

Decision No. 43950**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CABAZON WATER COMPANY, for authority
to Increase its Rates for Certain
Water Service.

Application No. 30742

HANS E. KECK, ED M. COLLINS,
IRENE CLOWER, MITTIE WILLS,
DAN W. POWELL, MARGARET POWELL,
BERTHA E. TRUESDALE, MRS. LESTER
BASKETT, CLINTON HAGLER, J. H. ORR
and R. D. JONES, Complainants, v.
CABAZON WATER COMPANY, a corporation,
Defendant.

Case No. 5178

H. Spencer St. Clair for applicant and defendant;
Redwine, Switzer & Fitzgerald by Earl Redwine
for certain customers as protestants, and for
complainants; Frank Marino, in propia persona,
as protestant; and Melvin Hansen, in propia
persona, as protestant, and as interested party
in Case No. 5178.

O P I N I O N

In Application No. 30742, Cabazon Water Company, a corpora-
tion, owning and operating a water system serving domestic and irriga-
tion customers in and about the unincorporated town of Cabazon,
Riverside County, California, seeks authority to establish an increased
schedule of irrigation rates.

In Case No. 5178, a group of 11 water users complain that on
or about October 1, 1949, Cabazon Water Company unlawfully cut off and
discontinued the delivery of domestic water to each of them without
cause or reason, and without application to, hearing by, or order or
authority of, the Commission.

A public hearing on both the matter of the application and
the complaint was held before Examiner Warner, in Banning, on
February 24, 1950.

Cabazon Water Company is a corporation organized under the laws of the State of California and was granted a certificate of public convenience and necessity to operate a public utility water company by the Commission's Decision No. 41241, dated February 24, 1948. Prior to that date, applicant had been operating as a nonprofit mutual water company since June, 1911.

Applicant's water supply is obtained from two sources:

(1) surface water from Millard Creek,^{1/} a tributary of Whitewater River, at a point approximately five miles north of Cabazon on the south slope of the San Bernardino Mountains, and (2) from a well drilled by applicant above the intake structure, from which water is siphoned and discharged into the transmission pipe line. From these sources, 20,000 feet of concrete and 7,000 feet of steel transmission pipe line carries the water approximately five miles to a division box and sand trap near the north boundary line of the townsite of Cabazon. From this point, domestic water is distributed through some 10,810 feet of steel mains, ranging in diameter from 1½ to 12 inches, to a portion of Section 16, Township 2 South, Range 2 East, SBB & M, and to that portion of the East Half of Section 7, Township 2 South, Range 2 East, SBB & M, lying north of U. S. Highway 99, including Desert Hills Subdivision and Hansen Subdivision. Irrigation water is distributed through 86,390 feet of steel and concrete pipe lines, ranging in diameter from eight to 14 inches, to Sections 15, 16, and 17, Township 2 South, Range 2 East, SBB & M.

The evidence in Case No. 5178 indicates that irrigation water had been served to some 11 residential customers in the irrigated area and used as domestic water for several years prior to October 1, 1949, on which date it was cut off because of danger of contamination.

^{1/} The Cabazon Water Company has adjudicated rights to divert a total of 7.17 cubic feet of water per second from Millard Creek priorities, 1885 (4.67 sec. ft.) and 1915 (2.50 sec. ft.).

The unincorporated town of Cabazon is located on U. S. Highway No. 99, about seven miles east of the City of Banning, near the San Geronio Paso on the main route from Los Angeles to Indio and Palm Springs. The area served is gently sloping desert land formerly covered by sage and mesquite but now largely cleared and subdivided. Cabazon is one of the principal Southern Pacific Railroad watering stops. Applicant's domestic customers comprise service stations, one or two cafes, one or two motor courts, and small desert residences. As of the date of the hearing, there were 114 customers connected to the domestic water system, and 26 irrigation users. In addition, there were 11 customers, complainants herein, attached to the irrigation system using irrigation water for domestic purposes in the irrigated area south of the townsite and across the main highway.

The evidence shows that during 1949 the regular irrigation customers consumed approximately 70% of the quantity of the water sold and produced about 30% of the total revenue for that year. They irrigated a total of some 200 acres of olives, peaches and apricots. Applicant's present irrigation rate is 20 cents per miner's inch per 24-hour run. The proposed rate is 60 cents per miner's inch per 24-hour run.

An audit of Cabazon Water Company's books for the year 1949, introduced by applicant's witness, Milton D. Goldberg, as Exhibit 2, together with a report of applicant's results of operation for the year 1949, introduced by a Commission staff engineer as Exhibit 4, showed the following over-all financial results of operation:

SUMMARY OF EARNINGS

<u>Item</u>	<u>Year 1949</u>	
<u>OPERATING REVENUES</u>		
Revenues - Domestic Service	\$4,050.71	
Revenues - Irrigation Service	<u>2,129.95</u>	
		\$ 6,180.66
<u>OPERATING EXPENSES</u>		
Source of Water Supply	104.62	
Pumping	1,206.43	
Transmission and Distribution	351.60	
General and Miscellaneous	3,963.84	
Taxes	261.96	
Depreciation	<u>5,300.93</u>	
		<u>11,189.38</u>
		<u>(5,008.72)</u>
<u>NET OPERATING REVENUES</u>		
<u>RATE BASE</u> (Depreciated)		153,485.00
<u>RATE OF RETURN</u>		-

(Red Figure)

In explaining Exhibit 2, Mr. Goldberg stated that pumping expenses would be substantially reduced in 1950 due to the withdrawal of the pump from the well during 1949. The pump was withdrawn upon the substitution of the syphoning system, the cost of operating the pump having been found to be excessive. He explained that no salary had been paid Mr. Johnson, president of the company, and that audit expenses during 1949 were unusually large due to his having had to prepare two prior years' audits and a special audit arising from an over-issue of stock. He estimated that normal audit expense would be \$300 per year. Applicant's witness, H. Spencer St. Clair, testified that, inasmuch as there were 10 law suits pending in which the company was a party either as defendant or plaintiff, it was difficult to estimate the amount of law and audit expense which could be considered normal.

The Commission staff engineer estimated that had the proposed irrigation rate been in effect during 1949, and the same amount of water sold, the revenue would have increased \$4,260. This increased revenue would not have been sufficient to produce any return on invested capital.

A report on the present valuation of the physical operative properties of applicant was introduced by protestants' witness, Phil K. Stephens, as Exhibit 3, purporting to show such value to be \$92,162. This appraisal was based on what the witness termed "present considered" or "loan" value and excluded applicant's property in the Desert Hills subdivision amounting to approximately \$25,352, on the ground that its installation had been undertaken imprudently. This extension, however, was authorized by Decision No. 41241, and the money for its construction was advanced by the subdivider under Rule 19-B. The only other substantial difference between the Stephens valuation and the valuation shown in Exhibit 2, is the item of land. Land was appraised for, and included in, Decision No. 41241 in the amount of \$32,500. This land appraisal, as included in Exhibit 4, will be adopted for the rate base of \$153,485 based on historical cost less depreciation.

Considerable evidence was adduced at the hearing regarding the earnings of the property owners whose lands were irrigated, and it was shown that the gross income during 1949 from peaches, apricots, and olives, which constitute the bulk of the income from these irrigated properties, was at a very low ebb during that year and that any major increase in the irrigation rate would be a burden upon such growers. However, it appears that the present irrigation rate is not paying its way, and it is evident that applicant is in need of financial relief.

This water system as conceived originally was designed to serve a land development embracing 2,800 acres primarily for agricultural irrigation, but it also provided domestic water service for the homes within the townsite of Cabazon. Although there are three irrigation consumers using water on not to exceed 10 acres of lands located north of the State Highway and the Southern Pacific Railroad,

the main irrigated area lies south of the railroad right-of-way. From the original considerable irrigated acreage, the total now taking water has declined to the neighborhood of 200 acres. This reduction is the result of several adverse factors reflecting changed conditions and seriously affects not only the utility's financial position but the consumers' ability to pay, as well. Obviously, it would be unfair to expect the few remaining irrigation consumers to pay an excessive rate under such circumstances. The burden in this case should be shared by the utility and consumer alike until general and local conditions improve.

The record shows that certain past and current expenses such as auditing and legal fees, while particularly heavy at present, are in fact nonrecurring annually and, as such, should be amortized over a reasonable period of years. Pumping expenses have been eliminated through improved operating methods. After due consideration is given to these factors, it appears that for the immediate future and under normal operations, the annual expenses properly may be considered to average \$3,000 less than for last year. With the establishment of a rate of 40 cents per miner's inch, increased revenues to the extent of \$2,180 should be realized. This would wipe out the present operating deficit of \$5,009, reported for the year 1949, and, furthermore, should eliminate further out-of-pocket loss.

In Case No. 5178, a group of 11 residents living in the portion of the service area south of Highway 99 showed that for many years prior to the certification of Cabazon Water Company on February 24, 1948, they had been receiving water from Cabazon Water Company for use in their homes. This water, it was not denied, came from the irrigation pipe lines of the water company through concrete pipes, many of which were porous and leaking badly and delivered the irrigation water through open weir boxes. The evidence shows that these customers were

billed at the domestic flat rate of \$2.50 per month up to October 1, 1949, when service was discontinued by the water company. They have been without water service since that date.

Complainants contend that they have been receiving domestic water service through the concrete irrigation pipe lines for many years. Defendant claims that water furnished through the concrete irrigation pipe lines at present is contaminated and is subject to still further dangerous contamination by reason of broken pipe, open joints and weir boxes; and, further, that in order to protect itself from liability from a possible epidemic arising from water borne disease or any other serious danger from local contamination in this portion of its irrigation service area, it cut off all domestic service to complainants from said irrigation lines.

Complainants' witness, Leonard R. Miller, Riverside County Health Department Sanitation Director, testified that tests conducted by his department showed contamination of the entire system over a period of at least the last two years up to the latest date, February 21, 1950. He stated that defendant had been notified of the result of these tests at regular periods. Defendant stated that steps had been taken to prevent contamination at the intake by construction of a fence to keep out horses, cows, and other animals but that chlorination would cost about \$2,800.

The evidence in this proceeding shows that in the area south of the Southern Pacific Railroad right-of-way, domestic water service is supplied by applicant to a considerable group of consumers from a 1½- and a 2-inch steel pipe line. No discontinuance of service has been made to these consumers. However, complainants herein, also residing south of the said railroad, have been receiving water which they have used for domestic purposes for some years last past from the concrete irrigation lines which never were designed for such use.

From a standpoint of public health, it is not safe to continue so using this irrigation line water, at any time, without proper boiling or other dependable sterilization.

The record shows that the principal source of existing contamination comes from the area around the source of supply in and about Millard Canyon. While some steps have been taken by defendant to protect a portion of its open watershed by means of fencing, it is clear that such measures are insufficient and ineffective. The contamination referred to apparently comes mainly from animals and stock and it may be assumed is not such as to be too great a menace to public health, for otherwise the local county health authorities would have ordered discontinuance of all domestic water service throughout the entire system. To date, this has not been done. Nevertheless, there exists a most serious menace to the community, which cannot be ignored by this Commission and must be corrected forthwith. Although the testimony indicates that a certain type of chlorinating apparatus, which would eliminate the present hazards threatening the public health, would cost in the neighborhood of \$2,800, yet in the light of the present emergency and the financial status of this utility, a much simpler and less costly type of installation can readily be provided and should be made immediately available for temporary use pending the installation of a more reliable and permanent apparatus. The following order will provide that such installation be made within 30 days from the date of the order herein.

The records show that the condition of the concrete pipe lines through which complainants received domestic water service prior to discontinuance is such that these concrete lines are subject to local contamination, in addition to that affecting the supply at its source. In the light of this situation, it does not appear advisable to the Commission to order this company to resume domestic service

through these concrete pipe lines except as a temporary measure only, pending such time as arrangements can be made by said complainants with the water company for the installation, under its regular extension rule, for the installation of steel, iron or other suitable type of domestic water mains.

The resumption of water service for domestic purposes to complainants through such concrete pipe lines will be permitted by the Commission only after the installation of the temporary chlorinating equipment, (and provided that local health authorities permit the use of such water for domestic purposes.) The testimony indicates that the installation of steel pipe lines capable of serving complainants would cost in the neighborhood of \$12,000. It is believed that economies can be effected so that a much lesser cost can be arrived at. Eventually, however, in order to provide such service as ordered by this Commission, it will be necessary for defendant water company to install a larger capacity steel main underneath the State Highway and the right-of-way of the Southern Pacific Railroad, which installation unquestionably will be an expensive item of cost in the required improvement. We trust that the consumers involved herein and the utility will cooperate fully in the financing of the required improvements under the rules, without which it is clear that the problem of service and safe water supply otherwise cannot be solved effectively.

O R D E R

Public hearings having been held in the above-entitled proceedings, the matters having been duly submitted, the Commission being fully advised in the premises and having found the facts to be as set forth in the opinion hereinabove,

IT IS HEREBY FOUND AS A FACT that the increases in rates and charges authorized herein are justified; therefore,

IT IS HEREBY ORDERED that applicant is authorized to file in quadruplicate with this Commission after the effective date of this order, in conformity with the Commission's General Order No. 96, a schedule of irrigation rates shown in Exhibit A attached hereto and on not less than five (5) days' notice to the Commission and the public to make said rates effective for service rendered on and after May 1, 1950.

IT IS HEREBY FURTHER ORDERED as follows:

1. Cabazon Water Company, within ten (10) days from the effective date of this order, shall install effective emergency chlorinating equipment at a suitable location on its transmission mains above any service connection to any domestic water user, or cease and desist from rendering any further water service for domestic use until further order of this Commission.
2. Cabazon Water Company, within sixty (60) days from the effective date of this order, shall install on its water system permanent chlorinating apparatus and equipment which will be capable of providing a safe and potable supply of water for domestic purposes at all times, said apparatus and equipment to be installed and in proper operation, subject to the approval of this Commission before the expiration of said date.
3. Cabazon Water Company shall notify this Commission, in writing, of the date of the completion of the installation ordered installed in above paragraph 2 so that proper inspection thereof may be made by a representative of this Commission.
4. Cabazon Water Company, within 24 hours after the time the emergency chlorinating equipment is installed and in proper working condition as ordered in paragraph 1 above, shall resume domestic water service to consumers heretofore receiving water from its irrigation lines and whose water service was discontinued, such service to be provided for a period of ninety (90) days only, after the effective date of this order.
5. Each consumer who received water for domestic purposes from the concrete irrigation lines and who desires to continue to receive water for domestic purposes after ninety (90) days from the effective date of this order, shall make application to the

company in writing therefor, and shall complete arrangements for such service with said company under its regular rules and regulations governing the extension of mains; said arrangements shall be completed by the consumer within thirty (30) days from the effective date of this order.

6. Cabazon Water Company, on or before ninety (90) days from the effective date of this order, shall arrange to provide domestic water service through standard domestic water mains of metal or other standard material, under proper pressure and in adequate volume, to all domestic water consumers heretofore served through irrigation pipe lines who comply with the terms of this order; and, on and after said date, shall discontinue the service of all water for domestic use and purposes from the cement and/or concrete irrigation pipe lines.
7. That, except as set forth in the order herein, all other matters in the above-entitled complaint be and they are hereby dismissed.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 14th day of March, 1950.

R. J. [Signature]
Justice J. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners.

Schedule No. 3

IRRIGATION SERVICE

APPLICABILITY:

Applicable to all irrigation service rendered from low-pressure irrigation pipe lines.

TERRITORY:

In and in the vicinity of the townsite of Cabazon, Riverside County.

RATES:

For all irrigation water delivered per miner's inch
per 24-hour run \$0.40

The term "miner's inch," as used herein, denotes one-fiftieth of a second-foot.