

Decision No. 45596

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

HAPPY VALLEY WATER COMPANY)
a corporation)

Application No. 31486
(Amended)

for authority to increase rates)

L. C. Smith, attorney, and Thos. P. Plotts,
Secretary-Manager, for applicant; Edson Abel
for California Farm Bureau Federation, Shasta
County Farm Bureau, Happy Valley Community
Center, Happy Valley Farm Center, protestant;
George Sehlmeier, for California State Grange,
protestant; Henry R. McArthur, for independent
consumers, interested party.

O P I N I O N

In this application, filed June 12, 1950, and as amended February 21, 1951, Happy Valley Water Company, a corporation, requests authority to increase rates charged by it for irrigation and general water service in and adjacent to the communities of Igo, Ono, and Olinda, Shasta County, California.

Public hearings were held before Examiner Emerson on February 27 and 28, 1951, at Olinda at which time the matter was submitted for decision. On the first day of hearing 93 persons were in attendance, on the second day more than 80.

Applicant's present rates require a minimum payment of \$3.60 per season, and a payment of \$3.60 for each out-of-season delivery. Quantity charges range from 20 cents to 15 cents per miner's inch-day through 10 miner's inch blocks. Such rates were established by this Commission's Decision No. 42594, dated March 8, 1949, and became effective on April 1, 1949. Applicant now proposes

a rate of 60 cents per miner's inch with a minimum charge of \$3 per delivery-day.

Applicant has requested that a separate rate base be set up for its operating division No. 3 (Olinda) and, further, that a rate be authorized that will be sufficient to yield a fair return on its investment.

The water system now owned and operated by applicant^{1/} was originally established about 1870 by Dry Creek Tunnel and Fluming Company in order to provide water for its mining operations. In 1907 the lands and water rights were acquired by Happy Valley Land and Water Company, a public utility corporation which operated the system until 1917, when it was transferred to Happy Valley Irrigation District. The District replaced approximately 12 miles of open ditch by construction of a 1½-mile tunnel, increased storage capacity by erection of a dam, made certain other improvements and operated until 1925 when it became bankrupt and was dissolved. Upon dissolution of the District, applicant corporation was formed to take over the water system, and it received a certificate of public convenience and necessity to operate as a public utility by this Commission's Decision No. 15417, dated December 19, 1925. Applicant has since continuously operated the system.

Among the assets conveyed to applicant on dissolution of the District were certain lands and liens upon lands, subsequently foreclosed, which applicant has since been selling from time to time, and the proceeds of which have been used to subsidize the water operations. Evidence presented in this proceeding indicates that applicant has been operating at a serious loss, notwithstanding such

^{1/} A complete description of said system and its divisional grouping is set forth in this Commission's Decision No. 42594, in Application No. 29577, rendered March 8, 1949.

subsidy, over a period of several years. The reports which applicant annually files with this Commission indicate that since 1931 operating expenses, excluding any depreciation expense, have exceeded water revenues in all but one year (1937). For the year 1948, such excess of expense over revenue amounted to \$11,330. For the year 1949, the year in which applicant was authorized to place in effect a 100% increase in rates, applicant experienced an excess of expenses over revenues of \$6,357, again without any allowance for depreciation expense. It is, therefore, readily apparent that applicant is in a precarious financial situation and it should be equally apparent to its customers and to the protestants in this proceeding, who are wholly dependent upon applicant for a supply of water, that without financial relief applicant may, like its predecessor, be forced into bankruptcy.

This company historically sold water for mining purposes, but in later years has been in the business of supplying water for irrigation usage. While irrigators receive the major portion of all water delivered by the company, there are many landholders who flood their relatively small land areas with water and recover portions of it in shallow sumps, varying from 4 feet to 15 feet in depth, from which water is obtained for household use. Such a procedure uses the pervious soil as a means of water storage. Testimony offered in this proceeding indicates that there are no known subsurface waters for the development of any dependable supply of irrigation or domestic water down to a depth of at least 500 feet. The small landholder, therefore, requests small and frequent water deliveries from applicant. As a general rule, the more frequent that deliveries must be made, the greater is the company's cost, since ditch tenders must be available not only for turn-ons and turn-offs, but must return to each weir at regular intervals in order to regulate

the water flow. It is apparent that applicant's past policy of selling small parcels of land has aggravated this situation somewhat by increasing the number of demands for small deliveries. However, the present situation must be recognized as it exists regardless of its deficiencies.

At the hearing applicant's witness stated that the company was practically without funds, that its ditch tenders had left the employ of the company in order to obtain higher wages elsewhere, that it now had no reservoir caretaker, that labor formerly obtainable at 85 cents per hour now costs \$1.60 per hour, and that neither the manager nor the superintendent had been fully paid his wages.

The record shows that applicant did not make a definite estimate of future maintenance and operation expenses, but its witness testified that this item would exceed \$20,000, exclusive of depreciation, while the Commission's staff estimate, as shown in Exhibit No. 1, totals \$22,000. A careful study of the testimony of record and the staff's report received in this proceeding leads us to the conclusion that the total water revenue needed by applicant to meet its out-of-pocket operating expenses, excluding annual depreciation for the 1951 season, is \$22,000.

Testimony of protestants regarding the value of irrigation service as related to the ability of consumers to pay is most forceful when viewed in the light of the known limited productivity and marginal nature of the lands served by applicant. Evidence presented in this proceeding indicates that the rates proposed by applicant at best can yield a return of only slightly more than 1% if no curtailment in water usage were to occur. That no such yield will be realized is apparent from the testimony of those protestants who declared that charges as proposed by applicant would force them to

abandon farming operations. This general situation apparently was recognized by applicant's witness when he stated in his direct testimony, "It is our firm opinion, as of this moment, that even the amended application of 60 cents an inch is still not sufficient to meet our operations because the demand for water will, of course, drop so that the law of diminishing returns will govern." While it is fundamental that a utility, in order to continue operation, must receive an adequate income, consumers cannot be expected to pay rates which will provide a full return when such rates would be so high as to force the economic collapse of the area.

Rates to be charged by this company must be reasonable from the standpoint of the consumer as well as just to the utility in so far as possible, and if rates cannot be made high enough to yield a full return, the utility must be content with a smaller return until such time as economic conditions and demand will support a better return. We shall, therefore, in fixing rates for this utility at this time, approach the problem from a realistic and practical viewpoint and authorize rates which are designed to yield the normally basic operating expenses and thereby halt applicant's out-of-pocket losses.

The problem of fixing rates for this irrigation utility is primarily the question of spreading charges between the different consumers affected on an equitable basis and is, to a certain extent, a problem between consumers. Applicant's request for separate treatment of its Olinda Division was not supported by evidence of sufficient weight to convince us that charges should not be spread over the utility system as a whole. The spread of charges between customers must recognize the high cost of small irrigation deliveries and give proper credit to the larger deliveries. The inequity inherent in the company's having to sustain out-of-pocket losses

resulting from supplying irrigation to one-half acre or even five-acre parcels at present rates must be recognized as on an over-all average the company suffered a loss each time it served less than a 15-inch head of water.^{2/}

The rates hereinafter to be authorized are designed to produce a gross revenue of \$22,000 on the basis of 1950 water usage and the staff's estimate of 1951 expenses, such revenue being only that necessary to meet out-of-pocket costs. They will provide for a minimum charge based upon a delivery of 10 miner's inches of water, such minimum charge entitling the consumer to not more than two deliveries totaling 10 miner's inches of water per month. For more than two deliveries per month or for more than 10 miner's inches of water per month, deliveries or charges therefor will be made only in multiples of 5 miner's inches.

A number of persons at the hearing complained regarding refusal of the company to serve their lands and one complained about the refusal of the company to make Sunday deliveries. With respect to Sunday deliveries, we must observe that it is common knowledge that labor costs for Saturday and Sunday work are one and one-half to two times the daily rates prevailing during the week. In view of such situation and the financial condition of the company, we are of the opinion that week-end deliveries should be held to the absolute minimum number and such deliveries, if any, be such that they may be commenced on a Saturday, left unattended on Sunday, and terminated on a Monday.

With respect to complaints regarding refusal of irrigation service to lands not now served, we take notice of

^{2/} The staff exhibit shows a 1950 average cost of \$3.16 for servicing an order for one delivery-day, from which a revenue of only 20 cents might be forthcoming.

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applicant's regularly filed rules and regulations, Rule No. 2 of which sets forth the procedure to obtain service and which reads, in part as follows:

"Any person or corporation whose premises are adjacent to the Company's distributing system can obtain service by first signing an application on the regular form used by the Company at the time and for the particular class of service desired...Where an extension of the Company's system is necessary, or a substantial investment is required to supply service, applicant will, upon application to the Company, be informed as to the conditions under which service will be supplied..."

Succeeding rules, regularly filed, clearly set forth the conditions above referred to. The record in this proceeding is not clear with respect to the alleged refusals of service. However, the pertinent rules have been accepted for filing by this Commission and both the company and applicants for service must adhere strictly thereto.

✓ Counsel for protestants contested applicants' rate request and presentation, both at the hearing and in briefs subsequently entered. We have carefully noted the positions of protestants in this matter and have duly weighed their arguments and request for further investigation of applicants' operations. Protestants' charges with respect to improper recordings of water deliveries and revenues are not supported by the evidence. With respect to charges relating to the improper application of the service extension rule, we have above stated that adherence to such rule must be observed. If protestants have or can produce evidence to the effect that the filed rules and regulations are unjustly or discriminately applied, a complaint may be initiated in accordance with the Commission's rules of procedure. The evidence before us, however, does not indicate that investigation on this Commission's own motion would at this time be appropriate.

O R D E R

Happy Valley Water Company, a corporation, having applied to this Commission for an order authorizing increases in rates for water service, a public hearing having been held and the matter having been submitted for decision,

IT IS HEREBY FOUND AS A FACT that the increases in rates and charges authorized herein are justified and, to the extent that the present rates differ from the rates hereinafter prescribed, said present rates are unjust and unreasonable; therefore,

IT IS HEREBY ORDERED that applicant is authorized to file in quadruplicate with this Commission on or 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 Rule and Regulation No. 16 likewise attached hereto as Exhibit B and, on not less than five (5) days' notice to the Commission and to the public, to make said rates and rule and regulation effective for service rendered on and after May 15, 1951.

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

Dated at San Francisco, California, this 17th day of April 1951.

R. J. [Signature]
Justice J. [Signature]
Harold P. [Signature]
[Signature]
John E. [Signature]
 Commissioners.

EXHIBIT A

Schedule No. 1

IRRIGATION SERVICE - MEASURED RATESAPPLICABILITY

Applicable to all irrigation water delivered at measured rates.

TERRITORY

Within the entire area served by the company.

RATES

Quantity Rates:	<u>Per Month</u>
First 10 miner's inches (see Special Condition 2).....	\$3.50
Next 20 miner's inches per 5 miner's inches.....	1.50
Next 20 miner's inches per 5 miner's inches.....	1.25
Over 50 miner's inches per 5 miner's inches.....	1.00

Minimum Charge:

For the irrigation season March 1 to October 31, inclusive, in any calendar year...	\$3.50
For service from November 1 to February 28, inclusive...	5.00

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

SPECIAL CONDITIONS

1. A miner's inch shall mean a continuous flow of water equivalent to 1/40th of a cubic foot per second, or 1.5 cubic feet per minute.

2. For minimum monthly delivery of 10 miner's inches, water will be served in not more than two deliveries during any calendar month and at no head less than 5 inches.

3. Deliveries of more than 10 miner's inches per month will be made only in multiples of 5 miner's inches.

EXHIBIT B

Rule and Regulation No. 16

DURATION OF IRRIGATION PERIOD

Water will only be furnished by the company on a 24-hour continuous flow basis for each delivery. In no case shall the company be required to furnish a flow of less than 5 miner's inches and a delivery of less than 5 miner's inch-day. No delivery will be commenced or terminated on a Sunday.