

ORIGINAL

Decision No. 56418

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
LAKEWOOD WATER & POWER COMPANY, a	)	Application No. 37844
corporation, for an order authorizing	)	Amended
applicant to increase its water rates.	)	

Sanner & Fleming, attorneys, by Sidney Sanner and John Amos Fleming, and Lee T. Hollopeter, general manager and secretary-treasurer; for applicant.

Theodore R. Gabrielson, attorney, for Lee T. Hollopeter, an individual, and Mutual Pipeline and Construction Company; respondents in Order to Show Cause and interested parties.

John S. Todd, city attorney, Carl J. Ellis, director of finance, and Robert T. Andersen, for the City of Lakewood; and Levy, Russell & DeRoy, attorneys, by John R. Russell, for Local 148 UAW-AFL-CIO, Douglas; protestants.

Wahlfred Jacobson, city attorney, by Leslie C. Still, deputy city attorney, Henry E. Jordan, chief engineer-secretary, Bureau of Franchises and Public Utilities, and Frederick Schafer, Water Department, for the City of Long Beach; Ray L. McCoy, representative, for Southern California Water Company; E. T. Ibbetsen, for Ideal Petroleum Company; and Jack H. Croul in propria persona; interested parties.

Edward F. Walsh, Hector Anninos, Carol T. Coffey and Theodore Stein for the Commission staff.

# O P I N I O N

Lakewood Water & Power Company, a corporation, filed the above-entitled application on March 16, 1956, seeking authority to increase its rates for water service in the Cities of Lakewood and Long Beach, and in its Downey area in unincorporated territory of Los Angeles County by the gross annual amount of approximately \$258,000.

Public hearings were held before Commissioner Rex Hardy and Examiner Stewart C. Warner on September 26, November 28, 29 and 30, 1956, at Lakewood. At these hearings applicant made its affirmative showing on the application as originally filed. Certain protests were received and complaints of the inadequacy of water service were entered by residents in an area south of Carson Street in the City of Long Beach. Complainants alleged low water pressure conditions, especially during hot summer peak periods, and some bad odor, discoloration, unpleasant taste, and foreign objects in the water. At the conclusion of this series of hearings, a request by the Commission staff that the applicant be required to produce the books of Mutual Pipeline and Construction Company <sup>1/</sup> for inspection by the staff was submitted for the Commission's decision.

By Decision No. 54757, dated March 26, 1957, following the filing of briefs by the staff on December 26, 1956 and by applicant on December 28, 1956, the motion of the Commission staff was granted. Mr. Hollopeter and applicant were ordered to cause the books of account of the construction company and supporting data relating to the transactions between the utility and the construction company to be made available within twenty days to the authorized agents and representatives of the Commission for their examination. Said decision further provided that should said books of account and supporting data be not made available, the Commission would give consideration to dismissing the instant application or removing it from the calendar until the order had been complied with.

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<sup>1/</sup> Hereinafter referred to as Mutual, an unincorporated enterprise engaged in the business of pipe-line construction which installed water mains, services and fire hydrants for applicant from sometime in 1950 until July 31, 1957, the total cost to applicant of which was \$878,756.29.

On April 15, 1957, applicant moved for the setting of an early hearing date for the completion of hearings on its application, and in said motion informed the Commission that Mutual had, in turn, informed the applicant and the Commission that the Commission's authorized agents might examine its records in compliance with Decision No. 54757 supra. On May 28, 1957, the Commission issued its order upon Lee T. Hollopeter and applicant to show cause why Decision No. 54757, supra, had not been fully complied with. Said Order to Show Cause was answered by applicant on June 10, 1957, and public hearings thereon were held before Commissioner Hardy and Examiner Warner on June 17 and 18, 1957, at Lakewood. On June 26, 1957, the Commission staff filed a statement relative to the Order to Show Cause; on July 19, 1957, applicant filed its brief; and on July 23, 1957, Lee T. Hollopeter and Mutual filed their brief. By Decision No. 55525, dated September 3, 1957, the Commission issued an interim order dismissing the Order to Show Cause and providing that the instant application be set down for additional hearing at as early a date as feasible for the purposes of (a) hearing such evidence as Lakewood should present tending to prove the reasonableness of all charges made by Mutual to applicant; and (b) hearing such evidence as the staff should present having to do with the instant application; and (c) hearing such other evidence pertinent to the proceeding as might be offered by other interested parties.

Further adjourned public hearings on the application were held before Commissioner Hardy and Examiner Warner on October 9 and 10, 1957, at Lakewood. At such hearings applicant presented through four witnesses its evidence in support of its contention as to the reasonableness of the charges by Mutual to applicant for the period 1950 to July 31, 1957.

On October 23, 1957, applicant filed its first amendment to the application proposing a further increase in rates which, applicant estimated, would produce additional gross operating revenues of approximately \$494,000 over the revenues estimated for the year 1957 adjusted at present rates.

On December 11, 12 and 13, 1957, further public hearings were held before Examiner Warner at Lakewood at which time the applicant made its affirmative showing on its first amendment; the Commission staff presented its testimony on the results of its investigation of the application as amended; cross-examination of applicant's witnesses and those of the staff was conducted; and the application, as amended, was submitted subject to the filing of briefs thirty days after the receipt of the transcript of the proceedings. Briefs have been filed by the applicant, by Lee T. Holloper, an individual, and Mutual, and by the staff. The matter is now ready for decision. The record contains 1197 pages of testimony and 64 exhibits.

#### General Information

Applicant was granted a certificate of public convenience and necessity and authority to issue securities by Decision No. 31132, dated July 27, 1938, in Application No. 22037. Prior to such date, water service had been furnished in the area by the City of Long Beach to the Montana Land Company which formed and owned applicant. Said land company had, late in 1934, started a subdivision known as Lakewood Village at the corner of what is now Lakewood Boulevard and Carson Street. Prior to 1934, the principal business of the land company was the farming of approximately 8,000 acres of land purchased by William H. Clark, of Butte, Montana, from

the Bixby Investment Company in 1897. On January 27, 1950, Lakewood Park, Inc., purchased the assets of the land company, including the assets of the applicant. By various decisions from 1938 to 1952, applicant was granted additional certificates of public convenience and necessity to expand its service area in Lakewood, and south of Carson Street, and in a separate area in the unincorporated community of Downey, all in Los Angeles County. In 1946, water service was being furnished to approximately 5,000 consumers; in 1950 to 10,000 consumers; and in 1956 to 30,000 consumers. As of June 30, 1957, water service was being furnished in the Lakewood area, comprising 5,941 acres, to 16,041 consumers; in the so-called Bixby area (south of Carson Street), comprising 1,141 acres, to 12,713 consumers; and in the Downey area, comprising 225 acres, to 1,257 consumers; a total of 30,011 consumers. The record shows that the area south of Carson Street has been annexed to the City of Long Beach and that on June 14, 1957, the City of Long Beach held an election authorizing certain bonds which included an amount earmarked for the possible purchase of a portion of applicant's water system assets, and that applicant's Lakewood area has been incorporated as the City of Lakewood and that said city held an election on November 12, 1957, authorizing a bond issue for the possible acquisition of applicant's Lakewood area water system assets and possibly including all of applicant's assets other than those in the City of Long Beach but including its assets in its Downey area. As of the final day of hearing, viz., December 13, 1957, negotiations by the Cities of Lakewood and Long Beach with applicant were pending.

Description of Service Areas and  
Water System Facilities

The population of the City of Lakewood is about 76,000, and applicant estimates that it furnishes water service, in its three operating areas, to a population of about 100,000. The Lakewood-Bixby areas are operated as one unit and they comprise a densely, almost completely built-up residential area with large shopping centers and commercial establishments but with little, if any, industry. Applicant furnishes water for fire protection and to public authorities. All water service is metered except private and public fire protection and some minor miscellaneous other flat rate services.

The sources of water supply are six wells in the Bixby area, 25 wells in the Lakewood area, and two wells in the Downey area. Water is treated with chlorine at the well site or at storage reservoirs. There are five storage facilities' locations: one in the Downey area, a 26,000-gallon tank; the others in the Lakewood area include an underground concrete reservoir of 2½ million-gallon capacity, eight 250,000-gallon steel tanks, and five 500,000-gallon steel tanks. The transmission and distribution system consists of more than 256 miles of 4-inch to 18-inch pipe of which over 85 percent is cast iron, with the remainder being cement-lined cast iron, welded steel and cement asbestos. Chart No. 3-A of Exhibit No. 58, a report on the results of applicant's operations submitted by Commission staff accounting and engineering witnesses, shows applicant's service area as of June 30, 1957, in diagrammatic form.

### Financing

As of July 31, 1957, applicant's funded debt amounted to \$2,529,000 or 47 percent; advances for construction were \$26,899; preferred stock was \$900,000 or 17 percent; and equity capital, including common stock, of \$1,500,000, capital surplus of \$13,773, earned surplus of \$470,301, and unamortized debt expense (a debit amount) of \$69,951, was \$1,914,123, or 36 percent of total capitalization amounting to \$5,370,022 as of that date.

Applicant paid its first and only dividend on common stock on May 15, 1953, in the form of additional shares of common stock, for a total of \$351,200. Earned surplus at the beginning of 1953 was \$402,031.57. A comparison of such common stock dividend with various factors shows it to be 26.97 percent of the book value of common stock at January 1, 1953, an average of 5.06 percent per year on the weighted average par value of common stock outstanding from the inception of applicant to December 31, 1956, and an average of 4.33 percent on the weighted average book value of common stock during the same period. A comparison of corporate earnings available for dividends for said period shows them to have been 11.72 percent of the weighted average par value and 10.02 percent of the weighted average book value of common stock outstanding.

Applicant's balance sheet, as of July 31, 1957, shows that applicant has financed its investment in properties largely through the issue of bonds, common and preferred stock, reinvestment of depreciation reserve accruals, and earnings not withdrawn as dividends, in that order of magnitude. Exhibit No. 58, supra, shows that although consumers' advances for construction received by the company totaled approximately 40 percent of its total investment in utility

properties, this form of financing was of an interim or temporary nature and has been almost entirely replaced by bonds and capital stock.

Said Exhibit No. 58 shows the average effective interest rate on funded debt to be 3.79 percent, on preferred stock 5 percent, and the average effective interest rate on funded debt and preferred stock to be 4.11 percent. It shows that applicant's earnings per share of common stock were \$11.26 in 1952 but have declined to \$2.99 for the twelve months ending July 31, 1957, and that interest coverage in the year 1956 of 2.38 times interest earned, and in the 12-month period ending July 31, 1957, of 2.20 times interest earned, was insufficient to permit further borrowing since such coverage must amount to at least 2.50 times interest earned to meet bondholders' requirements. Such interest-coverage insufficiency does not take into account the generation of funds from internal sources to meet present capital requirements for plant construction, debt retirement, and refunds on consumers' advances. The record shows that very little, if any, room for expansion of applicant's water system within its present service boundaries, and throughout the areas adjacent thereto, exists and that applicant has, therefore, within its present service area boundaries reached an approximate saturation point. The record further shows that only a total of approximately 500 ultimate possible additional water service connections may be effected, or houses constructed, inside applicant's service area and that most of those would be near the Lakewood golf course. The staff accounting witness testified that, in his opinion, the present rate of growth of applicant does not warrant or require additional borrowings since internal sources of funds generated by



operations appeared to him to be sufficient to meet present capital requirements.

### Rates

Applicant's present rates became effective September 1, 1950, pursuant to the authorization contained in Decision No. 44618, dated August 1, 1950, in Application No. 31129. The following tabulation compares the present rates with those proposed in the application, as amended, and as hereinafter authorized:

#### GENERAL METERED SERVICE RATES

				Per Meter per Month		
				<u>Present</u>	<u>Proposed</u>	<u>Authorized</u>
<u>Quantity Rates:</u>						
First	600 cu.ft. or less	.....	\$1.25	\$ -		\$1.55
First	500 cu.ft. or less	.....	-	1.75		-
Next	100 cu.ft. per 100 cu.ft.		-	.24		-
Next	1,400 cu.ft. per 100 cu.ft.		.17	.24		.22
Next	8,000 cu.ft. per 100 cu.ft.		.15	.22		.20
Next	25,000 cu.ft. per 100 cu.ft.		.12	.18		.15
Over	35,000 cu.ft. per 100 cu.ft.		.10	.15		.13

At the present rates the bimonthly charge for an average monthly consumption of 1,600 cubic feet is \$5.90. Under the proposed rates such charge would be \$8.78, an increase of \$2.88 covering each 2-month period, or 48.8 per cent, and, at the hereinafter authorized rates, such charge would be \$7.50, an increase of \$1.60, or 27 per cent.

### Earnings

Applicant's assistant general manager submitted as Exhibit D, of the first amendment to the application, a summary of earnings as recorded for the year 1956, as adjusted on present rates for the year 1957 and as estimated for the year 1957, using requested rates. Commission staff engineering witnesses submitted in Exhibit No. 58, supra, a summary of applicant's earnings for the years 1956

recorded and adjusted, and 1957 estimated at present rates, and for the years 1956 adjusted and 1957 estimated at proposed rates. The following tabulation summarizes and compares the earnings data contained in Exhibits D and No. 58:

SUMMARY OF EARNINGS

Item	Year 1956 :		Year 1957 Estimated		
	Recorded :		Present Rates		Proposed Rates
	Per Co. :		Per Co. :	Per P.U.C.:	Per Co. : Per P.U.C.:
	Ex. D :	Ex. D :	Ex. D :	Ex. 58 :	Ex. D : Ex. 58 :
Oper. Revenue	\$1,073,977	\$1,073,858	\$1,081,650	\$1,567,833	\$1,609,300
Oper. Expense	518,196	608,196	491,860	608,196	491,860
Depreciation	132,116	142,116	133,652	142,116	133,652
Taxes	223,967	184,072	246,040	443,884	523,160
Subtotal	\$ 874,279	\$ 934,384	\$ 871,552	\$1,194,196	\$1,148,672
Net Oper. Revenue	199,698	139,474	210,098	373,637	460,628
Rate Base	\$5,414,900	\$5,414,900	\$5,144,100	\$5,414,900	\$5,144,100
Rate of Return	3.69%	2.58%	4.08%	6.90%	8.95%

The differences in estimated operating revenues for the year 1957 at present and proposed rates between those submitted by applicant and the staff are attributable primarily to the fact that applicant estimated a decline in average normal consumption due to climatic conditions and to curtailment of use of water at higher rates. The staff estimated a slight over-all increase in average normal operating revenues after considering the effects of temperature, precipitation, and the addition of approximately 120 consumers in 1957. The staff also considered the effect of increased revenues accruing to applicant as the result of a meter maintenance and rehabilitation program which has been initiated by applicant.

Applicant's estimates of operating expenses are set forth by accounts in its Exhibit No. 60. Such estimates, the record shows, were based primarily on recorded book figures for the first nine months of 1957, together with judgment estimates of the amounts additive thereto for the remaining three months. The record discloses no attempts by applicant to remove from its 1957 recorded figures abnormal or nonrecurring items of expense which appear.

The record shows that applicant granted its employees a wage increase of 6 percent effective in July, 1957. The record also shows that applicant's power bill from Southern California Edison Company was increased approximately 12 percent by a rate increase granted to Southern California Edison Company by Decision No. 55703, dated October 15, 1957, in Application No. 38382. Said decision became effective November 9, 1957. The record also shows that applicant planned to lower and rehabilitate five of its wells during 1957, and three additional wells during 1958.

The staff estimate of operating expenses is based on analyses of the trends of charges to individual accounts after considering the effect of the above-noted additional expenses for pay roll increases, power costs, both on an annual basis, and well maintenance and rehabilitation, and after eliminating abnormal and nonrecurring items of expense.

The record shows that, effective in the year 1955, applicant's president and both vice presidents were placed on its pay roll at \$20,000 each per year payable annually, for a total of \$60,000 per year. Prior to this action, these officers, who together with the general manager comprised applicant's Board of Directors, received no direct salary from applicant. The record

shows that the president and two vice presidents, as of February 15, 1957, owned 14,000 of the 15,000 outstanding shares of common stock, and 7,000 of the 9,000 outstanding shares of preferred stock, and that such ownership constituted 87.5 percent of the total shares of common and preferred stock outstanding. The staff estimated an amount of \$60,000 for the year 1957 in Account No. 791, Administrative and General Salaries for salaries of officers, directors' fees, and the portions of the salaries of other administrative personnel chargeable to this account.

In his estimate for the average normal year 1957 of charges to Account No. 797, Regulatory Commission Expenses, a staff engineer averaged, over five years, the estimated cost of the instant rate proceeding in the total sum of \$40,000. The record shows that applicant's recorded book figures for the year 1956, and for the first nine months of 1957, included the cost of proceedings relating to applicant's application for a certificate of public convenience and necessity to extend its water system into an area of Orange County, and the costs of carrying proceedings to the Supreme Court of the State of California seeking review of decisions of the Commission relating to such application.

In his estimate of charges to Account No. 798, Outside Services Employed, for the average normal year 1957, and for the future, a staff engineer made no provision, for rate-making purposes, for the continued services of an outside legal consultant who had been employed by applicant during 1956 to conduct a secret investigation into the loyalty of applicant's employees, and for other

purposes, but for which no charges had been recorded for the year 1957. The record does not disclose any probability, nor the extent, of any continuation of charges for such purposes.

The record shows that the recorded charges to 1956 and the estimated charges for 1957 to Account No. 799, Miscellaneous General Expenses, were adjusted for rate-making purposes by a staff engineer to reflect the partial inclusion or exclusion of dues and donations.

Applicant estimated depreciation expense and computed its depreciation reserve deduction for rate base purposes according to the straight-line total life unit method, whereas a staff engineer computed such items according to the straight-line remaining life method.

The record shows that applicant has not utilized accelerated depreciation in computing income taxes and that no instructions had been issued by the management as of December 13, 1957, to its assistant general manager to utilize such accelerated depreciation for computing applicant's 1957 income tax. The record shows that the staff computed income tax expense on an as-paid basis. Should applicant elect to claim accelerated depreciation in its tax returns hereafter, it shall immediately report such election to the Commission, in which event the Commission will promptly move to adjust the rates herein authorized in such manner as it may find to be appropriate.

Except for the item of \$190,000, hereinafter discussed, and for some relatively minor items, the estimates of applicant's utility plant, for rate base purposes, as submitted by applicant, are similar to those submitted by the staff.

In computing applicant's rate base, a staff engineer made an adjustment to utility plant capital of \$190,000 for the year 1957, estimated, to eliminate from such plant that profit of Mutual which he computed was in excess of 15 percent of the estimated cost to Mutual of such plant after taxes, insurance and tool expense. Such elimination, for rate-making purposes, of Mutual's estimated excess profit on jobs performed by it for applicant totaling nearly \$879,000 for the period from November 1, 1950 to July 31, 1957, was calculated on professional engineering assumptions by the staff witness. Said assumptions were based upon the facts that the California State contractor's license under which Mutual did business was issued on May 14, 1951 to the wife of applicant's then general manager who, on January 10, 1952, also became applicant's secretary-treasurer and a director; that said general manager and members of his immediate family had owned fifty percent or more interest in Mutual since 1950 and at the time of the hearings controlled one hundred percent; that Mutual's business office formerly occupied space controlled by applicant's general manager at the same address where he maintained his own personal office and at the time of the hearings was located at his home address; that a review of applicant's contract file revealed instances where said then general manager and later also secretary-treasurer and director represented applicant in contract negotiations with Mutual; and that Mutual, in billing applicant for cost plus jobs, added to labor costs 12½ percent of the labor charge for taxes and insurance, 10 cents per hour for payments to union welfare funds, 6 percent of the labor charge for small tool expense, 15 percent of the total of these charges and the labor charge for overhead and profit and retail charges for equipment

based on hourly rates. The record shows that the staff engineering witness's calculations were based on his opinion that the reasonableness of the charges by Mutual to applicant for construction work performed by Mutual for applicant should take the same tests as would be applied to applicant if it had done the work itself.

The record shows that applicant engaged Mutual to perform its water system installation construction jobs in 1950 for the purpose of avoiding unionization of applicant's employees, and that bids were invited from prospective contractors in the area for the water system installation for two tracts in 1950 but that, not until 1956, were additional bids sought from or let to other contractors. The record shows that prior to his also becoming an officer and director of applicant, applicant's general manager initialed, as approved for payment, invoices submitted by Mutual to Lakewood and that, subsequent to January 10, 1952, he approved changes in unit costs to be paid by applicant to Mutual.

A consulting engineering witness for applicant submitted, as Exhibit No. 57, a report on the reasonableness of charges by Mutual to applicant. The basis of this exhibit was an extrapolation of construction unit cost bids, from November 1950 to and including 1956, submitted to applicant by Mutual, Pacific Pipeline Construction Company, Macco Corporation, and Cannell & Losh Engineering Contractors for the construction of a domestic water system in Tracts Nos. 16217 and 16218. Said exhibit was also based on this witness's calculations of unit cost for the period of November 1, 1956 through July 31, 1957, based on bids received by applicant from Mutual, Pacific Pipeline Construction Company, and Macco Corporation. Cost

plus construction costs were based on a rate schedule dated April 1, 1957, of Hood Construction Company and were compared with the charges by Mutual to applicant. Based on such calculations which, it is again noted, included the invitation by applicant for bids on only two tracts in 1950 and the fact that applicant invited no further bids until 1956, this witness testified that it was his opinion based on these comparisons only that in all instances the charges by Mutual to applicant were lower than those charges which would have been made by other bidding contractors, and that Mutual's charges were reasonable.

Another witness for applicant contended that, in the long run, applicant's policy and practice of letting out contracts to an outside construction company was more economical than a policy and practice would have been had applicant employed its own construction crews and had purchased, operated and maintained its own construction equipment.

The record shows that, between November 1, 1950 and July 31, 1957, applicant contracted with Mutual for between 75 and 100 water system installation jobs in subdivisions developed within applicant's service area. The areas in which such subdivisions were located either have been incorporated as the City of Lakewood or have been annexed to the City of Long Beach, or comprise applicant's Downey area.

The record further shows that construction unit costs to applicant were increased by Mutual on November 7, 1950, January 1, March 1, and October 1, 1951, and May 1 and July 23, 1952, and that, as noted hereinbefore, all of such unit costs were approved for payment by applicant's general manager who also became its secretary-treasurer and a director on January 10, 1952.



Applicant included in its estimated rate base for 1957, an amount of \$100,000 for materials and supplies. The staff included an amount of \$88,000 which represented a weighted average balance of materials and supplies for the year 1957 after excluding retail sales stocks.

Applicant included in its estimated rate base for the year 1957, an amount of \$150,000 for working cash capital and the staff included an amount of \$43,400 therefor. The staff considered the fact that, among other things, applicant accrued income tax on its books substantially in advance of payment thereof. The record shows in applicant's balance sheet, dated July 1, 1957, Exhibit A, that current assets were \$137,216.07, current liabilities amounted to \$124,922.55, and that current assets exceeded current liabilities by \$12,293.02 on that date.

The record shows a downward trend in rate of return between the year 1956 adjusted and 1957 estimated of .2 percent caused by the fact that total operating expenses per average customer increased at a greater rate than total operating revenues per average customer, resulting in a decreasing net revenue per average customer. When such decreasing net revenue per average customer was related to an increasing rate base per customer, a declining rate of return resulted.

#### Findings and Conclusions

The record herein has been carefully examined and reviewed. The briefs of counsel have been considered. Based on the record before us, it is evident and we are of the opinion, and it is found as a fact and concluded as follows:

1.(a) That the level of applicant's present rates is noticeably lower than the level of other large public utility water company rates in California, the tariffs of which companies are on file with the Commission.

(b) That the estimated rates of return for the year 1957 at present rates, of 2.58 percent calculated by applicant, and of 4.08 percent calculated by the staff, each as hereinbefore set forth, are unreasonably low, and that applicant is in need of and entitled to financial relief.

(c) That the rate of return calculated by the staff for the average normal year 1957 estimated at the rates proposed in the application, as amended, would be excessive and unreasonable; that the application as amended should be granted in part and denied in part; and that applicant should be authorized to file new schedules of rates at a higher level than its present rates but at a lower level than its proposed rates.

2. That applicant's estimates of earnings for the year 1957, at both present and proposed rates as hereinbefore set forth, were supported by vague testimony that was neither precise, realistic nor complete.

The testimony as to certain claimed operating expenses was vague because applicant's witnesses were neither able to disclose the exact nature of applicant's officers' duties and responsibilities nor even to estimate, for the record, the amount of time that such officers devoted to applicant's affairs; it was vague, also, because the exact nature and ultimate cost of special counsel services were not disclosed by the testimony, nor were the detailed elements of the estimated cost of this rate proceeding and proceedings before the

Commission relating to its Orange County application fully divulged for the record.

Applicant's books, as to Account No. 797, Regulatory Commission Expenses, show a recorded total of \$24,642.94 for the year 1956. Applicant's assistant general manager testified that "We have estimated that the proceeding for this rate increase will run in the neighborhood of around \$65,000" including the aforesaid sum of \$24,642.94.<sup>2/</sup>

In the face of such inadequate evidence, the uncertainties of the propriety of the expense claimed by applicant in connection with this proceeding are magnified by the statement of applicant's counsel that applicant had "been fighting all over the State."<sup>3/</sup> The plain implication of such statement is that applicant had been using extra-judicial methods in order to sustain its position. The exclusive forum for a proceeding of this character is this Commission, and if extra-judicial methods have been indulged in by applicant, then expenses incidental thereto are obviously improper and cannot be allowed.

The basic testimony and evidence submitted by applicant was not precise because it was based on management-judgment figures unsupported in many instances by statistical analysis.

The testimony and evidence submitted by applicant was not realistic because, particularly in revenue estimates, such estimates were contrary to the annual trends of water use experienced not only

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<sup>2/</sup> Pages 847 and 848, Volume IX, Reporter's Transcript.

<sup>3/</sup> Statement of Mr. Fleming, one of applicant's counsel, made in open hearing on December 12, 1957. Page 972, Volume X, Reporter's Transcript.

by applicant but by the domestic water service industry in southern California as a whole. Such testimony and evidence was incomplete because Exhibit No. 61, which was submitted by applicant purporting to represent its final basis for its application, was never brought down to an estimated rate of return at either present or proposed rates for the average year 1957 but showed only a depreciated rate base as of October 1, 1957, unrelated to applicant's previous testimony and evidence.

3. That the staff estimates of operating revenue, operating expenses, depreciation, taxes, utility plant, materials and supplies, consumers' advances for construction, donations in aid of construction, and working cash capital for the average normal year 1957, at both present and proposed rates, as hereinbefore set forth, are reasonable. Particularly in view of the deficiencies in applicant's showing, the staff's estimates should be, and are, adopted for this proceeding.

4.(a) That there was at least a potential conflict of interest commencing on November 1, 1950 and extending to July 31, 1957 between applicant's general manager who also became its secretary-treasurer and a director on January 10, 1952, and applicant herein. It is not clear from the record whether or not such potential conflict of interest was fully disclosed by said general manager to the applicant.

4.(b) That there is no proof in the record herein, however, that any part of any profit which Mutual may have made through its dealings with applicant accrued to the benefit of applicant, either directly or indirectly, or to its stockholders or was unreasonably included by applicant in its rate base. By Decision No. 55525, supra, in which, as hereinbefore noted, the Commission dismissed its Order to Show Cause, applicant was provided the opportunity through further hearings to prove its rate base with other evidence than that contained in Mutual's books. Such evidence was presented. This Commission has no fixed rule requiring a utility to construct its plant for its own account and prohibiting it from having such plant constructed by independent contractors who make a fair profit on such contracts.

(c) That despite the potential conflict of interest, hereinbefore found to be a fact, there is no evidence in this record to sustain a finding that applicant or any contractor other than Mutual, could or would have constructed that part of applicant's system provided by Mutual for \$190,000, or any amount, less than applicant paid Mutual for this construction.

(d) That the preponderance of the evidence in the record indicates that, regardless of the profit which Mutual may have made, the amounts paid by applicant to Mutual for construction and installation of water systems for applicant by Mutual, amounting to \$878,756.29 between November 1, 1950 and July 31, 1957 were not excessive and were not unreasonable for rate-making purposes.

(e) That the recommendation of the Commission staff to eliminate the so-called excess profits of Mutual in the amount of \$190,000 from applicant's rate base for 1957 is not adopted for this proceeding for reasons above set forth.

(f) That, except for the afore-mentioned excess profits elimination, the estimated rate base for 1957 submitted by the staff is adopted as reasonable for this proceeding.

5.(a) That applicant's accounting, financing, management, and operating practices have been excellent, except for the potential conflict of interest heretofore found as a fact to have existed.

(b) That applicant's practice of having let contracts for the construction of a major portion of its utility plant, with little or no competitive bidding, to an enterprise formed by the wife of applicant's then general manager and later also secretary-treasurer and a director, was unbusinesslike and subject to severe criticism. Such practice opened the door to the potential conflict of interest hereinbefore referred to which, in turn, created a highly controversial situation which necessitated a lengthy and difficult investigation by the Commission staff and protracted hearings on the application, all adverse to applicant's interest and to the interest of the public. It was adverse to applicant's interest because of the financial costs incurred by it in attempting to clarify,

explain, and sustain its position, and because of the effect on public opinion. It was adverse to the public interest because of the cost to taxpayers of the exhaustive investigations and unusually extensive hearings that it necessitated.

6. That, after careful analysis of applicant's financial condition and requirements, the Commission is convinced, and so finds, that applicant should be authorized to file new schedules of rates which will produce estimated gross annual revenues of approximately \$1,372,650, an increase of approximately \$291,000 over such gross annual revenues for the year 1957 estimated at present rates, or an increase of 26.9 percent. When operating expenses, including depreciation and taxes, including estimated state and federal income taxes which reflect the estimates of revenue at the rates authorized hereinafter, totaling \$1,028,450 have been deducted from such gross revenues, net revenue of \$344,200 for the year 1957 estimated will result. When such net revenue is related to a rate base of \$5,334,000, and an attrition in rate of return factor of .2 percent has been applied, a rate of return of 6.25 percent will result. Such rate of return and its components are hereby found to be just and reasonable.

The Commission finds as a fact that the increases in rates and charges authorized herein are justified, and that present rates insofar as they differ from those herein prescribed are for the future unjust and unreasonable.

The action which we have herein taken respecting the transactions between Mutual and applicant is based upon the special facts and circumstances of this case and is not to be considered or treated as a precedent.

Applicant should investigate and use its best efforts to correct the service complaints entered at the hearing on November 29, 1956, and the order hereinafter will require applicant to do so, and will provide that applicant shall report, within thirty days after the effective date of this order, in writing to the Commission, the steps it has taken and proposes to take to eliminate such unsatisfactory conditions.

O R D E R

Application as above entitled, as amended, having been filed, public hearings having been held, the matter having been submitted subject to the filing of briefs which have been received, and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. That Lakewood Water & Power Company, a corporation, be and it is authorized to file in quadruplicate with this Commission after the effective date of this order, in conformity with the Commission's General Order No. 96, the schedules of rates shown in Appendix A attached hereto, and on not less than five days' notice to the Commission and to the public to make such rates effective for service rendered on and after May 1, 1958.

2. That applicant shall promptly investigate and use its best efforts to correct the service complaints made against it at the hearing of November 29, 1956, and shall, within thirty days after the effective date hereof, report in writing to the Commission the steps it has taken and proposes to take to eliminate such service complaints.



3. That if applicant elects to accelerate its depreciation for federal income tax purposes for the year 1957, or for any year subsequent thereto, applicant shall notify the Commission, in writing, within three days after such election has been made and the Commission may issue its appropriate further order with respect to the authorization herein.

4.(a) That the applicant shall review annually the accruals to depreciation reserve which shall be determined for each primary plant account by dividing the original cost of plant less estimated future net salvage less depreciation reserve by the estimated remaining life of the surviving plant of the account; and the results of the reviews shall be submitted annually to the Commission.

(b) That in determining remaining life depreciation accruals applicant shall employ the group method in considering retirements and net salvage.

5. That in all other respects the application, as amended, be and it is denied.

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

Dated at San Francisco, California,  
this 25<sup>th</sup> day of MARCH, 1958.

President

*[Handwritten signature]*  
*[Handwritten signature]*  
*[Handwritten signature]*

Commissioners

APPENDIX A  
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Portions of the cities of Long Beach, Lakewood and Downey, and vicinity, Los Angeles County.

RATES

Quantity Rates:		Per Meter per Month
First	600 cu.ft. or less .....	\$1.55
Next	1,400 cu.ft., per 100 cu.ft. ....	.22
Next	8,000 cu.ft., per 100 cu.ft. ....	.20
Next	25,000 cu.ft., per 100 cu.ft. ....	.15
Over	35,000 cu.ft., per 100 cu.ft. ....	.13

Minimum Charge:

For	5/8 x 3/4-inch meter .....	\$ 1.55
For	3/4-inch meter .....	2.25
For	1-inch meter .....	3.00
For	1-1/2-inch meter .....	5.50
For	2-inch meter .....	8.50
For	3-inch meter .....	17.00
For	4-inch meter .....	25.00
For	6-inch meter .....	45.00
For	8-inch meter .....	70.00

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

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Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water service furnished for private fire protection purposes.

TERRITORY

Portions of the cities of Long Beach, Lakewood and Downey, and vicinity, Los Angeles County.

RATE

For each inch of diameter of fire protection service .....

Per Connection  
per Month

\$1.50

SPECIAL CONDITIONS

1. The minimum diameter for fire protection service will be 4 inches, and the maximum diameter will be the diameter of the main to which the service is connected.
2. For water delivered for other than fire protection purposes, charges will be made at the quantity rates under Schedule No. 1, General Metered Service.
3. Connections for private fire protection systems shall be equipped with standard detector type meters approved by the Board of Fire Underwriters, or other similar devices acceptable to the utility. The cost of the meter and appurtenant structures shall be paid without refund by the applicant.
4. If a distribution main of adequate size to serve a private fire service, in addition to all other normal service, does not exist in the street or alley adjacent to the premises to be served hereunder, then a service main from the nearest existing main of adequate capacity will be installed by the utility at the cost of the applicant. The amounts paid by the applicant hereunder to establish private fire protection service shall not be subject to refund.
5. The utility will supply only such water at such pressure as may be available from time to time as a result of its normal operations of the system.
6. Service under this schedule will be furnished only for fire protection systems which are completely isolated from other water pipes and services of the customer.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities duly organized or incorporated fire districts or other political subdivisions of the State.

TERRITORY

Portions of the cities of Long Beach, Lakewood and Downey, and vicinity, Los Angeles County.

RATE

Per Month

For each hydrant ..... \$2.25

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges will be made at the quantity rates under Schedule No. 1, General Metered Service.
2. Relocation of any hydrant shall be at the expense of the party requesting relocation.
3. The utility will supply only such water at such pressure as may be available from time to time as the result of its normal operation of the system.
4. The cost of installation and maintenance of hydrants will be borne by the utility.

Schedule No. 9-C

CONSTRUCTION AND OTHER TEMPORARY FLAT RATE SERVICE

APPLICABILITY

Applicable to all water service rendered for the construction of residences and for settling of backfill in trenches.

TERRITORY

Portions of the cities of Long Beach, Lakewood and Downey, and vicinity, Los Angeles County.

RATES

1. For settling of backfill in trenches, for  
each cubic foot of trench or fraction thereof ..... \$0.0016
2. For water used incidental to the construction  
of new residences, per residence constructed ..... 7.50

SPECIAL CONDITIONS

1. The rate of \$7.50 per residence is limited to a nine-month period after water service is commenced. Service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service.
2. Water furnished under the construction rate of \$7.50 shall not be used for settling backfill in trenches.