

Decision No. 32648

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DEL ESTE WATER COMPANY, a corporation,
for a certificate of convenience and
necessity covering its operations in
the Salida area, and for authority to
establish uniform rates in the Salida
area.

Application No. 25672

F. O. Hoover, for Applicant.
John J. Gallagher and David S. Miller,
for Chester Bowles, Administrator,
Office of Price Administration, Intervener.
Arval Crickett, for Consumers.

BY THE COMMISSION:

O P I N I O N

In this proceeding Del Este Water Company, hereinafter sometimes referred to as Applicant, a corporation, engaged in the business of supplying water for commercial and domestic purposes in the town of Salida and four other communities in Stanislaus County, asks the Commission to grant it a certificate of public convenience and necessity to cover its operations in Salida and to establish uniform rates for the service rendered in that area.

The Commission is asked to establish the following schedule of rates for the Salida property. This schedule is similar to other rate schedules now effective in the other systems operated by Applicant, except that it does not have a \$1.75 monthly charge for a 1/2-inch connection that is available to consumers on the four other systems owned and operated by Applicant.

FLAT RATES

For water used in one dwelling house, apartment, store or industry or other single unit establishment with the premises on which same is located, the charges shall be as follows:

For 3/4 inch connection \$2.30 per month
 For 1 inch connection 3.10 per month

Additional dwelling houses, etc., taking service through the same connections:

For first additional unit \$0.80 per month
 For second additional unit60 per month
 For third additional unit and in excess of three50 per month

METER RATES

Monthly Minimum Charges:

Per Meter
Per Month

For 5/8 x 3/4 inch meter	\$1.50
For 3/4 inch meter	1.75
For 1 inch meter	2.50
For 1 1/2 inch meter	3.10
For 2 inch meter	5.00
For 3 inch meter	10.00
For 4 inch meter	15.00
For 6 inch meter	20.00

Monthly Quantity Rates:

First 5,000 cubic feet, per 100 cubic feet	\$0.075
Next 45,000 cubic feet, per 100 cubic feet	.06
Over 50,000 cubic feet, per 100 cubic feet	.04

A petition for leave to intervene was filed by Prentiss M. Brown, Administrator of the Office of Price Administration, on the grounds that if Applicant is authorized to increase its rates such increase would result in higher charges to the consumers, such action being contrary to the Emergency Price Control Act of 1942, which seeks to stabilize prices, prevent inflation and control the cost of living so far as practicable on the basis of levels which existed on September 15, 1942, and that adjustments thereof should only be made when found "necessary as an aid in the effective prosecution of the war or to correct gross inequities." It is alleged that Applicant has not

shown that the proposed increase in rates is a necessary aid in the effective prosecution of the war or to correct gross inequities.

A public hearing in this proceeding was held before Examiner William Stava at Salida.

The Salida property consists of two water systems that are now interconnected and operated as one unit. Water is supplied to 161 consumers on a flat rate basis. Applicant also operates four other separate systems in the county, two of which adjoin the City of Modesto and are known as the Del Este System and the Paradise System. These two systems supply water to 976 and 224 consumers, respectively. Of the two remaining systems, one serves 191 consumers in the town of Empire and the other supplies 240 consumers in the town of Waterford. All of the domestic service on these four systems is furnished on a flat rate basis but the industrial use is measured.

At Salida one of the water systems was formerly operated under the name of Salida Water Works, hereinafter sometimes referred to as Water Works. This system, acquired by Applicant through authority of the Commission in its Decision No. 35547, dated July 7, 1942, covered the original townsite of Salida and was installed in 1909 when a certificate to operate a public utility was not required. Rates were established by the Commission in its Decision No. 20695, dated January 21, 1929, but were amended by the former owners and also by Applicant. The rates now in effect are as follows:

Schedule No. 1

MONTHLY FLAT RATES

Applicability:

Applicable to all domestic, commercial and industrial users of water.

Territory:

In the town of Salida, Stanislaus County.

Schedule No. 1 - Continued

MONTHLY FLAT RATES

Rates:

Residences of five rooms or less, occupied by a single family	\$1.50
For each additional family	1.00
For each additional room . . . . .	.10
Apartments, flat buildings or residences, when occupied by only one family	1.00
For each additional family	1.00
Sprinkling or irrigation of lawns, shrubbery, gardens, etc., payable every month in the year, up to 3,000 square feet, per 100 square feet of surface watered . . . . .	.03
Over 3,000 square feet, per 100 square feet of surface watered . . . . .	.015
Blacksmith Shop	1.50
Pool Halls	1.50
Barber Shops	1.50
Banks	1.50
Public Halls	1.00
Churches	1.50
Hotels	3.00
Lumber Yards	1.50
Garages	1.50
Railroad Station and Packing Houses	3.50
Standby service for fire protection . . . . .	.50

Schedule No. 2

METERED RATES

Applicability:

Applicable to all domestic, commercial and industrial users of water.

Territory:

In the town of Salida, Stanislaus County.

Rates:

Monthly Minimum Charges:

For 5/8 x 3/4 inch meter	\$1.50
For 3/4 inch meter	1.75
For 1 inch meter	2.50
For 1 1/2 inch meter	3.50
For 2 inch meter	5.00
For 3 inch meter	10.00
For 4 inch meter	15.00
For 6 inch meter	20.00

Schedule No. 2 - Continued

METERED RATES

Rates - Continued:

Each of the foregoing "Monthly Minimum Charges" will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the following "Monthly quantity Rates:"

Monthly quantity Rates:

First 5,000 cubic feet, per 100 cubic feet	\$0.075
Next 45,000 cubic feet, per 100 cubic feet . . . . .	.06
Over 50,000 cubic feet, per 100 cubic feet . . . . .	.04

The other Salida water property was known as the Connacher System, hereinafter sometimes referred to as Connacher, and was acquired by Applicant by the Commission's Decision No. 36197, dated March 2, 1943. This system was installed in 1933 to serve a newly subdivided area known as Union Addition to Salida but no certificate was obtained to operate it as a public utility. The rates effective at the time of transfer and now being charged are as follows:

Schedule No. 3

MONTHLY FLAT RATES

Applicability:

Applicable to all domestic users of water.

Territory:

In a tract of land known as Union Addition to Salida, Stanislaus County.

Rates:

For each water service, per month \$2.00

Water for the combined Salida systems is obtained from three wells and is distributed to consumers by means of pressure systems through 14,635 feet of mains that vary from 6 to 1½ inches in diameter.

Mr. Kennan Beard, Applicant's manager of operations, testified that when the Salida Water Works System was acquired it was found that the rates on file with the Commission had not been applied uniformly by the former owners and that the many deviations produced discriminatory charges. Many of the consumers were paying as little as fifty cents a month when the minimum charge was \$1.50. The acquisition of the Connacher System added another set of rates that differed from those in effect on the Water Works property. No change was made in the charges at the time of acquisition but the instant proceeding was filed to have the inequalities removed and uniform rates established throughout the Salida area. A certificate is also requested for the entire area now served and for adjoining lands in order that there shall be no question as to Applicant's right to operate the two properties in that territory. Applicant has a permit from the Board of Supervisors of Stanislaus County to enter into and cross all roads, highways and alleys in the county for the purpose of laying and repairing its pipe lines in connection with its public utility operations.

Mr. Beard further testified that when the Water Works System was acquired by Applicant, it was found that a very inferior water service was being furnished. In order to provide adequate service, it was necessary to expend \$4,537 in purchasing additional water producing property, drilling another well, installing two new pumping plants, and also replacing some of the existing pipe lines with larger mains. As a result of these improvements the working pressure at the ends of the mains was increased from practically zero to an average of twenty-five pounds. He stated that only \$198 of capital had been added during 1944 but that a further replacement of larger mains was required and that they would be installed during the fall when labor, then engaged in agricultural work, would be available.

Mr. Beard also testified that the investment in utility property in Salida as of December 31, 1943, totaled \$9,637. This sum included the purchase price of \$5,100 paid for the two systems and net additions and betterments to the properties since date of acquisition. The operating revenues and expenses of

this system for the year 1943 were estimated at \$3,000 and \$3,900, respectively. The operating expenses were based on the actual expenditure that could be allocated directly to the system and a prorata of the general expense chargeable to all five systems in proportion to the number of consumers served by this property. This latter item included an allowance for depreciation which was computed on a straight line basis. Mr. Beard estimated that the requested schedule of rates would produce an annual revenue of approximately \$4,000 for 1944 operations and that the expenses for the year would total \$3,900.

Mr. Beard further testified that the operative fixed capital installed in all of the five systems owned and operated by Applicant as of December 31, 1943, totaled approximately \$132,000, and that the combined annual operating revenues and expenses from these properties for the year of 1943 were \$46,835 and \$41,768, respectively. The expense item included an allowance for depreciation in the amount of \$4,826 which was computed on a straight line basis. The year's operations on this basis resulted in a net income of \$5,046, which produces a rate of return of 3.84% on the fixed capital installed. Mr. Beard stated that additional capital expenditures are also necessary to the other four systems during 1944 and will be made as soon as labor and material are available. The five systems, although physically separated, are operated from a central office in Modesto. As they have the same rates and same operating conditions, they are considered by Applicant as one system.

Mr. D. L. Duncan, one of the Commission's engineers, presented a report covering an appraisal and the operations of the two Salida systems, together with the results of operations of all of Applicant's water properties. The report showed the estimated historical cost of the two Salida systems to be \$10,927 as of February 15, 1944. The operating revenues for 1943 were \$3,143, and the adjusted expenses were \$3,381. This latter sum includes \$174 as an allowance for depreciation, computed by the 5% sinking fund method. The results of operation for the year showed a loss of \$238. The report also showed that if the rates

established by the Commission in its Decision No. 36197 were applied throughout the Salida area they would produce an estimated annual revenue of \$4,052, a net revenue of \$542, and a return of 4.95% on the estimated fixed capital installed, or 5.62% return on the actual investment in the system of \$9,637. The application of the rates requested by Applicant to the service furnished would have produced an estimated annual revenue of \$4,314, a net revenue of \$765, and a return of 6.98% on the fixed capital, or 7.94% return on the actual investment.

In connection with the combined operations of all of Applicant's properties, Mr. Duncan's report showed that the fixed capital installed as of December 31, 1943, totaled \$138,326. The revenues during 1943 were \$45,989 and the adjusted expenses amounted to \$37,604, leaving a net income of \$8,385 and producing a return of 6.06% on the fixed capital installed at the end of the year. The report also showed that the estimated increased revenue from the Salida system resulting from the application of the rates established by the Commission and also by applying rates requested by Applicant, would have resulted in a return of 6.58% and 6.69%, respectively, on the \$138,326 of fixed capital installed at the end of the year.

The difference in fixed capital of \$138,326 as testified by Mr. Duncan and \$132,000 as presented by Mr. Beard is due to Applicant's carrying on its books the estimated historical cost depreciation of property installed as of September 1, 1938. The present value of Applicant's system was used as a basis for a stock issue authorized by the Commission in its Decision No. 31588, dated February 1, 1939. Mr. Duncan has used the estimated original cost undepreciated for fixed capital installed in his presentation of results of operation of these properties.

No protest was made by any of the consumers to an adjustment of the rates or of the service supplied by Applicant, except that in one instance a complaint was made of poor service in an area served by an old two-inch main. It developed that only recently six residents, whose individual pressure systems had

broken down, had been given service from the main and this action resulted in overloading it. Mr. Beard stated the two-inch pipe would be replaced with a four-inch one as soon as labor could be made available to make the installation.

Representative of the Office of Price Administration appeared as intervener and directed the attention of the Commission to the provisions of Section One of the Emergency Price Control Act, as amended October 2, 1942, wherein it is provided that prices, wages, and salaries affecting the cost of living shall be stabilized as far as practicable on the basis of the levels which existed on September 15, 1942, and that adjustments thereof should only be made when found necessary to aid in the effective prosecution of the war or to correct gross inequities.

The evidence in this proceeding shows that charges for service rendered on the Salida Water Works System are not uniform, but perhaps may have been justified under the service conditions obtaining prior to acquisition of the property by Applicant. The evidence also shows that the rates in the Connacher System result in charges that are different and higher than those made for similar service on the Water Works System. However, it is apparent that uniform and nondiscriminatory rates should be made effective for the Salida area as it is now receiving, and will continue to receive, the same class of admittedly adequate service.

The re-establishment of the rates, formerly fixed by the Commission for the Salida Water Works' portion of the system, will provide uniform charges throughout the area served and will not produce a revenue that will result in an excessive return on the investment in physical properties either on the Salida System or the combined systems as operated by Applicant. This schedule will also continue the existing method of computing the charges on the basis of the size of the premises and facilities installed thereon, instead of making the charges dependent on the size of the service to the premises as requested by Applicant. The application of the new schedule of rates will result in an increase to those consumers now paying

an unfairly low charge under present conditions and a decrease in charges to some of the consumers on the Connacher System. The adjustment of rates as provided herein clearly falls within the language contained in the Emergency Price Control Act providing for the correction of gross inequities and thereby is in full compliance with the terms and conditions set out in said Act.

ORDER

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 now being fully advised in the premises,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the construction, maintenance and operation of a public utility water system by Del Este Water Company, a corporation, in and around the vicinity of the town of Salida, Stanislaus County, as more particularly described in the application and delineated on a map attached to the application and marked Exhibit "B".

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Del Este Water Company, a corporation, to construct, maintain and operate a public utility water system in said territory.

IT IS HEREBY FOUND AS A FACT that the rates now being charged by Del Este Water Company, a corporation, for water delivered to its consumers in and adjacent to the unincorporated town of Salida, Stanislaus County, 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 service 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 Del Este Water Company, a corporation, be and it is hereby authorized and directed to file in quadruplicate with the

Railroad Commission, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all water delivered to its consumers on and after the first day of February, 1945.

Schedule No. 1

MONTHLY FLAT RATES

Applicability:

Applicable to all domestic, commercial and industrial users of water.

Territory:

In and adjacent to the unincorporated town of Salida, Stanislaus County.

Rates:

Residences of five rooms or less, occupied by a single family	\$1.50
For each additional family	1.00
For each additional room . . . . .	.10
Apartment, flat buildings or residences, when occupied by only one family	1.00
For each additional family	1.00
Sprinkling or irrigation of lawns, shrubbery, gardens, etc., payable every month in the year, up to 3,000 square feet, per 100 square feet of surface watered . . . . .	.03
Over 3,000 square feet, per 100 square feet of surface watered . . . . .	.015
Grocery Stores	1.50
Meat Markets	1.50
Pool Halls	1.50
Barber Shops	1.50
Banks	1.50
Churches	1.50
Public Halls	1.50
Lumber Yards	2.50
Garages	1.50
Post Office	1.50
Library	1.50
Club Rooms	1.50
Lunch Rooms	1.50
Fruit Company	3.50

Schedule No. 2

MONTHLY MEASURED RATES

Applicability:

Applicable to all domestic, commercial and industrial users of water.

Territory:

In and adjacent to the unincorporated town of Salida, Stanislaus County.

Rates:

Per Meter
Per Month

Quantity Charge:

First 5,000 cubic feet, per 100 cubic feet	\$0.075
Next 45,000 cubic feet, per 100 cubic feet . . . . .	.06
Over 50,000 cubic feet, per 100 cubic feet . . . . .	.04

Minimum Charge:

For 5/8 x 3/4 inch meter	\$1.50
For 3/4 inch meter	1.75
For 1 inch meter	2.50
For 1 1/2 inch meter	3.50
For 2 inch meter	5.00

The Minimum Charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the Quantity Rates.

IT IS HEREBY FURTHER ORDERED that Del Este Water Company, a corporation, be and it is hereby directed as follows:

1. Within sixty (60) days from the date of this Order, to submit to this Commission for its approval four sets of rules and regulations governing relations with its consumers, each set of which shall contain a suitable map or sketch drawn to an indicated scale upon a sheet 8 1/2 x 11 inches in size, delineating thereupon in distinctive markings the boundaries of its authorized service area, and the location thereof with reference to the surrounding territory; provided, however, that such map or sketch shall not thereby be considered by this Commission or any public body as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.
2. Within sixty (60) days from the date of this Order to file with this Commission four copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, upon which shall be delineated by appropriate markings the various

tracts in the territory for which the certificate is granted herein. This map should be reasonably accurate, show the source and date thereof, and include sufficient data to determine clearly and definitely the location of the various properties comprising the entire utility area of service in and about the vicinity of Salida; provided, however, that such map shall not be thereby considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service, or any portion thereof.

IT IS HEREBY FURTHER ORDERED that the certificate of public convenience and necessity granted herein is subject to the following provision of law, to wit:

That the Commission shall have no power to authorize the capitalization of the certificate of public convenience and necessity herein granted, or the right to own, operate, or enjoy such certificate in excess of the amount actually paid to the State or to a political subdivision thereof, as the consideration for the grant of said certificate of public convenience and necessity.

IT IS HEREBY FURTHER ORDERED that the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 30th day of

January, 1945.

Harold Anderson
Justus F. Casper
Richard Kachse
Leah A. Pierce
Frank D. Owen
Commissioners.