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Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and Investigation on the Commission's own Motion on Water Main Extension Rules Filed by California Water & Telephone Company and California Water Service Company for Service in all of their respective operating districts.

ORIGINAL

Case No. 4635.

Carl F. Mau and McCutchen, Olney, Mannon & Greene,  
 By Robt. M. Brown,  
 For California Water Service Company  
 and San Jose Water Works.

P. A. Nenzel, For California Water & Telephone Company.

H. V. Anderson, For Southern California Water Company.

Kirkbride & Wilson, by Frank Ingersoll, on behalf of  
 Peninsula General Contractors and Builders' Ass'n.

RILEY, COMMISSIONER:

OPINION

On April 13, 1942, and April 14, 1942, California Water & Telephone Company and California Water Service Company, respectively, filed amendments to their existing Rules and Regulations governing water main extensions, and relating particularly to extensions during emergency periods. These rules and regulations govern the extension of facilities to serve subdivisions in Defense Housing Areas, and are to be effective for such time as the United States is at war or there are in effect governmental restrictions upon the purchase and use of materials and supplies for waterworks construction.

By reason of the importance of the proposed amendments and their effect upon all water utilities generally throughout the State, the Commission issued its order of suspension and investigation suspending the use of said rules and regulations to July 1, 1942, and set the date for the hearing thereof as the 4th day of May, 1942, in San Francisco, at which time a public hearing was held.

Southern California Water Company also filed substantially similar amendments to its own rules and regulations governing water main extensions which likewise were suspended by the Commission, which issued its order of suspension and investigation, being designated Case No. 4636. Although the Southern California Water Company made an appearance in this proceeding, the two suspension proceedings were not consolidated, and no order will here be made covering that utility.

The rules as filed were justified upon the claimed necessity of protecting the water utilities against serious capital loss, which probably may occur should extensions be made to speculative housing and war industrial facilities with the possibility of non-use or non-occupancy in the near future. The rules filed, in general, provide that no refunds will be made to depositors for a period of five years immediately succeeding completion of the installation of the facilities comprising the extension. Thereafter refunds will be made upon a basis of 75% of the gross revenues collected during the second period of five years. The evidence indicates, however, that this period of deferment may work an unfair hardship upon the depositors. The evidence shows that the installation costs, expenses, and the revenues probably to be derived therefrom do not warrant such drastic deferment of refunds. During the progress of the hearing the utilities represented agreed to a modified rule. Such rule has been prepared, based upon the refunding to depositors annually over a ten-year period commencing from the date of the completion of the installation, 25% of the gross revenues received from consumers served by the main extension involved.

In my opinion the special circumstances surrounding this case reasonably require that annual refunds be upon the basis of 35% of the gross revenues, in order that the depositor may expect under ordinary conditions to have returned to him the full amount of his deposit within the ten-year period. In lieu of the suspended rule, the utilities involved in this proceeding may file with the Commission the rule set forth in the Order following.

The following form of Order is recommended:

ORDER

The California Water & Telephone Company, a corporation, and the California Water Service Company, a corporation, having filed, respectively, amendments to their existing Rules and Regulations governing water main extensions during war emergency periods, and the Commission having suspended the filing thereof and instituted the instant proceeding into the propriety of said rules, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully advised in the premises:

IT IS HEREBY ORDERED that each of said rules be and they are hereby permanently suspended.

IT IS HEREBY FURTHER ORDERED that California Water & Telephone Company and California Water Service Company be and hereby are given authority to file with the Commission and to make effective not less than five days after filing, an extension rule in the form following:

During the existing war emergency period or until otherwise ordered by the Commission, applicants for main extensions to serve subdivisions, tracts, housing projects, and war industrial developments and enjoying special procurement privileges under provisions and orders issued by the War Production Board, shall be required to deposit with the Company before construction is commenced the estimated reasonable costs of the necessary facilities exclusive of service connections and meters. The size, type, and quality of materials and location of the lines shall be specified by the Company and the actual construction will be done by the Company or by a contractor acceptable to it. In case of disagreement over size, type, and location of the pipe lines and the constructing medium, the matter may be referred to the Railroad Commission for settlement. Adjustment of any substantial differences between the estimated and reasonable actual cost thereof shall be made after the completion of the installation, subject to review by the Commission.

For a period not exceeding ten years from the date of completion of the main extension, the Company will refund to the depositor, or other party entitled thereto, annually, 35% of the gross revenues collected from consumer or consumers occupying the property to which the said extension has been made; provided, however, that the total payments thus made by the Company shall not exceed the amount of the original deposit without interest.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

The foregoing Opinion and Order is hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16<sup>th</sup> day of June

1942.

Ray L. Riley  
M. B. Allen  
Richard L. Jackson  
 COMMISSIONERS.