

24, 1954 at Oroville. The matter was submitted subject to the filing of concurrent briefs by Thermalito District and applicant on October 4, 1954.

Applicant's Position and Request

Applicant seeks to increase its gross revenues by approximately \$77,000 or an increase of about 50 per cent on the basis of its estimated operations at the 1954 level of business. With the exception of the special contract rate applicable to Thermalito District, which has remained unchanged since first established in 1923, applicant's present water rates were established in 1949 by this Commission's Decisions Nos. 42563 and 42580 in Application No. 29442. According to applicant, increased costs of operation since 1948 have affected all phases of its business. As examples of those elements of cost which are of major import applicant points to an increase in federal income tax rates from the 38 per cent rate effective in 1948 to the presently effective tax rate of 52 per cent, to an increase of approximately 45 per cent in wage costs and related pension and welfare expenses since 1948, to an increase in prices of construction materials of about 25 per cent in the same period, and to the fixing of an annual charge of \$32,400 for water delivered to it by Pacific Gas, the latter charge representing approximately 40 per cent of the total increased costs of operation. Of lesser import but nonetheless contributing to applicant's increased costs have been increases in electric power rates, telephone charges and postal rates. Applicant claims that the many cost increases and additional capital requirements which it has met or must meet 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:

Description of Service	Present Rate	Proposed Rate	Per Cent Increase
<u>Flat Rate Service, Per Month</u>			
Residence, 5 rooms or less	\$1.05	\$1.60	52%
Each additional room	.15	.23	53
Each flush toilet	.35	.53	51
Each bath or shower	.35	.53	51
Average 6-room residence	1.90	2.89	52
Average Apartment	1.75	2.66	52
<u>General Metered Service, Per Month</u>			
500 cubic feet or less	1.40	2.00	43
3000 cubic feet	5.90	7.00	19
10,000 cubic feet	12.90	15.40	19
50,000 cubic feet	48.90	59.40	21
<u>Irrigation Service, Per MID</u>			
Irrigation service	.13	.205	58
Thermalito Irrigation District	.06	.205	241

Applicant's Operations

Applicant's Oroville District is one of 21 operating districts. Its area contains a population total of about 9,000. Approximately 2,939 active service connections, consisting of 1912 residential and commercial flat rate consumers, and 5 industrial, 4 irrigation, 29 municipal and 989 residential and commercial metered connections, are served in the area.

The water supply for the Oroville District is obtained from both surface and ground water sources. The surface source, which provides by far the greatest amount of water, originates in the West Branch of the North Fork of the Feather River and is conveyed by means of the Miocene Canal of Pacific Gas to the tailrace of its Coal Canyon Power House. Applicant receives the water at this point and the water then is conveyed about 9 miles through the Powers Canal of applicant to the Cherokee and Oroville reservoirs. At

several points along the Powers Canal water is diverted to serve certain irrigation and other customers, among the latter being Thermalito District. The surface supply is treated with alum and ammonium sulfate at the outlet of the Cherokee reservoir and then flows into Oroville reservoir where it is chlorinated and settled and distributed in and around the City of Oroville.

The ground water supply consists of two wells, one located within the city limits of Oroville in the northwest part of the city and the other located about one-half mile south of the city. Water from the wells is pumped directly into the distribution system.

Water production data for the year 1953, excluding water used for irrigation, canal losses and wastage, are as follows:

<u>Source</u>	<u>Production, 100-cu. ft.</u>
Powers Canal	1,159,090
Well 2-01	22,550
Well 5-01	26,320
Total	<u>1,207,960</u>

Summary of Presentations

Applicant and the Commission staff, through exhibits and oral testimony, presented analyses of operating results under present rates and under those rates which applicant requests be made effective. A summary of such presentations is as follows:

AT PRESENT RATES

<u>Item</u>	<u>Year 1953 Adjusted</u>		<u>Year 1954 Estimated</u>	
	<u>Applicant</u>	<u>CPUC Staff</u>	<u>Applicant</u>	<u>CPUC Staff</u>
Gross Revenues	\$150,650	\$151,350	\$153,190	\$154,120
Operating Expenses Before Income Taxes	145,969	146,596	152,420	149,037
Income Taxes	0	(8,160)	0	(8,260)
Total Oper. Exps.	145,969	138,436	152,420	140,777
Net Revenue	4,681	12,914	770	13,343
Rate Base (depr.)	734,500	741,818	754,000	759,747
Rate of Return	0.64%	1.74%	0.10%	1.76%

(subtractive item)

AT REQUESTED RATES

<u>Item</u>	<u>Year 1953 Adjusted</u>		<u>Year 1954 Estimated</u>	
	<u>Applicant</u>	<u>CPUC Staff</u>	<u>Applicant</u>	<u>CPUC Staff</u>
Gross Revenues	\$226,617	\$227,960	\$230,365	\$231,950
Operating Expenses Before Income Taxes	146,049	146,686	152,500	149,137
Income Taxes	33,320	33,100	31,313	33,600
Total Oper. Exps.	179,369	179,786	183,813	182,737
Net Revenue	47,248	48,174	46,552	49,213
Rate Base (depr.)	734,500	730,989	754,000	748,831
Rate of Return	6.43%	6.59%	6.17%	6.57%

Revenues and Expenses

In each of the above tabulations the major difference between revenue calculations lies in the metered usage of commercial consumers. The recorded 1953 revenue from this classification was below the "adjusted" year figures of both applicant and staff. Since there appears to be no basic difference in methods of estimating we shall adopt, for the purpose of this proceeding, the approximate average of the independently determined respective revenue estimates as being within the limits of estimating accuracy and, therefore, we find the same to be reasonable.

In analyzing the respective adjustments and estimates of operating expenses we conclude that, for other than the difference in income taxes for the years 1953 and 1954 under present rates,

the major differences lie in the accounts for legal expenses and regulatory expenses. With respect to 1953 and 1954 income tax calculations under present water rates, applicant has included no tax liability for this system on the basis that the system earned no profit and hence was not subject to such tax. The staff, on the other hand, computed the Oroville District income taxes based upon the district's revenues and expenses and a suitable allocation of company-wide interest and miscellaneous deductions to be taken into account in arriving at taxable income. The fact that the staff shows an income tax "credit" as applicable to this portion of the company's total operations, under present water rates, whereas applicant shows zero income tax, does not of itself have any bearing upon the amount of rate increase authorized herein. The staff calculation will be accepted for the purpose of this decision.

With respect to the above-mentioned differences in legal and regulatory expenses we note that for the year 1953, as adjusted by the staff, the staff allowance for these two accounts amounts to \$1,640 whereas the recorded amounts for the actual year totaled \$4,355. Applicant's average for the same adjusted year was \$3,512. Applicant's assignment and estimates of such expenses, as they pertain to this system, are reasonable and will be adopted herein.

Rate Base

With respect to rate base, a comparison of the exhibits of applicant and staff discloses that each has a common starting point, it being the recorded system fixed capital at the beginning of the year 1953. From that point the build-up through all the elements of rate base to and including materials and supplies, though independently calculated by applicant and the staff, is practically identical. A major difference between applicant and staff occurs, however, in the determination of an allowance for working cash under present rates. In its presentation applicant sought \$7,000 as a working cash

allowance. The staff calculated a working cash requirement which it then adjusted to account for income tax accruals. By using such method the staff working cash allowance amounts to in excess of \$17,800 under present water rates and approximately \$7,000 under the requested water rates, the latter amount being the same as that sought by applicant. Under the circumstances we find a working cash allowance of \$7,000 to be reasonable.

In reaching its final calculations of depreciated rate bases applicant deducted the beginning of year reserve for depreciation from its average undepreciated rate base. It has consistently made such deduction in other rate proceedings before this Commission. The staff, however, deducted the average depreciation reserve from its average undepreciated rate base. In our opinion the latter method is more appropriate and it will be utilized in our determination of the rate base upon which applicant is entitled to earn a return.

Conclusions As To Earnings

Based upon the evidence we find that for the adjusted year 1953 and the estimated year 1954, on the basis of the 3 per cent sinking fund remaining life depreciation method used by applicant, the results of operations for this system, adopted as fair and reasonable for the purposes of this proceeding, are as follows:

Item	RESULTS OF OPERATIONS			
	Present Rates		Proposed Rates	
	1953	1954	1953	1954
Gross Revenues	\$151,000	\$153,660	\$227,290	\$231,160
Total Operating Expenses	139,110	141,510	180,290	183,290
Net Revenue	11,890	12,150	47,000	47,870
Rate Base, depreciated	730,950	748,800	730,950	748,800
Rate of Return	1.63%	1.62%	6.43%	6.39%

It is clear that applicant is not now earning a fair return on its investment in the Oroville District, nor will it in the future if present rates are continued. Applicant is entitled to increased revenues. The rates which applicant has proposed, however, would produce, in this instance, an excessive rate of return on this system.

The rates hereinafter authorized should produce gross revenues of \$228,200 based upon the level of business during 1954 and yield a rate of return of approximately 6.0 per cent in the future. We find such rate of return to be reasonable.

The Commission takes official notice of the fact that under the Internal Revenue Code of 1954, the federal normal income tax rate will decrease five percentage points effective April 1, 1955. The order herein will be based upon the present rate but will require a showing by applicant, not later than March 1, 1955, of its results of operation for this district for the most recent 12-month period. Upon receipt of such showing the Commission will determine whether or not the rates authorized herein should be reduced in an amount equivalent to said decrease in income taxes.

Positions of Protestants

Protestant Table Mountain Irrigation District not only asks that this Commission not grant applicant's rate increase proposal but asks that the present general irrigation rate of 13 cents per miner's-inch day be reduced to 10 cents per miner's inch day for water used for irrigation of pasture land. According to the witness for this district, applicant has about 6 second-feet of surplus water in the upper two miles of the Powers Canal and that such surplus water if not sold is wasted by spilling. By selling this surplus water at a low rate, the witness claimed, applicant would increase its revenues. Further, according to this witness, if the proposed rate of 20½ cents is authorized, the irrigation of pasturage would become uneconomic and would be curtailed and applicant would receive a lesser gross revenue from such usage than it would receive at a 10-cent rate. The record is clear that the bulk of spilled water is spilled during the winter when all water demands are low.

The position of the City of Oroville is one of general opposition to any increased water rates. It avers that the total net income of applicant, on its over-all operations, is more than reasonable with respect to its total investment. In effect such protest urges that a profitless system be carried by such other operations of applicant as may be profitable and that the consumers on other systems in California assume the proper burdens of Oroville Consumers. The city presented no evidence but, through counsel, actively participated in the cross-examination of witnesses.

Thermalito Irrigation District opposes any increase in the charges for water delivered to it on several grounds. The district participated in a correlative proceeding, Application No. 34598, in which this Commission found that Thermalito District's presentation was not germane to the issues. By stipulation the entire presentation of Thermalito District in that proceeding is, by reference, considered as part of the record herein, subject to the expressed objections of various counsel both in that and this record. In this respect we find such presentation to be germane to the issues herein and, while stricken from the record in said Application No. 34598, the full presentation of Thermalito District will be considered herein. Objections raised by counsel in respect thereto are hereby overruled and motions to strike, as such motions pertain to the instant proceeding, are hereby denied.

The original physical properties of Thermalito District and the district's acquisition, rehabilitation and expansion of the same are of record in several prior proceedings as well as in this proceeding. A recital of the historical facts pertaining thereto, in our opinion, would accomplish little or nothing at this point. Suffice it to say, however, and we hereby find as a fact, that Thermalito District is rendered public utility service by Water Company under a certain contract entered into by Thermalito District

and Pacific Gas on April 25, 1923^{4/} under the authority of this Commission's Decision No. 11887 issued April 4, 1923. We further find as a fact that upon transfer of certain of the properties of Pacific Gas to Water Company, as authorized by this Commission in 1927^{5/}, Water Company has since supplied Thermalito District under the terms and conditions of said contract and that during the entire term of said contract to date the charges billed Thermalito District have been based upon the rates set forth in said contract.

Thermalito District contends that said contract is a "private" contract and one which conferred upon it a "right in perpetuity" to the rates therein set forth. The district further contends that because it is a political entity and not subject to regulation by this Commission the subject contract is beyond the reach of this Commission. The argument and authorities cited in support of this contention are not persuasive and appear to be contrary to the law. The contract, by paragraph 12 thereof, is made subject to such changes or modifications as this Commission may direct. Furthermore, the Supreme Court of this state, in the case of Law v. Railroad Commission (184 Cal. 737-742), said "There is no longer any question as to the power of a state to fix rates for a public utility service which will supersede rates for such service previously fixed by private contract between the consumer and the company. It has been conclusively settled that the interference with private contracts by the state regulation of rates is but a legitimate effect of a valid exercise of the police power which neither impairs the obligation of a contract nor deprives of property without due process of law."

^{4/} Contained in Exhibit No. 6 in Application No. 34598, part of this record by reference.

^{5/} Pertinent Decisions Nos. are 18037, 18101, 18102, 28162 and 29398 in Application No. 13429 and Decision No. 18084 in Application No. 13514.

The remaining contentions of Thermalito District concern primarily the relationship or spread of rates between various customers or classes of customers. The district's evidence in this regard seems to have been directed toward a showing that the district is in financial difficulties and unable to pay the proposed increased rates. The rate which Water Company proposes to charge the district little more than meets the cost of service and is the same rate proposed for general irrigation service. Thermalito District, however, serves over 1,000 domestic consumers of its own in addition to providing service for irrigation within the district. Its demands on Water Company are substantially different from those of irrigators with respect to both quantities and occurrences of its water requirements. On the record before us we can find no justification for preferential rate treatment for utility service rendered to the district. The district has authority over the rates which it charges for water deliveries made to its own customers. It also has a taxing power. Apparently the district has full legal authority to increase its own rates when and as necessary.

Our action with respect to the contract at this time will concern only the establishment of a fair and reasonable rate for the service rendered pursuant to the duty of this Commission to see that there is no undue discrimination among customers. In this respect we find that the present rate set forth in said contract and presently charged Thermalito District is unfair and unreasonable and in our opinion constitutes an unjust burden on the remaining customers of Water Company. Said rate should be increased. We further find that the rate hereinafter authorized for such service is just, reasonable and nondiscriminatory.

O R D E R

California Water Service Company having applied to this Commission for an order authorizing increases in rates and charges for water service rendered in Oroville and vicinity and in the rate for water service rendered Thermalito Irrigation District under special contract, public hearings thereon having been held, the Commission having been fully informed and the matter now being ready for decision,

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

IT IS HEREBY ORDERED that applicant is authorized to file in quadruplicate with this Commission, 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 hereto and, after not less than five days' notice to the public and this Commission, to make said rates effective for service rendered on and after January 1, 1955.

IT IS HEREBY FURTHER ORDERED that that certain contract entered into on April 25, 1923 by Thermalito Irrigation District and Pacific Gas and Electric Company is modified by substituting for paragraph 5 thereof the following:

"5. The price at which water shall be sold and delivered to, and purchased and paid for by, the District hereunder shall be four cents (4¢) per miner's inch per day for all water sold and delivered hereunder from the first day of May, 1922, to and including the 30th day of September, 1922, six cents (6¢) per miner's inch per day for all water delivered hereunder from the first day of October, 1922, to and including the 31st day of December, 1954, and twenty and one-half cents (20½¢) per miner's inch per day for all water delivered hereunder after the 31st day of December, 1954."

Applicant is authorized to render public utility water service to said Thermalito Irrigation District in accordance with the terms of said contract as above modified.

IT IS HEREBY FURTHER ORDERED that, unless the Internal Revenue Code of 1954 shall have theretofore been revised to continue the present federal income tax rate through the year 1955, applicant shall, on or before March 1, 1955, file with this Commission a verified rate of return statement applicable to its Oroville District for the most recent available 12-month period showing its revenues, expenses, net revenue and rate base, adjusted to the basis of the findings herein but reflecting the authorized rates for water service on a full-year basis and with taxes based upon the reduced federal income tax rate.

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

Dated at San Francisco, California, this 7th day of DECEMBER, 1954.

John E. Mitchell
President

Justin J. Calver

Lawrence P. Patten

Gene Higgins

Raymond L. Lawrence
Commissioners

APPENDIX A
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Schedule No. 1

Oroville Tariff Area

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATES

Quantity Rates:		<u>Per Meter</u> <u>Per Month</u>
First	500 cu.ft. or less	\$ 2.00
Next	2,500 cu.ft.; per 100 cu.ft. ....	.20
Next	27,000 cu.ft.; per 100 cu.ft. ....	.12
Next	100,000 cu.ft.; per 100 cu.ft. ....	.10
Over	130,000 cu.ft.; per 100 cu.ft.:	
	May 1 to October 31, inclusive .....	.09
	November 1 to April 30, inclusive .....	.07

Minimum Charge:

For	5/8 x 3/4-inch meter	\$ 2.00
For	3/4-inch meter	2.55
For	1-inch meter	3.65
For	1 1/2-inch meter	6.50
For	2-inch meter	8.75
For	3-inch meter	15.00
For	4-inch meter	22.50
For	6-inch meter	39.00
For	8-inch meter	58.00

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

Schedule No. 2

Oroville Tariff Area

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all water service rendered to residential customers on a flat rate basis.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATES

	<u>Per Service Connection</u> <u>Per Month</u>
For each residence of five rooms or less	\$1.60
For each additional room .....	.23
For each flush toilet .....	.53
For each bath or shower .....	.53
For sprinkling or garden irrigation:	
First 100 sq.yds. or less	\$1.42
Next 1,900 sq.yds., per sq.yd. ....	.0022
Over 2,000 sq.yds., per sq.yd. ....	.0011

SPECIAL CONDITION

Any new applicant for residential water service may select either flat or meter rates. Any residential customer heretofore served at meter rates may exercise his option to be served without a meter at flat rates and, likewise, any residential customer heretofore served at flat rates may exercise his option to be served at meter rates; provided, however, that when an applicant or customer has exercised his option to be served under either schedule, such applicant or consumer must agree, while he remains a customer, to accept service under the selected schedule for a period of at least 12 consecutive months.

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Schedule No. 3

Oroville Tariff Area

LIMITED FLAT RATE SERVICE

APPLICABILITY

Applicable to water service rendered to consumers taking untreated water directly from Powers Canal on a flat rate basis.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATES

Per Month

Slaughter House Meat Co.	\$14.60
H. H. Good	2.00
Ray Heberle	2.00

SPECIAL CONDITION

Service under this schedule is limited to those service connections through which service was being rendered as of the effective date of this schedule.

Schedule No. 4

Oroville Tariff Area

IRRIGATION SERVICE

APPLICABILITY

Applicable to service of untreated water from Powers Canal to irrigation or mining ditches, for irrigation of vineyards, orchards and similar uses.

TERRITORY

Lands located along Powers Canal, between the Coal Canyon Power House and Cherokee Reservoir, north of the City of Oroville, Butte County.

RATE

Per miner's inch-day 20^{1/2}

SPECIAL CONDITIONS

1. A miner's inch-day is defined as the quantity of water equal to 1/40 of a cubic foot per second flowing continuously for a period of 24 hours.
2. For practical purposes, water delivered for irrigation purposes will be measured under a head of six inches from the center of an opening not less than two inches in height.
3. Service of said water for irrigation uses shall be subject to surplus water being available therefor after adequate provision is made to meet the requirements of consumers in the City of Oroville and vicinity for residential, commercial and municipal uses.

Schedule No. 5

Oroville Tariff Area

PRIVATE FIRE HYDRANT AND SPRINKLER SERVICE

APPLICABILITY

Applicable only for water service to privately owned fire hydrants and fire sprinkler systems.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATES

Per Month

For each 1½-inch connection	\$ 2.25
For each 2-inch connection	3.00
For each 3-inch connection	4.50
For each 4-inch connection	6.00
For each 6-inch connection	9.00
For each 8-inch connection	12.00
For each 10-inch connection	15.00

SPECIAL CONDITIONS

1. The above rates are applicable only to fire hydrants and fire sprinkler systems to which no connections for other than fire protection purposes are allowed, are regularly inspected by the underwriters having jurisdiction, are installed according to specifications of the company, and are maintained to the satisfaction of said company.

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 by the company 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 such service shall not be subject to refund.

3. The company may install the standard detector type meter approved by the Board of Underwriters for protection against theft, leakage or waste of water.

Schedule No. 6

Oroville Tariff Area

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all water service rendered to fire hydrants of municipal, county or other political subdivisions of the State.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATES

Per Month

1. For fire hydrants installed and maintained by the City of Oroville for service within the incorporated limits of the city:
 - a. Fixed charge covering 146 fire hydrants as existed April 1, 1948 \$96.50
 - b. Where the number of hydrants served is greater or less than 146, reflecting subsequent installations or removals by the city, the above monthly bill will be increased or decreased, to reflect such changes, as follows:
 - (1) For each standard hydrant 1.00
 - (2) For each wharf-type hydrant50
2. For fire hydrants installed or maintained by the County or a Fire District for service outside the corporate limits of the City of Oroville:
 - a. For each standard hydrant 1.00
 - b. For each wharf-type hydrant50

SPECIAL CONDITION

For all other use by public agencies, including public buildings, schools and irrigation of parks and grounds, charges will be made under the General Metered Service schedule.

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Schedule No. 7

Oroville Tariff Area

SERVICE TO COMPANY EMPLOYEES

APPLICABILITY

Applicable to water service for residential use rendered to employees of the company who reside within the service area.

TERRITORY

Within and adjacent to the City of Oroville, Butte County.

RATE

One-half the charges provided for in the applicable effective schedule of rates.