

Decision No. 44446**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
EAST SIDE CANAL & IRRIGATION COMPANY,  
a corporation, for Authority to  
Increase Rates.

Amended Application No. 30940

Darwin Bryan, for applicant; Eldon Dye and  
Edson Abel, for California Farm Bureau  
Federation and Merced County Farm Bureau,  
protestants.

O P I N I O N

East Side Canal & Irrigation Company, a public utility water company operating in the vicinity of Stevinson, Merced County, by its amended application herein, seeks authority to increase rates for irrigation service furnished to approximately 6,300 acres of land situated south and east of the confluence of the Merced and San Joaquin Rivers. Public hearing was held at Stevinson on May 11, 1950, before Commissioner Potter and Examiner Gregory.

Applicant's present basic rate, established in 1919 (Decision No. 6274, April 17, 1919, Application No. 4135), is \$2 per acre per season for general irrigation service (exclusive of rice) from the Main Canal and Collier Extension, with an additional charge of 75 cents per acre per season established in 1930 (Decision No. 22222, March 18, 1930, Case No. 2720) for general irrigation service (exclusive of rice) from lateral canals. Rice irrigation rates are \$7.25 and \$8 per acre per season, depending upon whether the water is furnished directly from the Main Canal and Collier Extension or from the laterals. These rates are payable on or before February 1 and July 1 for use during the ensuing irrigation season.

There is also a rate of \$1 per acre per irrigation, payable in advance of delivery, for irrigation between October 15 and the following February 15. In addition, there is a rate of \$1.50 per acre per irrigation, payable in advance of delivery, for irrigation of grain between March 1 and June 1.

Rates requested by applicant provide for a basic charge of \$3.75 per acre per season for water delivered to field crops from the Main Canal and the Collier Extension, and an additional charge of \$1.25 per acre per season for water delivered from distribution laterals controlled and operated by applicant.

The history of this utility and its methods of operation, considered many times by the Commission, will not be detailed here.<sup>1/</sup> The former proceedings, so far as pertinent, are incorporated in the present record. It will suffice to say that East Side Canal & Irrigation Company was incorporated in 1887; the Main Canal was completed about 1889 and the Collier Extension later; James J. Stevinson, a corporation, in 1902 subdivided about 11,000 acres, called the Stevinson Colony, and constructed lateral canals; in 1936 Stevinson Water District, which had been organized in 1928, bought the franchises, except the corporate franchise, and appurtenant rights of East Side Canal & Irrigation Company for \$20,000 at a sheriff's sale in Merced County; on December 1, 1943, pursuant to decree of the Merced County Superior Court rendered in Stevinson Water District vs. East Side Canal & Irrigation Company, No. 13673, the district was

<sup>1/</sup> Past proceedings are reported in the following volumes:

<u>CASES</u>		<u>APPLICATIONS</u>	
4 CRC 597	34 CRC 465	10 CRC 73	31 CRC 249
5 CRC 289	34 CRC 896	10 CRC 104	32 CRC 110
5 CRC 387	38 CRC 431	16 CRC 635	32 CRC 939
12 CRC 745		17 CRC 978	38 CRC 544
		17 CRC 218	41 CRC 789
		25 CRC 626	

found to be the owner of the franchises and entitled to possession of the canals, ditches, and other property, including water rights, necessary for the exercise of the franchises and their appurtenant rights. On January 1, 1944, the district and the company executed an agreement of lease pursuant to which the canal company has since operated the water system. James J. Stevinson, a corporation, Stevinson Water District, 3 H Securities Company, and East Side Canal & Irrigation Company are controlled by a community of interests represented by members, by birth or marriage, of the family of the late James J. Stevinson.

The water supply for this system was originally obtained from the San Joaquin River and from numerous creeks, drains, and sloughs intercepted by the Main Canal. Those sources proved erratic and insufficient. The supply was augmented, about 1930, by waters spilled from the adjacent Merced Irrigation District through various creeks, drains, and sloughs, following settlement of Merced River riparian right litigation between James J. Stevinson, a corporation, and the Merced District (Merced County Superior Court, No. 6179). Pursuant to stipulation of the parties and a consent decree in that case, James J. Stevinson, a corporation, became entitled to 24,000 acre feet per annum, plus an additional amount to cover evaporation and seepage losses, for use on its own lands. On August 26, 1932, James J. Stevinson, a corporation, conveyed its rights to this water, except the right to  $7\frac{1}{2}$  c.f.s. continuous flow delivered in Section 12, T. 7 S., R. 10 E., to Stevinson Water District. During the period from April through September, 1949, the Merced District released a total of 47,691 acre feet to the Stevinson District, including 1,081 acre feet to James J. Stevinson, a corporation, delivered to the so-called 700 Acre Tract at a point in Section 12, T. 7 S., R. 10 E.

Both the Stevinson District and the canal company also claim certain appropriative and permitted water rights to the natural flow on the various creeks and channels conveying drainage and released waters. In addition, Stevinson Corporation has a pump operated by a 75 hp motor in Section 5, T. 7 S., R. 10 E., from which water is pumped from the Merced River into the canal company's laterals extending westerly from the pumping plant. This water is used to irrigate lands of the Stevinson Corporation which are within the service area of the canal company and also within the boundaries of the district. The pumping costs are paid by the Stevinson Corporation. All of the corporation lands so irrigated pay to the canal company the prescribed rates for the delivery of this water. Although this pumped water is used to supplement the canal company's supply during periods of shortage, it is delivered only to the Stevinson Corporation's lands. Stevinson Corporation also has a pump operated by a 15 hp motor at the Big Bottom, in Section 20, T. 7 S., R. 10 E., which boosts water out of Turner Slough for irrigation of lands in Sections 19 and 20, T. 7 S., R. 10 E., which are in the service area of the canal company and within the boundaries of the district. Those lands pay the prescribed rates to the canal company, as well as pumping costs, and also pay taxes to the district. The use of the pumped water by the corporation releases an equivalent quantity for delivery to the utility consumers.

The irrigated area is served through approximately 20 miles of Main Canal and about 44 miles of laterals. In 1949, the total irrigated area amounted to 6,343 acres, of which 1,612 acres are located within the boundaries of the Stevinson Water District. About 2,100 acres were irrigated from the Main Canal and the balance from the laterals. Off-season water is also supplied to at least 300 acres

belonging to the Modesto Properties Company at \$1 per acre, included in the above total acreage, for flooding duck ponds, from which a revenue of \$300 is received annually. There is some question as to whether more acreage is not actually being flooded by the duck club than is indicated by the total charge paid for the service. The 1950 applications for irrigation service, exclusive of the duck club, total approximately 6,000 acres.<sup>2/</sup>

Applicant presented testimony covering operations of the system for the five-year period 1945 to 1949, inclusive, which is summarized in the following table:

: Year :	: Recorded : : Fixed : : Capital :	: Recorded : : Revenues :	: Company : : Expenses :	: District : : Expenditures :	: Total : : Expense :	: Net : : Revenue :
1945	\$194,120	\$12,264	\$ 9,623	\$5,406	\$15,029	\$(2,765)
1946	194,120	12,454	13,964	2,822	16,786	(4,332)
1947	194,120	14,101	15,735	696	16,431	(2,330)
1948	194,120	14,504	10,094	1,225	11,319	3,185
1949	194,120	15,206	16,276	4,493	20,769	(5,563)

(Red Figure)

Applicant's witness testified that the district has contributed funds almost every year to improve and maintain the canal system, but that these expenditures are not set up in the company's books, nor are they segregated between capital or operating accounts. This witness stated that, according to the terms of the lease between the district and the company, any profit earned by the company is

<sup>2/</sup> The total acreage figures also include some 800 acres receiving water subject to the rights of users in the primary service area. The company, in 1929, sought to exclude lands which had not been irrigated during 1925-1929, and to substitute other lands outside the then constituted service area. (34 CRC 465). There is some question as to whether the Commission's conditional authorization at that time was complied with, but, at any rate, service has been rendered to those lands in recent years when water was available.

payable to the district as rent; in actual practice, however, the profit, if any, is expended in improving the canal property.

Applicant estimated that the requested rates would produce a gross revenue of \$27,050 during 1949 and after deducting the \$20,769 in expenses set out above, would have resulted in a net revenue of \$6,281 for the year.

Applying the requested rates to the 1950 acreage (5,982) and the crops to be produced, and including a \$300 charge for off-season service to the duck club, results in an estimated gross revenue for 1950 of \$27,500, according to the testimony of a Commission engineer. The Commission engineer estimated that if a single schedule of rates were made to apply to both the Main Canal and lateral crop lands, the proposed basic rate of \$3.75 per acre would produce an annual gross revenue, including \$300 from the duck club, of \$22,700; and that if the \$5 basic rate proposed for lateral users were applied, the annual gross revenue would amount to \$30,000. The record shows that 93% of the crop lands are planted to alfalfa, ladino, or permanent pasture, and the remaining 7% to other crops.

The company's operating and maintenance expenses, as recorded by the company, and as adjusted for 1949 and estimated for 1950 by the Commission staff, are as follows:

Classification	1949 Recorded	1949 Adjusted	1950 Est. (Staff)
Transmission & Distribution Exp.	\$ 2,950.00	\$ 4,050.00	\$ 9,150.00
Repairs to Trans. & Distr. System	7,987.89	7,528.48	-
General Expense	3,002.48	3,002.48	3,100.00
Taxes	110.70	110.70	115.00
Depreciation Expense	1,050.00	1,050.00	1,915.00
Total	15,101.07	15,741.66	14,280.00*

\* No allowance has been included for property or income taxes, as the ownership of the physical property and water rights is claimed by the district, which is not required to pay these taxes.

In adjusting 1949 expenses, the Commission's engineer deducted \$4,111.43 from recorded joint disbursements of \$18,053.09 by the company and by the district in maintaining and operating the canal system. Of the sum deducted, \$3,302 was paid by the company and the balance by the district. The sum includes capital expenditures for slide gates, concrete boxes, lumber, pipe, and miscellaneous items. The adjusted expenses also include an allowance of \$1,800 for ditch tender's travel expense, an item not heretofore charged to the company.

As stated above, the canal system is operated in connection with the properties of James J. Stevinson, a corporation, and its allied interests. No charge is made by the canal company for management services or automobile expense of the superintendent, who also manages the farming operations of the Stevinson interests. Stevinson Corporation equipment is used whenever necessary for construction or repairs on the canal system. The Stevinson Corporation records, however, do not reflect any charges for use of this equipment, nor are records kept of the time it is used by the canal company. For these reasons, no allowance has been made in the adjusted operating expenses for the foregoing items.

Normal maintenance and operating expenses have been estimated for 1950 by the staff. In 1949, the expenses were somewhat above the ordinary, due to payment by the district of attorney's fees for protection of water rights, and of other expenses, not anticipated for 1950, such as dragline expense in cleaning ditches.

In 1914, the Commission found the fair value of the property used, and to be used in the service of the consumers, to be \$110,000<sup>3/</sup>

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<sup>3/</sup> The company had placed a valuation on the system of \$148,042. The Commission, however, considered that figure high, since the system was originally built to serve 50,000 acres but only about 11,000 acres were being irrigated.

and fixed annual depreciation at \$1,050. The value of the laterals was found to be \$58,500. Until 1930, however, the laterals were maintained by associations of water users. After 1930, upon direction of the Commission in Decision No. 22222, the company took over the laterals and added their value to the fixed capital account. The company reports capital expenditures of \$25,619.85 since 1912, largely for construction of concrete structures. After the district was organized in 1928, it commenced a program of structure replacement along the Main Canal, reportedly costing \$22,197 between 1938 and 1944. From 1944 to 1949, the company and the district report expenditures of \$13,552 for replacement of structures, of which the district claims to have spent \$5,552 and the company \$8,000. These latter sums were charged to operating accounts. Thus, from 1912 to 1949, the reported additions to fixed capital amounted to \$61,368.

Taking the Commission staff estimated cost of the system in 1914, plus additions installed subsequently, the Commission engineer estimated the present cost of the system as follows:

Main Canal	\$172,590
Lateral Canals	66,736
Additions since 1914	<u>61,368</u>
Total, December 31, 1949	300,694

The wooden structures, however, estimated at \$41,426, have practically all been replaced. Also, the first 5 miles of the Main Canal, together with its headworks and other structures, have been nonoperative for several years. The total of these capital items is \$86,045. Deducting that figure from \$300,694, leaves \$214,649 as the estimated fixed capital as of December 31, 1949. The company's annual report for 1949 sets forth the sum of \$214,880.91 as the total of its fixed capital account as of December 31, 1949.

The company's engineer, in 1914, computed annual depreciation on structures at \$1,028 with no allowance for earthwork. The



Commission staff, at that time, computed the annual allowance for depreciation at \$3,598 for structures and canals, allowing a 75-year life for earthwork. As stated above, the Commission allowed \$1,050 annually for depreciation. Some allowance, however, should be made for earthwork. Hence, annual depreciation, computed by the staff on a straight-line method at a 100-year life for earthwork and concrete structures, will be allowed in the sum of \$1,915. Accrued depreciation on the above basis amounts to \$94,503, and the cost of the system, less depreciation, as of December 31, 1949, is computed by the staff at \$120,146.

The following table indicates the results of operation for 1949 and as estimated for 1950, using three rate schedules, as shown by the Commission engineer's report (Exhibit 5, page 16):

Item	1949		Estimated 1950	
	Recorded	and Adj. Requested	rate	One over-all rate
	\$2 and \$2.75 per acre	\$3.75 and \$5 per acre	\$3.75 per acre	\$5 per acre
Operating Revenue	\$ 15,206	\$ 27,500	\$ 22,700	\$ 30,000
Operating Expenses	15,742	14,280	14,280	14,280
Net Operating Revenue	(536)	13,220	8,420	15,720
Estimate Cost	214,649	214,649	214,649	214,649
Estimated Depr. Reserve	94,503	94,503	94,503	94,503
Cost, less Depreciation	120,146	120,146	120,146	120,146
Return (depreciated basis)	-	11%	6.98%	13.05%
Return (undepreciated)*	-	6.66%	4.42%	7.82%

(Red Figure)

\* Computation

There was some complaint voiced at the hearing, by consumers served from the lateral canals, to the effect that in 1949 and years previous there had been delay in the early deliveries of water, that the ditches had not been cleaned, and that excessive time was required to irrigate their lands. These witnesses conceded, however, that conditions had improved this year after the ditches had been cleaned.

According to George Lucas, the company's ditch tender, the delay early in the season is caused by the fact that, while deliveries from the Merced Irrigation District start April 1, it takes about two weeks to get water into all parts of the system.

We conclude that under present operating conditions, continuation of the rate differential between users taking water from the Main Canal and those receiving it from the laterals is unjustifiable, and that a single uniform schedule of rates should be made effective throughout the system. (On the basis of net revenues of \$8,420, shown in the preceding table, these rates are estimated to produce a return of 4.4% using a depreciated rate base.) Under the circumstances, the rates established in the following order are considered fair and reasonable. These rates are practically the same as those now in effect on the nearby San Joaquin Canal Company system.

In connection with the delivery of off-season water to Modesto Properties Company for use at the duck club, it is suggested that the company make an effort, in the interest of securing all of the revenue to which it may be entitled, to check the amount of water used by the club, or the acreage served, and charge for such service accordingly. In the absence of evidence in this record upon which to base a finding as to the propriety of increasing the rate for off-season service furnished to Modesto Properties Company, the request therefor, made at the hearing as a further amendment to the application, will be denied without prejudice.

In order to permit applicant to obtain some additional revenue for the 1950 season from the rate schedule established herein, it is hereby found that public interest and necessity require that the effective date of this decision be the date hereof, and that the rates prescribed herein become effective on July 1, 1950.

O R D E R

East Side Canal & Irrigation Company, a corporation, having applied to this Commission for an order authorizing increases in rates, a public hearing having been held, the matter having been submitted and now being ready for decision,

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

IT IS HEREBY ORDERED that East Side Canal & Irrigation Company is authorized to file in quadruplicate with this Commission after the effective date of this order, in conformity with General Order No. 96, the schedule of rates shown in Exhibit A attached hereto, and, after not less than one (1) day's notice to the Commission and the public, to make said rates effective for service rendered on and after July 1, 1950.

The effective date of this order shall be the date hereof:

Dated at San Francisco, California, this 27<sup>th</sup> day of June, 1950.

R. E. Dwyer

W. A. Luce

Harold K. Kibb

Commissioners.

## Schedule No. 1

FLAT RATE IRRIGATION SERVICEAPPLICABILITY

Applicable to all flat rate irrigation service.

TERRITORY

Within the entire area served by the company.

RATES

	<u>Per Acre Per Season</u>
(a) Alfalfa, ladino or permanent pasture.....	\$3.75
<p style="margin-left: 40px;">\$1.90 per acre payable on or before the first day of February, and \$1.85 per acre payable on or before the first day of July.</p>	
(b) Cotton, truck crops, and annual grass pasture.....	3.00
<p style="margin-left: 40px;">\$1.50 per acre payable on or before the first day of February, and \$1.50 per acre payable on or before the first day of July.</p>	
(c) Milo maize and field corn.....	2.75
<p style="margin-left: 40px;">\$1.50 per acre, payable on or before the first day of February, and \$1.25 per acre payable on or before July 1.</p>	
(d) Grain, including flax, from September 15 of any year to April 30 of the following year.....	1.75
<p style="margin-left: 40px;">\$1.75 per acre, payable on execution of contract.</p> <p style="margin-left: 40px;">After the first day of May and before harvest, or for additional irrigations required for second cropping after grain or flax - \$1.00 per irrigation payable before each such additional irrigation.</p>	
(e) Orchards.....	3.50
(f) Vines.....	2.50
<p style="margin-left: 40px;">\$1.25 per acre, payable on or before the first day of February, and \$1.75 per acre, payable on or before the first day of July.</p>	
(g) Pasture land or irrigation preparatory to plowing from September 15 to April 30 next following.....	1.00
<p style="margin-left: 40px;">\$1.00 payable in advance for each irrigation.</p>	

SPECIAL CONDITIONS

1. In those instances where a grain contract has been taken out under the rate in Paragraph (d), and after December 31 the crop is changed to one requiring irrigation after April 30, then consumer shall be entitled to cancellation of such grain contract upon taking out a contract for one of the general crops requiring summer irrigation on the same land, and consumer shall be entitled to a rebate of 87½ cents per acre on grain contract previously entered into.