

ORIGINALDecision No. 60245

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
EAST SIDE CANAL COMPANY, a corporation,
for an order authorizing an increase
in applicant's rates for irrigation
water service including an annual
service charge, and approving revised
rules and regulations governing water
service, all in accordance with the
proposals herein set forth.

Application No. 41403

In the Matter of the Application of
THE FARMERS CANAL COMPANY, a corporation,
for an order authorizing an increase in
applicant's rates for irrigation water
service including an annual service
charge, and approving revised rules and
regulations governing water service,
all in accordance with the proposals
herein set forth.

Application No. 41404

In the Matter of the Application of
STINE CANAL, INC., a corporation, for
an order authorizing an increase in
applicant's rates for irrigation water
service including an annual service
charge, and approving revised rules and
regulations governing water service,
all in accordance with the proposals
herein set forth.

Application No. 41407

McCutchen, Doyle, Brown and Enersen, by Robert Edmondson, for applicants.

William L. Knecht, for California Farm Bureau Federation, protestant.

Mack, Bianco, King & Eyherabide, by D. Bianco, protestant, on behalf of 117 farmer customers of applicants.

Marston Campbell, Jr., in propria persona, protestant.

William C. Bricca, David La Hue and C. V. Shawler, for the Commission staff.

ORDER DENYING MOTION TO GRANT
INTERIM RATE INCREASE

The above-entitled applications of East Side Canal Company, The Farmers Canal Company, and Stine Canal, Inc., three California corporations, were filed August 17, 1959, requesting increases in

rates for irrigation water service, including an annual service charge, and approval of revised rules and regulations governing water service.

Public Hearings

These matters were consolidated for hearing with three other applications, namely: Application No. 41402 by Buena Vista Canal, Inc.; Application No. 41405 by Kern Island Canal Company; and Application No. 41406 by Kern River Canal and Irrigating Company. Practically all of the corporate stock of all six canal companies is held by the Kern County Canal and Water Company, a non-public utility, which, in turn, is a wholly owned subsidiary of Kern County Land Company. The latter company owns very considerable acreages of land within the service areas of all of the public utility canal companies, except East Side Canal Company, varying percentages of which lands are under cultivation and receive a part of their irrigation water from the said canal companies.

Six days of public hearings in these matters were held before Commissioner Peter E. Mitchell and Examiner E. Ronald Foster in Bakersfield on April 20, 21, 22, 27, 28 and 29, 1960. Twenty-five exhibits were received for identification purposes only and testimony was presented by witnesses for the six applicants and also by representatives of the Commission's staff. At the end of the sixth day of hearing, cross-examination of the applicants' witnesses was only partially completed, and hearings in all applications were adjourned to June 14, 1960, for seven more days of hearing, with the expectation that they would be completed about July 1.

Because of the probability that authorization of the rates requested by applicants would not become effective in time to provide increased revenues for the current irrigation season, near the

end of the sixth day of hearing counsel for applicants moved that the present interim rate of \$3 per acre-foot for natural flow water be further increased to \$3.75 per acre-foot, to be effective immediately upon approval by the Commission, for the three applicants, East Side Canal Company, The Farmers Canal Company and Stine Canal, Inc. He specifically requested that the rates for stored water presently in effect for these applicants be left unchanged.

Rates, Present and Proposed

The basic rates for irrigation service from the natural flow of Kern River for these utilities became effective on May 1, 1936, by authority of the Commission's Decision No. 28765, dated April 27, 1936, in Applications Nos. 16610 to 16617, inclusive.

Upon the completion of the construction of Isabella Reservoir, the presently filed rates applicable to deliveries of water stored therein became effective August 25, 1954 for the calendar year 1954 by authority of Decision No. 50338, dated July 27, 1954, in Application No. 35517. These rates were refiled on August 23, 1955, as authorized by Decision No. 51753, dated August 2, 1955, in Application No. 36953, and are: \$3.92 per acre-foot for East Side Canal Company, and \$3.93 per acre-foot for both The Farmers Canal Company and Stine Canal, Inc.

For each of the three applicant utilities, an interim rate of \$3 per acre-foot of water from the natural flow of Kern River for the 1959 irrigation season was authorized by Commission Decisions Nos. 41066, 41067 and 41069, dated June 16, 1959, in Applications Nos. 58589, 58590 and 58592, respectively. This interim rate was continued in effect for the year 1960 by decisions issued December 29, 1959.

In the meantime, applicants had filed their current applications, including schedules showing the results of operations for the most recent ten years and also estimated earnings under rates and charges proposed therein.

Under the proposed rate schedules all water, whether it be from storage or natural flow, is proposed to be delivered at a consolidated rate of \$3.75 per acre-foot for each of these three applicants. However, this rate is proposed to be supplemented by a service charge of varying amounts per acre in the service area of the three applicant companies. Because of the apparent opposition to the service charge and the proposed rule governing its application, counsel for applicants did not request the establishment of any service charge on an interim basis.

Position of Protestants

Both counsel representing the consumers in these matters opposed the applicants' request for a higher interim rate of \$3.75 per acre-foot for natural flow water, or any increase in rates, pending the completion of cross-examination and a full hearing in these matters, on the following grounds:

- a. There is already in effect an interim rate of \$3.00 per acre-foot, which is an increase over the basic rate of \$1.62 per acre-foot for natural flow water delivered by East Side Canal Company and a similar rate of \$1.63 per acre-foot of such water delivered by The Farmers Canal Company and Stine Canal, Inc.
- b. In view of the fundamental questions raised to this point in the cross-examination of the companies' witnesses, there is at least reasonable question or doubt about the basis upon which the companies' estimates have been produced.
- c. Before requests for interim rate increases are granted, there must be some emergency, some financial situation existing that would prevent the utilities from rendering any service without financial relief.

Summary of Showings and Earnings

Applicants chose as a basis for their showings the results of operations for the years 1954 to 1959, inclusive, those being the years since Isabella Reservoir was completed to make storage of water possible. The exhibits presented for identification by applicants show that operating losses were experienced during every one of the six years by all three applicants. In each case, the smallest loss occurred in the year 1958, which was a year of relatively good water supply. Although the interim increased rate for natural flow water was authorized in June of 1959, each applicant still suffered a loss for that year, which was a relatively poor water supply year.

A comparison of the results of operations as determined by the applicants and by the Commission's staff reveals that they are in close agreement. An analysis of the two sets of showings, still subject to cross-examination, indicates the following results calculated on the basis of the most recent six-year average of deliveries of both natural flow and stored water:

- a. The annual revenues resulting from the application of the proposed higher interim rate for natural flow water would be increased by a total of about \$10,350 for all three applicants, an increase of 25 percent over the revenues obtainable from deliveries of natural flow water at the present interim rates.
- b. Such increase of \$10,350 would be only about 12.8 percent of the entire increase of some \$20,850 sought by the three applicants, including the additional revenues estimated to be obtained from the proposed service charges, as necessary to render a reasonable rate of return on their investments.
- c. The effect of applying the higher interim rates would be simply to decrease to the extent of \$10,350 the annual operating losses of the three applicants estimated as about \$42,260 under the rates currently in effect.

- d. Since the requested higher interim rate could be made effective for only about one half of the year 1960 and for even a smaller proportion of the current irrigation season, in a relatively poor water supply year, it is evident that the benefits obtainable from the proposed higher interim rate would be considerably smaller than those indicated on an average annual basis.

Conclusions

Proof that there exists a present emergency is a lawful condition precedent to the granting of an interim rate increase. Applicants herein are asking for an interim rate increase based solely upon their own showings, paralleled by that of the Commission staff, before either full cross-examination of their witnesses or the showing of protestants has been made. Applicants' showings included no evidence respecting any present emergency situation more serious than has existed for many years prior to the filing of the current over-all rate increase applications.

While it may well be that when all the evidence has been received, applicants will have shown that they are entitled to relief through increases in rates and charges for service being rendered, there is nothing in the record to date to show that there exists any serious emergency resulting from the financial condition of any of these three utilities which cannot wait for a decision based upon a full hearing in these matters, dates for the completion of which have been scheduled for the relatively near future.

Good cause appearing therefor,

IT IS ORDERED that the motion of applicants for further interim rate relief made in these proceedings is hereby denied.

Dated at San Francisco, California, this 6th day of June, 1960.

Charles H. Page

 President

Walter D. ...

Theodore ...

 Commissioners

Commissioners Matthew J. Dooley C. Lyn Fox being necessarily absent. did not participate in the disposition of this proceeding.