

Decision No. 35075

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROY H. CARPENTER, et al.,
Complainants,

-vs-

WESTERN WATER COMPANY,
a Corporation,
Defendant.

Case No. 4509

M. A. JOHNSTON, et al.,
Complainants,

-vs-

WESTERN WATER COMPANY,
a Corporation,
Defendant.

Case No. 4513

H. G. Barron, for Complainants.

Chickering & Gregory, by Walter C. Fox,
for Defendant.

BY THE COMMISSION:

O P I N I O N

These two complaints were filed by the domestic water consumers of the Western Water Company residing in three separate, subdivided areas located from five to ten miles from the City of Taft, in Kern County. Both complaints allege that the Defendant discriminates against the residents in these three tracts by charging

them more than consumers residing in the City of Taft are required to pay for the identical class of service.

The Company in its answer denies that the rates charged complainants are discriminatory, claiming that it had filed a temporary combination household domestic and residential irrigation rate for promotional purposes specifically limited to consumers living in Taft and Ford City and in the immediate vicinity thereof. It is alleged that this rate has proved to be non-compensatory.

A public hearing in these two proceedings was held before Examiner Wm. Stava at Taft, during which it was stipulated that these two matters be combined for the taking of evidence and for decision.

The complainants reside in three subdivided areas known as Valley Acres, Dustin Tract and Derby Acres. The number of consumers served in each tract is 41, 38, and 66, respectively. The water users in these subdivisions are billed under regularly filed tariffs in the classification designated "Domestic Consumers on wholesale lines," which has a monthly minimum charge of \$2.50 as compared to the similar minimum of \$1.50 and the optional promotional minimum of \$2.00 now limited to domestic consumers in Taft, South Taft and Ford City and certain adjoining territory.

The rates presently effective, as well as the Optional Temporary Promotional Irrigation Rate, in part, are as follows:

MONTHLY MINIMUM CHARGES

Domestic Consumers in Taft, South Taft and Ford City (retail lines)	\$ 1.50
Domestic Consumers on wholesale lines	2.50
Industrial Consumers on wholesale lines	10.00

MONTHLY METER RATES - DOMESTIC SERVICE

First 400 cubic feet	\$1.50
Over 400 cubic feet, per 100 cubic feet35

MONTHLY METER RATES - INDUSTRIAL SERVICE

	Per Barrel	(Equivalent cost) (per 100 Cubic Feet)
First 30,000 Barrels	\$0.0275	\$0.491
Next 70,000 Barrels	.02	.357
Over 100,000 Barrels	.015	.268

The foregoing rate schedule filed in conformity with Decision No. 18,660 of the Railroad Commission, dated July 21, 1927.

RATES FOR FIRE SERVICE

In the City of Taft
and
Ford City.

For all water supplied for fire purposes:		
Per 100 cubic feet		\$0.35
Per barrel		0.01965
Minimum monthly charge for fire purposes for each hydrant or connection		\$1.00

OPTIONAL TEMPORARY PROMOTIONAL IRRIGATION SCHEDULE

This optional temporary promotional irrigation schedule, and rates and service hereunder, shall be in force and effect only for meter readings taken between November 1, 1940 and October 31, 1941, and shall automatically terminate upon the latter date.

Character of Service

Service under this schedule is limited to the use of water for single and individual residences, including the irrigation of gardens, lawns, orchards and shrubbery, and is available on the conditions hereinafter set forth.

Territory

This schedule is limited to said residential service in Taft, Taft Heights, Taft View Terrace, South Taft and Ford City.

Rate

First 600 cubic feet or less per month	\$2.00
Over 600 cubic feet per month, per 100 cubic feet20

RATES FOR DOMESTIC AND INDUSTRIAL WATER SERVICE
IN AND FOR THE VICINITY OF TOWNSITE OF FELLOWS,
KERN COUNTY.

Monthly Minimum Charges:

Domestic consumers	\$ 2.50
Industrial consumers	10.00

Monthly Quantity Rates:

First 30,000 barrels, per barrel	\$0.0275
Next 70,000 barrels, per barrel02
Over 100,000 barrels, per barrel015

The testimony of the complainants in general was to the effect that they all resided in newly subdivided areas located adjacent to recently developed oil enterprises not far from the city of Taft, and, being served from the same water system, demand the same water rates and privileges. The homeowners in these new tracts all desired to beautify their yards with lawns, flowers and shrubbery, but contended that the base rate of \$2.50 per month and the quantity charge of 49¢ per 100 cubic feet are prohibitive for such purposes. The denial of the same rates tendered the other domestic users is claimed to be an unfair and unnecessary discrimination.

The difficulty which obtains here is the out-growth of the historical development of this waterworks. Originally, Western Water Company was a project installed to provide industrial water for the drilling and operation of oil wells and refining plants in the Taft Oil Field district. Service thereafter was extended to furnish domestic water in Taft and the adjoining communities called South Taft and Ford City. Just recently* the domestic water distribution system supplying the town of Fellows was acquired by

(*) E. F. Heck sold the water works in Fellows to Western Water Company, Decision No. 33229, dated June 18, 1940.

purchase. The area now served by Defendant extends from Maricopa on the southeast to the outskirts of McKittrick on the northwest, covering 100 square miles of territory, the plant investment is about two million dollars.

The Company's water supply comes from a well field in the valley floor some three miles north of Buena Vista Lake and is pumped at initial working pressures of 400 and 600 pounds per square inch through over 125 miles of pipe lines, varying from 2 inches to 30 inches in diameter. While this vast network of water mains was primarily designed for industrial purposes, it also took over certain domestic service obligations. It soon became apparent that the domestic service could not fairly nor reasonably be expected to assume a disproportionate share of the burden created by the huge outlay required for the industrial operations. This phase of the problem became especially acute when some of the major oil companies provided independent water systems for their own uses, large scale drilling declined and later when steam drilling gave way to electrically-operated rotary rigs. It was because of these and many other factors that the Railroad Commission recognized the distinction between domestic service and industrial use and established a separate form of rate structure for the domestic areas which at that time were confined to the City of Taft and the communities of South Taft and Ford City. These domestic service areas were grouped and treated as a unit. The base rate for residential demand was \$1.50 per month. The few scattered and isolated domestic taps in the outside territory were put upon a special schedule of \$2.50 per month, minimum payment. This latter rate was neither designed nor intended for subdivisions nor other similarly developed or built-up residential areas such as

the tracts involved herein; as a matter of fact, there was no such type of home development existent at the time the above rate schedule was established.

The complaining consumers in the instant proceedings were most vitally interested in the temporary promotional and optional residential rate based upon a \$2.00 monthly minimum charge with an allowance therefor of 600 cubic feet of water, with all additional use at the rate of 20¢ per 100 cubic feet. Counsel for defendant claimed that this rate was noncompensatory. This contention was wholly unsupported by any relevant and convincing evidence. The record shows that the entire water system is now excessively over-constructed for existing demands. In spite of this condition, however, the utility received a revenue for 1940 of \$315,356, resulting in a net return of 3.53%. However, in many of the more prosperous years this utility enjoyed a most lucrative net return; for example, in 1925 Western Water Company's net earnings somewhat exceeded 18%* upon the then invested capital.

The testimony conclusively shows that all residential users in the Taft District who could avail themselves of the new optional household rate to any practical extent, have done so. It is apparent, furthermore, that the consumers outside of this preferred municipal and residential district are now clamoring for the right to the same class of service. Nothing was presented warranting the refusal to outside consumers residing in settled residential areas of the regular domestic schedules other than such technical restriction as may exist in the filed tariffs. These

(*) Findings on net return Western Water Company by Commission's Decision No. 18660, July 12, 1927, 30 C.R.C. 229, 231 as follows:

<u>1923</u>	<u>1924</u>	<u>1925</u>	<u>1926</u>
11.7%	16.9%	18.7%	12.9%

restrictions are shown to be no longer just and equitable in the light of present changed conditions.

According to the evidence, this promotional rate was filed first in 1938 as an experimental scheme to increase the sale of water by developing a new demand therefor, and also to promote more cordial and friendly relations with the public. Thereafter this rate has been refiled, effective each year to the end of the arbitrarily adopted irrigation season, October 31st. This rate was effective during the indicated period of the year 1941. This new type of rate at the outset was greeted by the consumers with enthusiasm and favorable approval. Its instant popularity was so great that defendant itself, and at its own considerable expense, hired a nationally-renowned horticulturist and landscape artist whose professional services and advice were made available free to all citizens interested in developing more attractive homes and gardens. For this reason the present attitude of the officials of the defendant company in obstructing the fair and reasonable extension of this rate is as amazing as the policy is short-sighted.

In conclusion, it should be stated that the record conclusively shows that the existing rates charged to domestic water consumers residing in settled residential areas outside of the present preferred zone of Taft and vicinity are unjust and unreasonable and discriminatory. The schedule of domestic rates, therefore, should be made uniform throughout defendant's entire system to all domestic consumers residing in groups, communities, areas, and municipalities. While the "Optional Temporary Promotional Irrigation Schedule" technically has expired, in view of its present popularity and demand, the possible refusal of defendant to refile this schedule for future effectiveness would appear at this

time to be highly inadvisable and against the best interests not only of the public but of the utility as well. It appearing that this optional rate, after having received a fair trial over a period of several years last past, has proved to be just and reasonable and now, during this period of national emergency, more than ever necessary to the welfare of the consumers concerned, the finding is inescapable that said optional rate should therefore be made permanent.

O R D E R

Roy H. Carpenter, et al, and M. A. Johnston, et al, having filed complaints as above entitled against Western Water Company, a corporation, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises, and basing its order upon the findings of fact and the conclusions set forth in the preceding Opinion,

IT IS HEREBY FOUND AS A FACT that the rates now charged by Western Water Company, a corporation, for water supplied to its domestic consumers outside of the City of Taft, South Taft, Ford City and certain immediately adjoining areas, are unjust and unreasonable and discriminatory 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 service rendered,

IT IS HEREBY ORDERED that Western Water Company, a corporation, be and it is hereby directed to file within thirty days from the date of this Order the following schedule of rates applicable throughout its entire system to all domestic consumers residing in groups, communities, areas and municipalities, said

schedule to cancel all other schedules of rates for domestic consumers in conflict therewith and to become effective thirty (30) days from the date of this Order:

Monthly Minimum Charges:

Domestic consumers \$1.50

Monthly Meter Rates - Domestic Service:

First 400 cubic feet; or less \$1.50
 Over 400 cubic feet, per 100 cubic feet .. .35

IT IS HEREBY FURTHER ORDERED that Western Water Company be and it is hereby authorized and directed to file with this Commission within thirty (30) days from the date of this Order the following optional schedule of rates for domestic service including the irrigation of lawns, gardens, shrubbery and orchards, applicable throughout the entire system to all domestic consumers residing in groups, communities, areas and municipalities, said schedule to become effective thirty (30) days from the date of this Order:

Optional Rate Domestic Service:

	<u>Per Month</u>
First 600 cubic feet; or less	\$2.00
Over 600 cubic feet, per 100 cubic feet ..	.20

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
24th day of February, 1942.

Justus F. Calver
J. Ray & Rice
A. W. Kelly
Francis D. Havens
Richard H. Baker
Commissioners.