

ORIGINAL

Decision No. 47018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ARROYO DITCH COMPANY for authority)
to increase its rates for furnishing)
water to PLYMOUTH WATER WORKS,)
Plymouth, California.)

Application No. 30660
as amended

Pierce Deasy, for applicant; A. J. DePaoli, for
Eugene Conterno, dba Plymouth Water Works;
W. Coburn Cook, City Attorney, and Jeremy Cook
for City of Plymouth; Edson Abel, for California
Farm Bureau Federation.

OPINION ON FURTHER HEARING

On petition of the City of Plymouth, further hearing was held in this proceeding on February 14, 1952, before Examiner Gregory, at Plymouth. The city's petition alleges, in substance, that an increase of from \$100 to \$350 per month in the flat rate charged by applicant for water service to Eugene Conterno, doing business as Plymouth Water Works, authorized by Decision No. 46484, issued December 4, 1951, is unjust and unreasonable because applicant has allowed its facilities to deteriorate beyond normal maintenance levels and the increased rate is predicated upon inaccurate records and accounting methods maintained by the company.^{1/}

The City of Plymouth, by its petition, raises only the issue of the reasonableness of the increased rate authorized to be

^{1/} Applicant previously had petitioned for rehearing of Decision No. 45963, issued July 17, 1951, authorizing it to increase the monthly charge to Plymouth Water Works from \$25 to \$100 and the irrigation rate from 35 cents to 50 cents per miner's inch-day. The decision on rehearing (Dec. 46484), to which the City of Plymouth now objects, authorized the \$350 monthly charge to the Plymouth Water Works but did not change the irrigation rate established by Decision No. 45963.

charged the Plymouth Water Works. But that question is so inextricably woven with the broader one which relates to the entire operations of the Arroyo Ditch Company that to attempt to confine a possible solution to the narrow basis urged by the city would, in our opinion, be quite unrealistic. We have the power, and the record contains sufficient facts, to re-examine the whole question of rates and service of the Arroyo Ditch Company, as well as the issue of discontinuance of its operations, raised by the amended application.

What will be said here should in no way be considered as a reflection on the good faith or earnestness of any party to this proceeding. Many have labored long to produce an answer to a very knotty problem. In stating our conclusions, based upon the record, we shall strive to lay before the parties, as objectively as possible, what we consider to be at least one basis for a possible solution to their difficulty.

It is reasonably plain, from the entire record, that the Arroyo Ditch Company has the right to divert ample quantities of water from the Middle Fork of the Cosumnes River to meet all of its service demands but that its ditches and flumes, especially those between the Middle and South Forks, are in such a state of disrepair that little, if any, of this water when diverted eventually arrives at the Plymouth Water Works' intake on the Fiddletown Road east of Plymouth, or finds its way to the lands of the irrigation users west of the city. With the onset of the dry summer season, when both domestic and irrigation needs become critical, the smaller streams from and including the South Fork of the Cosumnes River down toward the City of Plymouth become progressively less able to furnish the required supplies of water. By August or September the

water supply situation is extremely bad. No water from the Middle Fork has been conveyed through the flume and ditch between the Middle and South Forks by the company since the fall of 1950.

There is no need, in this opinion, to review the evidence, discussed in an earlier decision (No. 45963), concerning the dilapidated state of the company's facilities for conveying water to the various points at which it is delivered to the Plymouth Water Works and the irrigators. The record contains various estimates of the amount of labor, materials and so on that would be necessary for temporary or more substantial repairs and replacements to the system. It seems reasonably clear, from a study of the testimony, that what is most needed, at the moment, is a program for temporary repair of whatever parts of the system are required to deliver continuous and adequate quantities of water to all consumers, with more permanent improvements to follow if and when funds are available. The estimates of the scope and cost of both temporary and permanent rehabilitation of the system, appearing in the record, are so varied as to preclude a finding here which might be of any use as a working basis. One estimate, for labor alone, is for a minimum of \$9,000 for one year for three men or \$3,000 per year for three years for one man.

Testimony of the company's former superintendent (1938-1948) indicates that it required the work of one man one day per week for five months to keep Indian Creek (one of the lower streams that feed the company's main ditch) in operating condition and he himself worked at all times during the year, with an additional two or three men during winter months, to keep the system going. During that time, the evidence shows, enough water was brought from the Middle Fork to supply the City of Plymouth with a continuous flow of from 10 to 15 miner's inches.

A report, prepared from field studies made during September, 1951, by an engineer employed by the City of Plymouth to investigate the Arroyo Ditch Company's facilities and operations, concludes, among other things, that a continuous flow of 10 statutory miner's inches of clear water at the Plymouth Water Works' intake is needed to supply the residents of the city with domestic water service. On September 16, 1951, during the course of a field trip over the company's ditch system, the engineer ascertained that 8.14 cubic feet of water per second was entering the company's Middle Fork intake but was being spilled back into the river before it reached the company's flume. He also concluded that it should be possible to bring 6 cubic feet per second to the Plymouth Water Works' intake, but that only 0.10 cubic feet per second was being delivered due to spilling, leakage and other causes.^{2/} Fluctuations in the rate of flow in the ditch at the Plymouth Water Works' pumps have made it difficult to maintain a uniform chlorine content of the water furnished by that utility to its domestic consumers in the City of Plymouth. The owner of that system testified that, in his opinion, a continuous flow of 15 miner's inches^{3/} should be maintained in the ditch to permit proper operation of his facilities. He also stated, however, that he used an average of only 2.5 to 3 inches during 1951 but could sell more water if it were available.

It is clear that if the Arroyo Ditch Company cannot rehabilitate its system so as to be able to supply the needs of its consumers, it must eventually go out of business as a public

^{2/} The company's present superintendent stated that the spilling was due to repair work then being conducted on the flume between the Middle and South Forks. One cubic foot per second is equivalent to a flow of 40 statutory miner's inches.

^{3/} A flow of 15 miner's inches produces 32,400 cubic feet per day, or 242,352 gallons. A flow of 3 miner's inches produces 6,480 cubic feet per day, or 48,470.4 gallons.

utility. If that happens, and the water it is entitled to take from the Cosumnes River and other streams is no longer applied to the beneficial uses of domestic and irrigation service, its water right will be in jeopardy and its consumers will have to look elsewhere for their supply. The Commission is mindful of the potential hazards of this problem for the various parties concerned and is anxious to lend whatever help it can, within permissible limits, so as to enable the utility to perform its vitally necessary functions. We recognize, of course, that the company cannot continue to absorb the financial losses it has experienced over the past five years and still remain in business. At the same time, we are convinced that if water is made available in sufficient quantities at adequate yet reasonable rates and under efficient management, the problems which have for so long plagued this utility and its consumers may have a fair chance of being resolved.

While it is the company's responsibility, rather than the consumers' to provide funds for necessary capital expenditures, it would seem from the record that much could be done by way of temporary repairs to the flumes, ditches and tunnels, at this time, so as to bring needed water down from the Middle Fork, especially during that part of the year when the lower streams are dry or nearly so.

We do not believe the problem facing this utility and its consumers is insoluble, unless, of course, there is no disposition on the part of those interested to provide a workable answer. We agree with counsel for the company, however, when he stated, in the petition for rehearing filed in connection with Decision No. 45963, that "adequate rates without a firmed volume and continued subnormal domestic rates without water constitute a vacuum through which equity, justice and reasonableness may not penetrate." Stripped to essentials,

this means that it is futile for the company to expect revenue for water it is unable or unwilling to furnish, and that rates fixed under such conditions are meaningless.

We said, in a previous decision (No. 46484), "were it not for the pressing needs of domestic consumers served by Plymouth Water Works, we would be strongly inclined . . . to put an end to the matter by authorizing immediate discontinuance of service by the utility." We still hold to that view. However, so long as there is no substitute water service immediately in view for the residents of Plymouth or the irrigation consumers, we believe it to be our duty to attempt to devise some plan under which applicant may proceed with confidence to make available the quantities of water needed by its patrons.

The record is clear that applicant has diversion rights to considerably more water than is presently required by its consumers. The problem, therefore, consists in getting the water to the Plymouth Water Works' intake and to the irrigators below the city at rates and under delivery procedures that will induce greater consumer usage, especially among the irrigators. The record contains substantial evidence that the irrigation users, or a major portion of them, would be glad to take more water if they could have reasonable assurance, during the irrigating season, of a dependable supply at a lesser rate than the 50 cents per miner's inch-day now authorized. It seems possible, from their testimony, that their combined seasonal demand might approach 150 inches during the first year and perhaps 200 inches or more in subsequent years, as the result of further land development due to assurance of a firm supply of water. If that is the case, and the record certainly indicates that it may be, there should be made available to these irrigators an alternative schedule providing for

applications for water for the entire irrigating season at a reduced rate, say .30 cents per miner's inch-day, leaving the present 50-cent rate in effect for excess seasonal demands or for preseasonal or postseasonal requirements.

Naturally, only a very rough estimate can be given of the effect of such a schedule on the company's financial prospects. Assuming a total demand of 150 miner's inches for 150 days at .30 cents per miner's inch-day, for irrigation water, with no provision for excess demands, the company would get \$6,750 which, added to the annual charge to the Plymouth Water Works at the present rate of \$350 per month, would amount to \$10,950 in revenues, or \$13,200 if the seasonal irrigation demand, exclusive of excess, were raised to 200 inches. With annual expenses of \$10,920, estimated from available evidence and discussed in Decision No. 45963, these rough estimates of revenue afford the company returns ranging from .047% to 3.58% on the estimated historical cost of its fixed capital.⁴ While these rates of return are less than the estimated return of 5.9% developed in Decision No. 45963 by using an irrigation rate factor of .50 cents per miner's inch-day, we believe that the potentially greater use of water for irrigation at the reduced seasonal rate, mentioned above, makes for a more realistic approach to a solution of the revenue problem faced by the company. We find such an alternative rate to be just and reasonable on the present record.

⁴ The expense figure includes an additional allowance of \$2,500 over average annual maintenance and operating expenses of \$8,420, including depreciation. The record shows, however, that the average operating costs were developed from incomplete recorded figures which did not include sufficient funds for repairs in order to maintain required delivery capacity of the ditch and reduce transmission losses.

Turning to the rate of \$350 per month for water delivered to the Plymouth Water Works, to which the City of Plymouth takes exception, we observe two things; first, that the city's petition, in the main, is directed to pointing out the deficiencies in applicant's system and its management and, second, that the Plymouth Water Works has not joined in the petition. The testimony of the owner of that utility, at the rehearing, dealt almost exclusively with service problems resulting from inadequate or fluctuating quantities of water delivered by the Arroyo Ditch Company.

While a flat charge of \$350 per month for wholesale deliveries of untreated water, where the demand, as shown by this record, may range anywhere from 3 to 15 inches, may seem somewhat high when viewed in terms of cents per 100 cubic feet, the fact that such a fluctuation in demand may occur, taken in connection with the pressing need for improved facilities to meet it, requires that some stabilizing factor be applied to the production of revenues from this source as well as from irrigation water service.

We are not persuaded that the monthly charge of \$350, authorized for deliveries to the Plymouth Water Works, is unreasonable under existing circumstances and the order in Decision No. 46484, authorizing that rate and a rate of \$2.75 per month for residential domestic service rendered directly by applicant, will not be disturbed. To that extent, the petition for rehearing filed by the City of Plymouth will be denied.

The city has also asked that the Arroyo Ditch Company be required to put its facilities in condition to make available adequate water for the city. The ability of the Arroyo Ditch Company to provide an adequate and dependable service for both domestic and irrigation uses hinges largely on the willingness of its consumers, principally those using water for irrigation, to take and pay for

enough water to justify the expenditure of funds, at least for temporary improvements to the system, so as to bring down sufficient quantities of water to supply the demand.

The Arroyo Ditch Company, as a public utility, nevertheless has a definite duty to provide adequate service and facilities for its consumers. It will be directed to commence forthwith repairs to its ditch line so as to assure a continuous flow of at least 10 miner's inches of water at the intake of the Plymouth Water Works, together with such additional flow as may be necessary to fulfill demands of irrigation users made in accordance with the company's rules and regulations, to the extent and under the conditions provided therein. Since applications for irrigation water are required by the company's rules to be filed by March 15, and that date is now past, the alternate rate for seasonal irrigation water service, herein provided, will be made effective commencing with the 1953 season, but may also be made to apply to the current season if mutually agreeable arrangements are concluded between the company and the irrigation users for delivery of water and payment of charges therefor.

O R D E R

Further hearing having been held in the above-entitled and numbered proceeding, the matter having been submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that the rate herein provided for seasonal irrigation water service by Arroyo Ditch Company, as an alternate to the rate of .50 cents per miner's inch-day of 24 hours provided in Schedule No. 1 attached to Decision No. 45963 herein, is just and reasonable; therefore,

IT IS HEREBY ORDERED that Arroyo Ditch Company file in quadruplicate with this Commission after the effective date of this order, in conformity with the Commission's General Order No. 96, the schedule of rates shown in Exhibit A, attached hereto, and, after not less than five (5) days' notice to the Commission and the public, make said rates effective for service rendered during the period from May 1 to October 31, 1953, and during the same period in subsequent years; provided, however, that said rate may be made effective during the year 1952 irrigating season upon such conditions for delivery of water and payment of charges therefor as may be agreed upon by the company and those of its irrigation consumers whose total seasonal demands amount to at least 150 miner's inches of water.

IT IS HEREBY FURTHER ORDERED that Arroyo Ditch Company proceed forthwith to repair its transmission and distribution system, including intakes, flumes, ditches, tunnels and other facilities, so as to provide a continuous flow of not less than 10 statutory miner's inches of clear water at the intake of Plymouth Water Works, on the Fiddletown Road east of Plymouth, together with such additional quantities of water as may be required for irrigation service, as determined by applications for such service filed with the company in accordance with its rules and regulations. Arroyo Ditch Company is directed to file with the Commission monthly, commencing not more than 30 days after the effective date of this order, a report in writing showing the details of the work performed and specifying the accounts to which the various items included in such work are charged, in accordance with the Commission's Uniform System of Accounts for Water Corporations.

IT IS HEREBY FURTHER ORDERED that, except as otherwise specified herein, the petition for rehearing filed by the City of Plymouth be and it hereby is denied.

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

Dated at San Francisco, California, this 22nd day of April, 1952.

R. J. Morrison
President.

Justice J. Coakley

Harold H. Hill

Lawrence J. Potter

Edw. V. Hill
Commissioners.

EXHIBIT A
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Schedule No. 1-A

MEASURED RATE SERVICE - SEASONAL

APPLICABILITY

For all water delivered during the irrigating season from May 1 to October 31, for agricultural purposes.

TERRITORY

Area supplied by Enterprise Ditch System in El Dorado and Amador Counties in the general vicinity of the City of Plymouth.

RATES

Per Miner's Inch-*
Day of 24 Hours

For all water delivered \$0.30

* A minor's inch shall mean a continuous flow of water under a pressure head of 6 inches to the center of the opening and equivalent to 1.5 cubic feet per minute or 1/40 of a cubic foot per second.

SPECIAL CONDITIONS

1. All applications for irrigation service under this schedule must be filed with the company by March 15 of each season and signed by the irrigator or his duly authorized agent, and must be accompanied by a deposit of \$1.50 for each miner's inch applied for. This deposit is a credit on the applicant's water bill and is the minimum annual charge per miner's inch of water covered by the application. Deliveries of water under this schedule and payment of charges therefor, for the 1952 irrigating season only, may be made under such terms and conditions as may be agreed upon by the company and those of its irrigation consumers whose total seasonal demands amount to at least 150 miner's inches of water for the 1952 season.

2. The company shall not be required to furnish water under this schedule in any season in which the total number of miner's inches applied

EXHIBIT A
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Schedule No. 1-A

MEASURED RATE SERVICE - SEASONAL

(Continued)

SPECIAL CONDITIONS (Continued)

for, as provided in Special Condition No. 1, is less than 150, in which case Schedule No. 1 shall apply to all water delivered for agricultural purposes.

3. The rate provided in Schedule No. 1 (\$0.50 per miner's inch-day) shall apply to all deliveries of water for agricultural purposes made prior to May 1 or subsequent to October 31 in any season, or to the delivery of any water, for agricultural purposes, in excess of the amounts applied for pursuant to Special Condition No. 1.