

Decision No. 49752**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SAN JOSE WATER WORKS, a corpo-)
ration, for an order authorizing) Application No. 34181
it to increase rates charged for)
water service in San Jose, Campbell,)
Los Gatos, Saratoga and vicinity.)

For applicant: McCutchen, Thomas, Mathews,
Griffiths and Greene, by Robert M. Brown and
A. Crawford Greene, Jr.
For protestants: Town of Los Gatos, by Karl A.
Baldwin; Western Fire Control Council, by
D. S. Nichols.
For interested parties: City of San Jose, by
Robert J. Costello, assistant city attorney;
Central Fire Protection District, Saratoga
Fire District and Santa Clara County Fire
District No. 1, by Harry A. Goertz.
For Commission staff: Harold J. McCarthy,
J. T. Phelps, John F. Donovan and Carol Coffey.

O P I N I O N

By the above-entitled application, filed March 25 and as amended November 30, 1953, San Jose Water Works, a California corporation, seeks an order of this Commission authorizing increased rates for water service rendered in San Jose, Campbell, Los Gatos, Saratoga and vicinity in Santa Clara County.

Public hearings in this matter were held before Commissioner Potter and Examiner Emerson on December 16 and 17, 1953 and January 6 and 7, 1954 at San Jose. In the course of the proceeding 12 witnesses were heard and 30 exhibits were received in evidence.

Applicant's Request and Position

Applicant seeks to increase its annual gross revenues by approximately \$534,000 or 23½ per cent on the basis of its estimated operations during the year 1953. Applicant's present rates for water service have remained substantially unchanged for a period of 30 years except for rate reductions in 1933 and 1937.

The company has met ever-growing needs for expansion and improvement of facilities and service. The greatest growth has occurred since 1941, the company having added more than 25,000 customers and increased its plant investment by almost \$10,000,000 since that date. According to applicant, increased costs of operation have affected all phases of its business. As examples, applicant cites an increase of 92 per cent in property taxes on the same parcels of property, increases totaling 150 per cent in wage rates, and increases in federal taxes on income which require the company to collect \$1.17 in taxes from its ratepayers for each \$1.00 it must collect for its own uses. Applicant has sought to offset the inflationary spiral through the use of modern machinery and methods of increased operational efficiency. It has succeeded to the extent of having been able to undertake the serving of an 85 per cent increase in customers without having increased the number of its employees. However, applicant claims the many cost increases and additional capital requirements which it has met have not been offset by corresponding increases in revenues and, therefore, have made rate relief imperative.

Applicant's specific rate proposal is compared with present rates in the following tabulation:

Billing Comparison

Monthly Consumption (cubic feet)	Amount of Bill		
	Present Rate	Proposed Rate	Per Cent Increase
500	\$ 1.25	\$ 1.70	36.0%
1,000	2.30	2.90	26.1
1,400 (Approx. aver. resid. usage)	3.10	3.86	24.5
2,000	4.30	5.30	23.3
3,000	6.30	7.70	22.2
4,000	7.80	9.35	19.9
5,000	9.30	11.00	18.3
10,000	16.20	19.25	18.8
15,000	22.20	27.50	23.9
20,000	28.20	35.75	26.8

The above tabulation is based upon applicant's basic proposal whereby the present type of rate, by which a quantity of water is delivered for a minimum charge, would be continued. As an alternative, but not urged for acceptance, applicant also presented a service charge type of rate designed to produce substantially the same gross revenues. By such rate form the present minimum user would experience an increase of 96 per cent while those whose usage lies between about 3,000 cubic feet and 9,000 cubic feet would experience a reduction in billing.

The basic rate proposal does not include an increase for the special rate area known as Bethlehem where present rates are higher than those in effect on the balance of applicant's system.

The present rate for fire hydrant service consists of monthly charges of \$2.50 for each hydrant owned by a political subdivision and \$3.25 for each hydrant owned by the company. Applicant proposes to decrease these charges by \$1.00 per hydrant per month.

Charges for private automatic fire sprinkler service is proposed to be increased as follows:

<u>Size of Connection</u>	<u>Monthly Charge</u>	
	<u>Present rate</u>	<u>Proposed rate</u>
4-inch	\$ 4.50	\$ 5.60
6-inch	7.50	9.50
8-inch	12.00	15.00
10-inch	20.00	25.00

Applicant provides irrigation service from its Kennedy Pumping Plant at a present rate of \$3 per hour for a flow of not less than 650 gpm. A discount of 10 per cent is allowed for all water in excess of 100 hours per year. Applicant proposes to increase the rate per hour to \$3.75 and to eliminate the discount provision.

Applicant's History and Operations

San Jose Water Works is presently the largest public utility water system in California that operates within a single unified service area and not devoted primarily to supplying irrigation water. The water system originated with a well and pumping plant located at the corner of First and San Antonio Streets in San Jose. This first plant was operated by Donald McKenzie, who obtained a franchise from the City of San Jose in 1865. Mr. McKenzie and some of his associates formed San Jose Water Company, which was incorporated in 1866 with a capital of \$100,000, and took over the McKenzie plant. This company extended service to include the suburbs of San Jose, the town of Los Gatos and vicinity, and the town of Santa Clara. Santa Clara subsequently installed a municipal water system in 1895.

In 1916 San Jose Water Works was incorporated to succeed San Jose Water Company, whose corporate life was to expire that year. The original San Jose Water Works amended its articles of incorporation to change its name to The San Jose Water Works on October 24, 1931. On the same date the present company was incorporated under the name of San Jose Water Works. It acquired the assets and business of the old company on March 14, 1932.

At the time of incorporation, all of the common stock of the present San Jose Water Works was issued to a public utility holding company, General Water, Gas and Electricity Company. The stock was fully distributed to the public in 1945, however. There is no concentration of stock ownership at the present time, about 90 per cent of its stock being widely distributed throughout California.

In the development of its system applicant has not been concerned with political boundaries. The system is completely integrated and interconnected, except for the physical plants serving

the Bethlehem area and one other subdivision and relies upon both surface and underground waters for its supply.

The company's service area consists of approximately 100 square miles of territory in and about San Jose, Los Gatos, Campbell, Saratoga, and Bethlehem in Santa Clara County. The central portion of the area is a relatively flat valley. The southwest portion, however, extends into the mountains which border the valley and on the northeast the area extends into the foothills.

This utility does not have a general certificated area of service since its predecessors were in operation prior to the regulation of water utilities by this Commission.

As above-mentioned, a portion of the company's water supply is surface water, obtained by the diversion of streams and storage of runoff from the Santa Cruz Mountains watershed. The balance of the supply is obtained from 44 wells drilled in various parts of the Santa Clara Valley. During the year 1952 applicant produced approximately 3.2 billion gallons (39 per cent) from surface waters and approximately 5.0 billion gallons (61 per cent) from underground sources.

As of August 31, 1953 there were approximately 735 miles of transmission and distribution mains in the system, ranging in size from 3/4 inch to 42 inches in diameter.

The company's mountain reservoirs have a combined storage capacity of over 2 1/2 billion gallons. In addition, as of August 31, 1953, the system had the distribution storage capacities shown in the following tabulation:

<u>Type of Storage</u>	<u>Storage Capacity (Gallons)</u>
Steel Tanks	4,867,000
Redwood Tanks	567,000
Earth Embankment Reservoirs, Lined	35,988,760
Concrete Reservoirs	2,082,500
Elevated Steel Tank	100,000
Total	<u>43,605,260</u>

The system has 23 pressure zones with 7 steel pressure tanks, 14 line boosters and 31 station boosters. It also has

22 pressure regulators installed throughout the system. The following tabulation shows the number of active service connections as of August 31, 1953.

<u>Classification</u>	<u>Active Services</u>
Residential, Metered	50,101
Commercial, Metered	3,406
Commercial, Flat Rate	102
Industrial, Metered	151
Municipal, Metered	193
Total	<u>53,953</u>
Fire Hydrants	1,756

Position of Protestants and Interested Parties

The Town Council of Los Gatos protests any water increase which would not establish a differential in rates between service within and without the limits of incorporated municipalities. The mayor of Los Gatos testified that the representations of the town council were based upon their concept respecting costs to serve high density areas as opposed to sparsely settled areas and that in reality town boundary lines were not the sole criterion. He further testified that the council found no dissatisfaction with the services of the company nor did it wish to indicate that applicant is not entitled to an increase in rates.

The City Council of San Jose joined the position of Los Gatos and further urged that this Commission authorize no rate increase until evidence respecting relative costs as between service in the respective incorporated and unincorporated areas was adduced. The witness for this city also indicated that unless rates for public fire hydrant service to the city were reduced, the city would consider raising its tax upon the company.

On behalf of the residents within the various fire protection districts in Santa Clara County, representatives of three districts opposed the position of the two above-mentioned municipalities, claiming that to accede to the cities' request for a rate differential predicated on city limit lines would create a

discriminatory situation not now existing. They claimed that large portions of the county are developing rapidly into an urban area and that using city boundaries for purposes of rate making would be most unsatisfactory.

The Western Fire Control Council, an organization composed of salesmen, contractors and owners of private fire sprinkler systems, opposed the proposed increases in charges for private fire protection service primarily on the grounds that such increases would adversely affect the sales of sprinkler systems. It was the position of the witness for this group that private fire protection service should, in effect, be a free service and that the costs of providing such service should be spread over all other customers. The witness did not represent any present consumer on applicant's system.

Summary of Presentations

The tabulation below is a summary of operating results, under present and requested rates, as made by applicant and the Commission staff based on a 52 per cent federal income tax rate:

Results of Operations

Item	Present Rates		Requested Rates ^a	
	Company b	CPUC Staff c	Company d	CPUC Staff d
<u>Year 1952</u>				
Operating Revenues	\$2,120,356	\$2,118,350	\$2,615,130	\$2,612,520
Operating Expenses				
Before Taxes & Depr.	657,961	722,280	658,761	723,080
Taxes	615,789	578,437	883,016	845,363
Depreciation	203,593	204,643	203,593	204,643
Total Oper. Exps.	1,477,343	1,505,360	1,745,370	1,773,086
Net Revenue	643,013	612,990	869,760	839,434
Rate Base (Depr.)	14,324,000	14,107,000	14,324,000	14,107,000
Rate of Return	4.49%	4.35%	6.07%	5.95%
<u>Year 1953</u>				
Operating Revenues	\$2,278,060	\$2,263,750	\$2,808,492	\$2,789,700
Operating Expenses				
Before Taxes & Depr.	753,080	757,230	753,780	758,100
Taxes	647,702	627,578	934,320	911,657
Depreciation	218,980	219,261	218,980	219,261
Total Oper. Exps.	1,619,762	1,604,069	1,907,080	1,889,018
Net Revenue	658,298	659,681	901,412	900,682
Rate Base (Depr.)	15,508,000	15,368,000	15,508,000	15,368,000
Rate of Return	4.24%	4.29%	5.81%	5.86%

a. Minimum charge rate form

b. As recorded by company

c. As adjusted by CPUC staff

d. As estimated

Rate Base

The difference in the 1953 rate bases, apparent above, lie almost wholly within those elements of rate base which are additive to or subtractive from fixed capital in service. With respect to the item of working cash, the Commission staff method produces a requirement approximately \$21,000 less than that determined by applicant, the basic difference arising from the staff having used one month's electric power costs while applicant used two months' charges. In determining an allowance for materials and supplies, applicant used the average of book amounts which, according to the staff, was the equivalent of nine months' usage. As a matter of judgment the staff allowance contemplated a five months' stock of materials and supplies as being required and its calculated amount is about \$66,000 below that of applicant. With respect to customers' advances for construction, applicant anticipated making substantial refunds during the latter part of the year and its average amount for the year is therefore about \$22,000 below that calculated by the staff. The staff made a "pro forma" adjustment for 1953 weighting of fixed capital additions, which results in the staff calculation being some \$53,000 above applicant's weighting of fixed capital for the same year. The remaining major item of difference concerns the amount of the depreciation reserve. In this item, applicant used the beginning-of-year reserve as a deduction whereas the staff used the average-year reserve. The difference between the two amounts is approximately \$88,000.

In view of the evidence we shall adopt, for the purposes of this proceeding, a rate base for the year 1953 which accepts the staff-calculated items except for customers' advances for construction. By so doing, the average depreciated rate base for such year totals \$15,390,000. We find such rate base to be reasonable.

Revenues and Expenses

In estimating 1953 revenues, applicant's witness assumed that the year 1952 had been an average year and projected water usage in that year forward. The staff, however, used long-term averages of temperature and precipitation for the system's area, adjusted the 1952 water use tabulation in accordance with such climatological data and then projected the results forward into 1953. Such basic difference in approach accounts for the major difference in gross revenue estimates. In view of the evidence we adopt the sums of \$2,264,000 and \$2,811,000 as being reasonable estimates of gross revenues for the year 1953 under present rates and proposed rates excluding the proposed reduction for fire hydrant service, respectively.

Estimates of expenses for 1953 differ primarily in the calculation of taxes on property and taxes on income. With respect to ad valorem taxes, applicant assumed a 6 per cent increase, based upon the experience of recent prior years. The staff, however, having made its study at a later date than had applicant, used the actual tax billing. Differences in income taxes, apparent in the tabulation above, result primarily from the revenue differences above discussed. Other differences in expenses arise from an accumulation of relatively minor items. For the purposes of this proceeding we adopt, as reasonable estimates of total operating expenses under present and proposed rates, excluding the fire hydrant reduction, the respective sums of \$1,604,000 and \$1,901,000.

Net Revenue and Rate of Return

Relating the above-adopted revenues and expenses to rate base yields the following, based on a 52 per cent federal income tax rate:

<u>Item</u>	<u>Estimated Year 1953</u>	
	<u>Present Rates</u>	<u>Proposed Rates</u>
Operating Revenues	\$ 2,264,000	\$ 2,811,000
Operating Expenses	1,604,000	1,901,000
Net Revenue	660,000	910,000
Rate Base	15,390,000	15,390,000
Rate of Return	4.29%	5.91%

It is apparent, from the above tabulation, that applicant is experiencing a less than reasonable return. Applicant is entitled to rate relief.

The foregoing operating results for the estimated year 1953 are hereby adopted as reasonable for prescribing rates for this utility, subject to the changes in federal income tax rates hereinafter discussed. Based upon the evidence in this proceeding, we find that the rates which will be prescribed herein will produce a rate of return of 5.91 per cent on a rate base of \$15,390,000 for the test period.

Obviously applicant will not experience increased rates for the year 1953 nor for the full year 1954. By the time new rates will have been effective for a full year additional facilities will have been installed. The evidence of record indicates that a present-day decline of about 0.09 per cent in rate of return is attributable to the factor of growth. Assuming such percentage change will not increase during the next 12-month period, it may be expected that applicant will earn a rate of return of about 5.8 per cent during such period and we find such rate of return to be fair and reasonable.

Rates

The rates for general service herein authorized are those minimum-charge type rates proposed by applicant. Schedule No. 1 will be applicable throughout the territory described therein irrespective of community boundaries, since to accede to protestant cities' request for a rate differential based upon political boundaries, in our opinion, clearly would create unrealistic classes of service on an integrated water system and would result in establishing unjust and unreasonable discrimination between water consumers of the same class.

Applicant's proposal to reduce fire hydrant rates for the City of San Jose is a matter it may decide for itself under applicable law. However, the revenue effect of present rates is reflected in the hereinabove-adopted revenues and expenses.

With respect to private fire sprinkler service, we find no merit in protestant's contention that such specialized service should not pay its share of the costs of doing business. The rates proposed by applicant for such service, after reflection of the reduction resulting from decreased taxes on income, are reasonable and will be authorized.

The presently filed schedule entitled "Service to Consumers on 6-inch Line Installed by Santa Clara Valley Conservation District" will be continued in effect.

All of the earnings data treated above are based upon a 52 per cent federal income tax rate. Under present law such tax rate decreases to 47 per cent on April 1, 1954, the effective date of the service rates herein authorized. It is of record that the President has recommended that the Congress enact legislation continuing the present 52 per cent income tax rate. The action, if any, which the Congress may take is unknown. Applicant's customers, on the one hand, should not be required to provide more than the amount of taxes properly chargeable to operating expenses and applicant, on the other hand, should not be required to assume its customers' tax burden. In recognition of such situation the rates for water service hereinafter authorized have been designed to produce \$2,691,000 in gross revenues, based upon the level of business during 1953, and after allowance for total operating expenses, including taxes on income at the federal tax rate of 47 per cent, to yield the rate of return hereinabove found to be reasonable. If the Congress should prior to April 1, 1954 enact legislation by which the income tax rate is continued at 52 per cent or is placed at a level

intermediate between 52 per cent and 47 per cent, applicant may file, by advice letter for the consideration of this Commission, revised Schedules Nos. 1, 3 and 5 reflecting appropriate changes in said schedules to recover the expense resulting from such increased tax rate. If the Congress acts on or after April 1, 1954 to restore any or all of the reduced federal income tax rates, applicant may seek authority, by supplemental application herein, to thereafter correspondingly increase said Schedules Nos. 1, 3 and 5. By such procedure applicant and its customers will be accorded treatment consistent with that provided in other utility rate increases authorized by this Commission.

Based upon the level of business during the year 1953, the rates herein authorized will produce an increase in annual gross revenues of approximately \$427,000 or 18.9 per cent. We find such increase to be justified.

Applicant will be required to file a set of rules revised to reflect present-day practices and relationships with its customers.

O R D E R

San Jose Water Works having applied to this Commission for authority to increase rates for water service, public hearings thereon having been held, the matter having been submitted and now being ready for decision; and

Based upon the evidence of record and findings relative thereto,

IT IS HEREBY ORDERED as follows:

1. Applicant is authorized to file in quadruplicate with this Commission, on or after the effective date of this order and in conformity with the provisions of General Order No. 96, the schedules of rates set forth in Appendix A attached to this order and, after not less than five days' notice

to the public and to this Commission, to make said rates effective for service rendered on and after April 1, 1954.

- 2. Applicant is directed to follow the procedure hereinabove outlined respecting its rate Schedules Nos. 1, 3 and 5 if the 47 per cent federal income tax rate effective April 1, 1954 be changed during the year 1954.
- 3. Withing sixty days after the effective date of this order, applicant shall file in quadruplicate with this Commission, in conformity with the provisions of General Order No. 96, copies of a tariff service area map and of rules, acceptable to this Commission, reflecting present-day practices and relationships with its customers.

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

Dated at San Francisco, California, this 2nd day of March, 1954.

R. Z. [Signature]
 PRESIDENT
Justice J. [Signature]
[Signature]

Peter E. Mitchell
 Commissioner Verne Scoggins, being necessarily absent, did not participate in the disposition of this proceeding.

~~CONFIDENTIAL~~

~~Secretary,
 Public Utilities Commission
 State of California~~

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

City of San Jose, Town of Los Gatos, City of Campbell, Village of Saratoga, and adjacent territory, Santa Clara County.

RATES

Quantity Rates:	<u>Per Meter per Month</u>
First 500 cu.ft. or less	\$1.65
Next 2,500 cu.ft., per 100 cu.ft.23
Next 27,000 cu.ft., per 100 cu.ft.15
Over 30,000 cu.ft., per 100 cu.ft.135

Minimum Charges:

For 5/8 x 3/4-inch meter	\$ 1.65
For 3/4-inch meter	2.35
For 1-inch meter	3.65
For 1-1/2-inch meter	7.00
For 2-inch meter	10.00
For 3-inch meter	18.00
For 4-inch meter	27.50
For 6-inch meter	50.00
For 8-inch meter	75.00
For 10-inch meter	104.00

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

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Schedule No. 2

GENERAL METERED SERVICE
BETHLEHEM SERVICE AREA

APPLICABILITY

Applicable to all metered water service.

TERRITORY

In the Bethlehem Service Area, located in the vicinity of the town of Agnew, Santa Clara County.

RATES

Quantity Rates:	<u>Per Meter per Month</u>
First 300 cu.ft. or less	\$2.75
Next 1,500 cu.ft., per 100 cu.ft.58
Over 1,800 cu.ft., per 100 cu.ft.40
 Minimum Charges:	
For 5/8 x 3/4-inch meter	\$2.75
For 3/4-inch meter	4.50
For 1-inch meter	6.25

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

Schedule No. 3

LIMITED IRRIGATION SERVICE

APPLICABILITY

Applicable to all water service furnished for agricultural irrigation purposes.

TERRITORY

Within the 460-acre unincorporated area formerly served by the E. R. Kennedy Pumping Plant System adjacent to the City of Campbell, Santa Clara County, referred to in the special condition below.

RATE

Per Hour

For a normal stream of water, being full capacity of present well and pumping plant and not less than 650 gallons per minute	\$3.60
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SPECIAL CONDITION

Service under this schedule is limited to the area served by the system known as the E. R. Kennedy Pumping Plant System, and as more particularly described and shown on Exhibit B of Application No. 27792 and further referred to in Decision No. 39508 in that application.

Schedule No. 4

PUBLIC FIRE HYDRANT RATES

APPLICABILITY

Applicable to fire protection service rendered to municipalities, duly organized or incorporated fire districts, or other political subdivisions.

TERRITORY

City of San Jose, Town of Los Gatos, City of Campbell, Village of Saratoga, Bethlehem Service Area, and adjacent territory, Santa Clara County.

RATES

	<u>Per Hydrant per Month</u>
When hydrant is owned by company	\$3.25
When hydrant is owned by municipality or public agency	2.50

SPECIAL CONDITIONS

1. The above rates include use of water for fire fighting and for no other purpose. Quantities of water delivered through fire hydrants for any other purpose will be estimated or measured and charges will be made at the monthly quantity rates under the applicable General Metered Service Schedule.
2. The company will supply only such water at such pressure as may be available from time to time as a result of its normal operation of the system.

Schedule No. 5

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable only to a private fire protection service to which no connections for other than fire protection purposes are allowed and which are regularly inspected by the underwriters having jurisdiction, are installed according to specifications subject to approval by the company, and are maintained to the satisfaction of said company.

TERRITORY

City of San Jose, Town of Los Gatos, City of Campbell, Village of Saratoga, Bethlehem Service Area, and adjacent territory, Santa Clara County.

RATES

	<u>Per Service Connection per Month</u>
For 2-inch service	\$2.90
For 4-inch service	5.40
For 6-inch service	9.00
For 8-inch service	14.50
For 10-inch service	24.00

SPECIAL CONDITIONS

1. The company may install at its own expense the standard detector-type meter approved by the Board of Underwriters for protection against theft, leakage or waste of water.

2. If a distribution main of adequate size to serve a private fire protection system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served, then a service main from the nearest existing main of adequate capacity shall be installed at the cost of applicant. The appropriate service connection shall be installed by the company at the cost of applicant. The amounts paid by applicant hereunder to establish private fire protection service shall not be subject to refund.