

ORIGINALDecision No. 48123

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
PACIFIC GAS AND ELECTRIC COMPANY for
an order of the Public Utilities
Commission of the State of California
authorizing applicant to file and
make effective the attached proposed
tariff schedules (rates, rules and
regulations) applicable to water ser-
vice in its Vacaville Water Service
Area, etc.

(Water)

Application No. 32272
(Amended)OPINION AND ORDER DENYING REHEARING

Applicant has filed its petition for rehearing respecting Decision No. 47941, rendered herein on November 18, 1952, whereby the Commission granted to Applicant an increase of rates applicable to its Vacaville Water System. Said petition was not filed in time sufficient to stay the operative effect of said decision and said decision has become effective.

Petitioner alleges that said decision confiscates its property for the reasons that -

- (a) The Commission failed to allow in the rate base the full cost of certain recently constructed facilities, and
- (b) The rate of return of 4.03 per cent allowed on the rate base so diminished is unreasonable, unlawful and insufficient.

Petitioner cites in support of its position Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591, 603, 88 L. ed. 333, 345. We do not draw the conclusion from the Hope case which petitioner presses upon us. This case points out that rate-fixing requires a balancing of the investor and consumer interests. Furthermore, we must keep in mind the fact that the water system in-

involved herein represents an infinitesimal part of the total operations and system of this petitioner. Surely, it will not be contended that the credit or other financial position of petitioner has been or will be impaired by the operation of the decision herein assailed.

The burden rested upon the petitioner to prove that all components of the rate base are reasonably employed in the public service. The Commission found that petitioner had not met that burden as to that part of the cost of the recently constructed facilities which it disallowed for the purpose of the decision concerning which rehearing is sought. It is true that the decision states, "Applicant's prudence in installing these facilities is not here questioned." However, such statement does not nor was it intended to constitute a finding that all these facilities are reasonably employed in the service of the public. If the customer growth on this water system reasonably meets expectations, all these facilities, justifiably, will find a place in the rate base. At the present time and for a reasonable future time, we find that the disallowed part of the cost of these facilities represents property not reasonably employed in the public service. Manifestly, it would be improper to require present ratepayers to contribute to a return on facilities which will be necessary to serve an anticipated customer growth but which are not presently reasonably employed in the service of the public.

The special facts of this proceeding must control. The decision herein assailed is provisional and experimental and the rates prescribed are tentative. The facts of record required the rendition of that type of decision. The situation existing on this water system is fluid and the expected customer growth within a year or two could completely reverse the situation as it now exists. Such

customer growth may well increase the rate of return very substantially. These matters, uncertain for the present, can be rendered certain only by the actual experience of the future. The Commission has not only the authority but it is its duty to exercise its sound discretion in prescribing rates for the future as it did here.

As indicated in its decision, the Commission will hold this proceeding open for the purpose of permitting petitioner to keep the Commission informed of the progress of customer growth and the operating results of petitioner. At such time as the experience of the future warrants, the Commission will reconsider this matter and revise rates in accordance with the law and the facts as the same then exist. This type of procedure is well recognized in the law.

(Market Street Railway Co. v. Railroad Commission, 324 U.S. 548, 569, 39 L. ed. 1171, 1186; Clark's Ferry Bridge Co. v. Public Service Commission, 291 U.S. 227, 241, 78 L. ed. 767, 775.)

For the foregoing stated reasons, IT IS ORDERED that the petition for rehearing, filed herein, be and the same is hereby denied.

Dated at San Francisco, California, this 6th day of January, 1953.

A. T. D. [Signature]
President

Justice F. Coe [Signature]

Harold P. [Signature]

[Signature]
[Signature]
Commissioners