

ORIGINALDecision No. 50407

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

FIRST SUPPLEMENTAL OPINION AND ORDER

By its first supplemental application in the above-entitled proceeding filed July 30, 1954, San Jose Water Works seeks authorization to file increased water rates in order to produce additional gross revenues in amount equivalent to increased federal income taxes to be imposed upon applicant by the Revenue Code of 1954. Under said code applicant will be obligated to pay federal income taxes from and after April 1, 1954 at a rate of 52 per cent rather than at the 47 per cent rate upon which its presently effective tariffs are based. With respect to the provisions of said code which would permit applicant to adopt a liberalized method of depreciation for its property, applicant covenants that it has no present intention of adopting any such method for the year 1954 and that it will not undertake to do so without prior approval of this Commission.

The water service rates authorized by this Commission's Decision No. 49752, issued March 2, 1954, were based upon revenues and expenses that reflected the 47 per cent federal income tax rate. As a result of the new increased income tax rate, retroactive to April 1, 1954, applicant's earnings will be below that intended by the above-referred-to decision. Applicant proposes to now file water service rates identical to those proposed in its original

application as amended. The gross revenues will be increased by \$120,000 and by so doing applicant's earning position would be returned to that which this Commission found to be fair and reasonable by said Decision No. 49752. ✓

It is the rule established by the Supreme Court of the United States that income taxes, both state and federal, are a proper charge to operating expense (Galveston Electric Company v. City of Galveston - decided in 1922 - 285 U.S. 388,399, 66 L.ed. 676,684; Georgia Railway and Power Company v. Railroad Commission - decided in 1923 - 262 U.S. 625,632-633, 67 L.ed. 1144, 1148). The Court stated unequivocally that income taxes are a proper charge to operating expense and that it is error not to allow such charge. In the circumstances, we are of the opinion that the Commission is bound by the rule laid down by the Supreme Court of the United States concerning the subject in question. Therefore the additional income taxes levied against this applicant at the 52 per cent rate must be allowed as a proper charge to its operating expense. ✓

Applicant has heretofore made a full showing of the facts justifying the increased service rates authorized by our Decision No. 49752 and we have so found.

The Commission is of the opinion that applicant's request is reasonable and that it should be granted without delay. Being of the further opinion that a public hearing thereon is not necessary, ✓

IT IS FOUND AS A FACT that the increases in rates and charges authorized herein are justified and that present rates and charges in so far as they differ therefrom are for the future unjust and unreasonable; therefore,

IT IS HEREBY ORDERED that San Jose Water Works is authorized to file in quadruplicate with this Commission on or after the effective date hereof, the tariff schedules contained in Exhibit A attached to the First Supplemental Application and,

after not less than one day's notice to the public and to this Commission, to make said tariffs effective for all service billings based upon regular meter readings taken on and after the effective date of said filing.

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

Dated at San Francisco, California, this 17th day of August, 1954.

John L. Mitchell
 _____ President
James J. Cooney

Kenneth Lott

Gene Deegins

 _____ Commissioners