above monthly quantity rates shall be applied.

Where water is used for additional months over six in the calendar year, the regular monthly minimum charges and quantity rates shall apply.

4. Flat Rates

\$2.00 per month for domestic use.

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Following is the schedule of rates requested by applicant:

RATE SCHEDULE

1. Meter Rates

Monthly Minimum Payments for Metered Service

5/8 x 3/4-inch meter-----	\$ 2.50
3/4-inch meter-----	3.00
1-inch meter-----	3.50
1-1/2-inch meter-----	7.00
2-inch meter-----	10.00
3-inch meter-----	16.00

Each of the foregoing "Monthly Minimum Payments" will entitle the consumer to the quantity of water which that minimum monthly payment will purchase at the following monthly quantity rates:

Monthly Quantity Rates

For the first 600 cubic feet, or less-----	\$ 2.50
Next 4,400 cubic feet, per 100 cubic feet-----	.30
Next 10,000 cubic feet, per 100 cubic feet-----	.28
Next 35,000 cubic feet, per 100 cubic feet-----	.25
All over 100,000 cubic feet, per 100 cubic feet-----	.20

2. Water for Public Use

To be charged for at regular quantity rates given above.

3. Summer Home Rates

Applicable to consumers using water for summer homes.

Annual charge payable in advance entitling consumer to 600 cubic feet of water each month for any period of eight consecutive months (5/8 x 3/4-inch meter)-----\$20.00

Where water is used in excess of above allowance of 600 cubic feet per month, the above monthly quantity rates shall be applied.

Where water is used for additional months over eight in the calendar year, the regular monthly minimum charges and quantity rates shall apply.

4. Re-connection Charge

Wherever a meter is disconnected and actually taken out and later is re-installed and re-connected, a charge for re-connection of \$2.50 is applicable.

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Two reports presented in connection with this proceeding set out estimates of the fixed capital investment and analyses of revenues and operating statistics, together with estimates of past and future operating and maintenance expenses. One report was prepared by Mark E. Thomas, a civil engineer testifying for and in behalf of the Water Works; the other was made by R.E. Savage and John C. Luthin, hydraulic engineers for the Commission.

Set out below for the purpose of comparison is a table showing the summarized results obtained by the engineers.

As of May 31, 1939	Savage & Luthin		Thomas	
	Original Cost	Original Cost	Reproduction Cost New	Reproduction Cost New Less Accrued Depreciation
Organization	\$ 500	\$ 910	\$ 910	\$ 910
Water Rights	1,250	5,000	5,000	5,000
Going Value	-	4,000	4,000	4,000
<b>Total Intangible</b>	<b>\$ 1,750</b>	<b>\$ 9,910</b>	<b>\$ 9,910</b>	<b>\$ 9,910</b>
Land (Present Market Value)	\$ 781	\$ 770	\$ 770	\$ 770
Physical Properties	39,759	42,663	50,748	40,904
Working Cash Capital	-	850	850	850
<b>Sub-total</b>	<b>\$42,290</b>	<b>\$54,193</b>	<b>\$62,278</b>	<b>\$52,434</b>
Consumers' Advances Deductible		617	617	617
<b>Net Appraisal</b>	<b>\$42,290</b>	<b>\$53,576</b>	<b>\$61,661</b>	<b>\$51,817</b>
Accrued Depreciation (5% Sinking Fund)				\$ 9,844
Depreciation Annuity (5% Sinking Fund)	\$ 568	\$ 573		

As far as the physical properties are concerned, the estimated original cost figures set out in the above reports do not show any serious variation. However, for organization expenses Mr. Thomas includes the sum of nine hundred and ten dollars (\$910), five thousand dollars (\$5,000) for water rights, and four thousand dollars (\$4,000) for going value, a total of nine thousand nine hundred and ten dollars (\$9,910) not included in the basic inventory and appraisal made by the Commission's engineers. As far as the organization costs are

concerned, the present owner of this water works was put to a considerable expense in forming a water company and in organizing his present corporation. Many serious difficulties arose in connection with the various transfers of the water properties which were made from time to time under the ownership of certain of the predecessors in interest of this utility, such as George A. Hensley and Elmer E. Allen, the Monta Vista Water Supply System, Monta Vista Estates, Inc., and Santa Clara Valley Land Company. These various transactions created a clouded title situation. It appears that the company's books and records carry an item of five hundred dollars (\$500) showing what purports to be the actual cost of organization expenses carried on from 1930. These are set up as the actual amounts expended for organization of the corporate structures, and so considered by Mr. Thomas as being the actual expenditures therefor to the end of the year 1930; however, this engineer computed the percentage these expenses bore to the fixed capital installed as of 1930 and applied this same ratio to the increased capital outlay as of the date of his appraisal, resulting in an amount of nine hundred and ten dollars (\$910). This treatment is, of course, erroneous and unsound, as no corporate reorganization occurred subsequent to 1930. Upon the record of this proceeding it appears therefore that the sum of five hundred dollars (\$500) reasonably should be allocated to the organization expenditures for consideration in the rate base to be fixed herein.

As for the sum of five thousand dollars (\$5,000) which Engineer Thomas assigned for water rights, it should be understood that the Water Works has no vested rights entitling it to direct diversions from Stevens Creek. It has no riparian rights permitting appropriation from streamflow in said creek for the sale and dis-

tribution of water to any of its consumers, as far as the evidence herein discloses. The record does show, however, that the water supply is obtained primarily from one principal well located along the banks of Stevens Creek and from a second well within a distance not exceeding 200 feet from the main well and pumping plant. Furthermore, it is necessary for the applicant herein to obtain additional water during each summer and fall from the Tarrant Putnam pumping plant located about 1,200 feet upstream from the two wells of the Water Works. Under such circumstances and as far as the evidence herein discloses, whatever rights to water are enjoyed by this utility come from underground or percolating water, rights which any adjacent fee landowner may avail himself of upon his own premises provided such owner drills and equips the necessary well and pumping plant. No allowance, therefore, can be made as water rights for the water as now obtained by applicant through these two wells, other than the amount heretofore allowed in previous rate cases involving these same wells, this sum being twelve hundred fifty dollars (\$1,250) covering expenditures for litigation in connection therewith involving certain adjacent wells and water rights in Stevens Creek and including also some allowance for water supply development costs.

Giving full consideration to the original costs presented by the engineers in this proceeding, and to the reproduction cost new and reproduction cost new less accrued depreciation presented by Mr. Thomas for the Water Works, and after making a fair and reasonable allowance for organization expenses, working capital, going concern, and other intangible values, it appears that the sum of forty-five thousand dollars (\$45,000) may fairly and properly be fixed as the rate base for the purposes of this proceeding.

The testimony indicates that since about the year 1930

Mr. Chester Damico, the owner of all the capital stock in the Water Works and the president of the company and resident operator, has expended approximately twenty thousand dollars (\$20,000) in improvements to the system, consisting principally of replacement of worn-out mains with larger pipe of better material, and the erection of increased storage facilities at an elevation which provides higher and more satisfactory working pressures throughout the entire system, together with other general improvements. During the last year and a half, an amount somewhat in excess of ten thousand dollars (\$10,000) of the total of twenty thousand dollars (\$20,000) was expended for additions and betterments. This general rehabilitation of the water plant has resulted in producing a very good class of service and has eliminated practically all of the numerous complaints heretofore made to this Commission and arising from lack of pressure and interrupted water supply. The Water Works being now practically completely metered has placed the plant on a modern and up to date operating basis as far as distribution to consumers is concerned. These various improvements installed during the past few years however have resulted necessarily in increasing the operating expenses required for the proper maintenance of plant and equipment, and for billing and accounting. While the revenues have shown a healthy and continuous increase along with the general growth of the community served, yet it appears that there has been an accompanying increase in expenses which applicant believes demands a modification and increase in present rates and charges. Below is a tabulation showing the gross operating revenues, maintenance and operating expenses, and depreciation as set forth by the company in its annual reports for the years 1934 to 1938, both inclusive.



: Year :	: Number of Consumers :	: Operating Revenues :	: Annual Depreciation :	: Maintenance and Expense Including Depreciation :	: Net Difference Plus or Minus :
1934	190	\$5,160	\$ 388	\$5,848	\$- 688
1935	234	5,790	411	6,245	- 455
1936	231	6,180	443	5,958	+ 222
1937	241	6,834	1,053	7,432	- 598
1938	250	7,182	1,214	8,049	- 867

Analyses of the books and records of the utility as set forth in the two engineering reports are considerably at variance. The depreciation allowances both based upon the five percent sinking fund method are substantially in accord, the Commission's engineers having allocated to this item five hundred sixty-eight dollars (\$568), while Mr. Thomas set up the corresponding sum of five hundred and seventy-three dollars (\$573). The estimate for the necessary and proper costs of system operation and maintenance, including depreciation, for the immediate future made by the Commission's engineers was five thousand one hundred sixty-eight dollars (\$5,168) for a normal year, while that made by the engineer for the Water Works was seven thousand three hundred seventy-nine dollars (\$7,379). In the study of future operating expenses the Commission's engineers allocated to superintendence the sum of twelve hundred dollars (\$1,200) per year and in addition thereto included among the various major classifications of operating charges such as pumping, transmission and distribution costs, reading of meters, similar repairs, etc., due allowances for all labor required. The segregation presented by the company's engineer showed pumping labor and general superin-

tendence at a total of eighteen hundred dollars (\$1,800), transmission and distribution expenses, assuming half to be labor, at seven hundred seventy-two dollars (\$772), making approximately two thousand five hundred seventy-two dollars (\$2,572) chargeable to labor for these items. The record does not disclose any more definite segregation of the actual cost of labor involved in the estimate presented by Mr. Thomas. There is, of course, to some extent outside and additional labor required for various repairs throughout the system not included herein. All of the above labor and supervision allowances are actually the salary of Mr. Damico. The total general labor charges set forth in the estimate of Mr. Thomas for the above items handled by the owner and superintendent amount to approximately one dollar (\$1.00) per month per consumer, which appears to be unnecessarily excessive for the economic operation of this small utility. The additional items covering the remainder of the \$6,806 estimate of the company's engineer exclusive of depreciation are made up generally of costs of purchased water, electric power, outside labor costs for repairs to transmission and distribution mains, of repairs and maintenance of meters, and of taxes and Railroad Commission expenses.

Mr. Damico operates a large winery on his own ranch, on which his dwelling is also located. The office of the utility is the former main office of the winery. The outside interests of Mr. Damico require a considerable portion of his time and the record discloses the fact that for this small water works, now practically rebuilt, there is no reasonable necessity for him, as owner of the plant, or as superintendent, to devote any considerable or major part of his time to the affairs of the utility. It is apparent that the estimate of the reasonable and proper costs for the operation of this utility in the immediate future, as presented by the utility's engineer, is

excessive and unduly high. However, on the other hand, it is equally clear that an adequate allowance has not been made by the Commission's engineers for certain extra expenses which do not recur annually, such as additional pumping costs and extra expenses for purchased water during dry years. Likewise, there should also be increased provision made in this latter estimate for certain other non-recurring annual expenses as those involved under the item Railroad Commission expenses, legal expenses, etc.

Bearing in mind the fact that during the years from 1930 to date this system has been practically completely rebuilt as far as the distribution and transmission system is concerned, including also the new storage tank, and that a large amount of the new installations was made during the past two years, the costs of maintenance and repairs for several years to come should be very greatly reduced over the past charges which were unduly excessive by reason of long-deferred maintenance and badly depreciated pipe lines, facilities and other equipment. Under the circumstances it would appear that the sum of five thousand six hundred fifty dollars (\$5,650), including depreciation, is a reasonable amount to allocate to the maintenance and operating expenses for the immediate future.

Under past rates this utility has enjoyed a steady increase in revenues. The average annual increase for the period 1931 to 1938, both years inclusive, is 8.6%; for the year 1937 the percentage of increase in revenues over the preceding year was approximately 10.5%; and similarly for 1938 the increase amounted to 5%. This condition must be given due and fair consideration in the design of a new rate structure. Upon the basis of an assumed increase in revenue of five per cent per annum for each year 1939 and 1940, the results of operation

of this utility based upon the foregoing findings of fact would indicate a net return of not to exceed five per cent (5%). Under these circumstances applicant is entitled to some relief and also should obtain at this time a readjustment of its rate structure in order to eliminate certain discriminations now arising from conditions which have changed since the establishment of the present schedule of rates.

In his proposed schedule of rates in Item 4, entitled "Re-connection Charge" Damico asks for the privilege of assessing a fine for connection and reconnection of service as follows:

"Wherever a meter is disconnected and actually taken out and later is re-installed and re-connected, a charge for re-connection of \$2.50 is applicable."

In the first place this proposed rule is not clear and is ambiguous. There is nothing therein to indicate whether an outgoing tenant, or owner of a parcel of property, or a new tenant, or new owner thereof, or even the same consumer, should be chargeable for all or any portion of this fine or whether both the outgoing and incoming consumers, whether owners or tenants, should be so chargeable. This type of rule is a nuisance and is not only unnecessary and unreasonable, but is in the nature of a punitive measure, destructive of good public relations with consumers as is well illustrated by the large number of informal complaints which have been filed with this Commission by reason of the past unauthorized attempts of the operator of this system to assess a one-dollar connection and re-connection charge against many consumers under similar circumstances. No provision is made in any of the present effective rules and regulations of this utility on file with the Commission for such a charge. The nearest approach thereto is Rule No. 9 which is as follows:

"A re-connection charge of \$1.00 may be made and collected by the Company before service is renewed where service has been discontinued for non-payment of bills as required by these Rules and Regulations, or to protect the Company against fraud, or for failure to comply with the Rules and Regulations of the Company."

The above Rule No. 9 completely covers any reasonable and extraordinary expenses which would be incurred for delinquencies in accounts or acts bordering on fraud, where good water works practice would demand or necessitate the discontinuance or disconnection of a consumer's service or service connection, as the case may be. The costs incurred when cutting in pipe connections for new consumers and in disconnecting service lines and removing meters where old water users move or vacate premises, are adequately and fully provided for in the general operating expenses. Very properly no duplication of these expenditures or for any similar purposes will be permitted by this Commission under the guise of Rules and Regulations.

No written reports were submitted by the consumers, the majority of whom were represented by Mr. Louis Stockmeir, a civil engineer, and Mr. Max H. Merriman. Mr. Woelffel represented certain consumers and his own business enterprise, a fruit cannery and packing plant, a local industry which is at present the largest water user. In general, the water customers complained about poor service and interrupted water supplies and arbitrary and unauthorized practices and fines for various purposes, the majority arising mainly under the application of the Summer Resort rate and the levying of connection and reconnection fines, which latter matter has been fully covered above. Most of the above causes of service complaints unquestionably now have been eliminated by the recent plant reconstruction and improved facilities now in operation. Most water users agree now that in the future service, pressure conditions, and water supply should

be satisfactory.

Contentions advanced by Mr. Stockmeir showing the influence of the water regulating and gravel surcharging reservoir on upper Stevens Creek, owned and controlled by the Santa Clara Valley Water Conservation District, upon underground waters bordering Stevens Creek have already been given full consideration in connection with the determination of the proper amounts to be allocated to water rights, pumping expenses, purchased water and allied matters. The record clearly shows that during dry years and at times even during years of normal, and even slightly above normal, rainfall and stream run-off there will still be a necessity for this utility to obtain water from sources outside its own present wells, either by purchase or otherwise.

Analysis of the schedule of rates proposed by the Water Works shows that the charges therein are unreasonably high and would yield a net return far in excess of that to which the utility is properly entitled. The rates fixed in the following Order under the circumstances presented in this proceeding should produce a fair return upon the rate base determined hereinbefore, over and above the proper and necessary costs of maintenance and operation, including depreciation, and at the same time should place no unjust nor unreasonable burden upon any class of water user or upon any single or individual consumer.

#### O R D E R

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

It is hereby found as a fact that the rates now charged by

Water Works of Monta Vista, Ltd., a corporation, for water supplied to its consumers in the County of Santa Clara, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for the services rendered, and, basing its Order upon the foregoing findings of fact and upon the statements of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that Water Works of Monta Vista, Ltd., a corporation, 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 to be charged for all water service rendered subsequent to the thirty-first day of December, 1939.

RATE SCHEDULE

1. Meter Rates

Monthly Minimum Payments for Metered Service

5/8 x 3/4-inch meter-----	\$ 2.00
3/4-inch meter-----	2.50
1-inch meter-----	3.50
1-1/2-inch meter-----	5.00
2-inch meter-----	7.00
3-inch meter-----	14.00

Each of the foregoing "Monthly Minimum Payments" will entitle the consumer to the quantity of water which that minimum monthly payment will purchase at the following monthly quantity rates:

Monthly Quantity Rates

For the first 550 cubic feet, or less-----	\$ 2.00
Next 4,450 cubic feet, per 100 cubic feet----	.25
Next 6,000 cubic feet, per 100 cubic feet----	.20
Next 2,000 cubic feet, per 100 cubic feet----	.18
All over 13,000 cubic feet, per 100 cubic feet----	.16

2. Water for Public Use

To be charged for at regular quantity rates given above.

3. Summer Home Rates

Applicable to consumers using water for summer homes only.

Annual charge payable in advance entitling consumer to 500 cubic feet of water each month for any period of six consecutive months during any calendar year (5/8 x 3/4-inch meter)-----\$12.00

Where water is used in excess of above allowance of 500 cubic feet per month, the above regular monthly quantity rates shall be applied.

Where water is used for additional months over six consecutive months during the calendar year, the regular monthly minimum charges and monthly quantity rates shall apply.

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IT IS HEREBY FURTHER ORDERED that, within twenty (20) days from the date of this Order, Water Works of Monta Vista, Ltd., a corporation, be and it is hereby directed to submit rules and regulations governing relations with its consumers, said rules and regulations to become effective only upon approval by this Commission.

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 27<sup>th</sup> day of December, 1939.

[Signature]  
[Signature]  
[Signature]  
[Signature]

Commissioners