

ORIGINAL

Decision No. 61584

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
the HESPERIA WATER COMPANY, a)
California corporation, for increase)
in rates for General Metered Service)
and for authority to cancel schedules)
of flat rates and irrigation rates.)

Application No. 40862
Amended
Petition for an Interim
Increase in Rates

Kaplan, Livingston, Goodwin & Berkowitz, by
Frank Mankiewicz; for applicant.
King & King, by James L. King; for Property
Owners in Hesperia Townsite.
James Smythe, G. M. Hunton, Eugene C. Crandall,
and William Anderson, in propria personae,
and Fred W. Hughes, for Lewis F., Ralph, Dotty E.
and Robert B. Hughes; protestants.
Lee B. Stanton and William Prather, for the Real
Estate Commission of California; interested
party.
Hugh N. Orr, Chester O. Newman, and Donald B. Steger,
for the Commission staff.

O P I N I O N

By the above-entitled Petition for an Interim Increase
in Rates filed November 3, 1960, Hesperia Water Company, a corpora-
tion, requests the establishment of the rates for water service
requested in its original application filed February 19, 1959, or
such other rates as the Commission deems proper and adequate to
provide applicant with revenue to meet its cash obligation.

Bases of Interim Petition

Applicant alleges in its petition that it is apparent
from its summary of earnings, as shown in the original application

as Exhibit "B" attached thereto, and in Exhibits Nos. 12 and 13 presented in evidence, that it is presently operating at an out-of-pocket loss.

Other reasons alleged by the applicant as bases for the instant petition were the fact that in 1959 the Commission declared Kayem Investment Corporation to be a public utility which required the preparation and filing of certain material and reports relating to accounting, financial and operational matters; that because of the nature of this proceeding, other proceedings instituted by other State agencies which occupied the time of applicant and the staff of the Commission, and other reasons beyond the control of the applicant, there had been considerable delay in the processing of the original application for an increase in rates. The applicant also alleged that requests by the Commission staff for additional time to prepare its exhibits indicated that further hearings would be required resulting in a prolonged period before the final decision on the application as amended would be rendered, particularly in view of the fact that other matters, other than the rate increase application, remain to be considered before a decision would be rendered.

Hearings

The evidence upon which the applicant based the instant petition was introduced in the consolidated proceedings on the original application, on the original application as amended on September 6, 1960, on Case No. 6159 an Investigation on the Commission's Own Motion into the practices, operations, contracts,

rules, facilities, and service of the applicant and Kayem Investment Corporation, the latter having been declared to be a public utility water corporation by Decision No. 59281, dated November 17, 1959, and on Case No. 6622, Timothy Stallman and Andrew N. Philipenko vs. Hesperia Water Company and Kayem Investment Corporation.

Hearings on the consolidated matters were held before Examiner Stewart C. Warner on September 20 and 21, and November 16, 17, and 18, 1960, at Hesperia. The instant petition was submitted for decision on the latter date subject to the receipt of late-filed exhibits on or before November 28, 1960, and it is now ready for decision.^{1/}

Applicant's Financial Condition

Late-filed Exhibits Nos. 12 and 13 are a balance sheet of the applicant as of October 31, 1960, and an income and expense statement of the applicant for the ten months' period ended October 31, 1960. They also contain a balance sheet of Kayem as of October 31, 1960, and an income and expense statement of Kayem for the six months' period ended October 31, 1960.

Applicant's accounting witness, a certified public accountant, testified at length regarding his difficulty in

^{1/} The original application as amended was submitted for decision subject to the receipt of briefs due to be filed on or before March 7, 1961. Adjourned hearings on Cases Nos. 6159 and 6622 were held on December 20 and 21, 1960, at Los Angeles. Case No. 6159 was continued to a date to be set, and Case No. 6622 was submitted for decision on the last-named date.

setting up the applicant's books of accounts, and also those of Kayem, to conform them to the Uniform System of Accounts Prescribed by the Commission for Water Utilities.

Alleged Delays in Processing of the Original Application

As to the alleged delays in the processing of the original application, correspondence files of the Commission show that commencing on March 15, 1960, and, following denial on April 13, 1960, by the California State Supreme Court of applicant's Petition for a Writ of Review of Decision No. 59281, filed with said Court, the applicant was asked by the Commission to advise the Commission of the applicant's intentions to supplement the financial data submitted with the Original application, which data, the Commission said, may have been outdated. On March 25, 1960, the applicant requested 45 days to supplement its original application; on May 17, 1960, the Commission advised the applicant that the supplementary data had not been received and that the application would, because it appeared that it was outdated, be dismissed without prejudice if not supplemented within ten days. On June 10, 1960, the applicant requested an extension of time to August 15, 1960, to prepare its exhibits in the application, which said request was granted on June 22, 1960 and applicant's exhibits were received on August 19, 1960.

Findings and Conclusions

After a careful review of the evidence, as it relates to the instant petition, the Commission finds as a fact and concludes that such evidence is lacking and unconvincing as to a financial crisis of the applicant.

For example, nowhere in the testimony nor in Exhibits Nos. 12 and 13, is the item of \$42,620.46, shown as an operating expense of miscellaneous rents of the applicant, clarified. The elimination or substantial reduction of this item would erase the applicant's utility operating loss for the ten months' period ended October 31, 1960, shown to be in the amount of \$40,316.70. Although said rental item is shown in the record to include, at least in part, payments to Kayem, the amount of said operating expense for the ten months' period of 1960 cannot be reconciled with the provisions of the agreement dated May 1, 1956, and May 1, 1957, as Attachments Nos. 1 and 2, respectively, which set forth the lease terms by Kayem of water system facilities to the applicant. Copies of said agreements were received as Exhibit No. 5 in the original proceedings on Case No. 6159, in March and April, 1959. They provide, among other things, that the consideration for the lease is a sum equal to 10 percent of all revenues received by the water company for sales of water to customers in the ordinary course of business during a 12-month period; that the water company shall have the right to make improvements upon any of the facilities; that no additional installations not served by Hesperia as of the date of the agreement should be provided with water through any of Kayem's facilities without its consent in writing; and that Hesperia Water should pay to Kayem all property taxes on any or all of the facilities. The applicant's total operating revenues for the ten months' period ended October 31, 1960, as shown in Exhibit No. 12, were \$55,788.73. Ten percent of this amount would be \$5,579; the record shows that Kayem's property taxes on its water distribution

facilities, payable to it by Hesperia under the terms of the agreement, will amount to approximately \$26,700. The total of the ten percent rental figure, as thus calculated and of property taxes as estimated, if included under the "rents" item of Hesperia's operating expenses would not be the amount of \$42,620.46 reported by Hesperia under its "rents" item of expense hereinbefore noted. The record on the petition is otherwise lacking and unconvincing.

A final determination of the original application and of the original application as amended will be made after the filing and receipt on March 7, 1961, of briefs by counsel.

It is found as a fact and concluded that the Petition for Interim Increase in Rates is not supported by the record, and that the public interest requires that it should be denied. The order which follows will so provide.

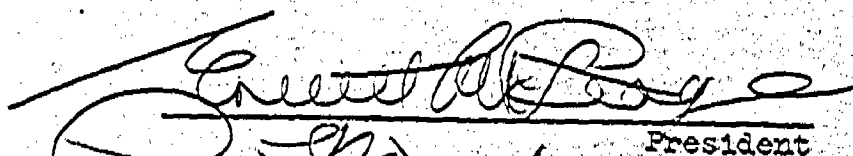
O R D E R

Application as above-entitled having been filed and having been amended, a Petition for an Interim Increase in Rates having been filed, said petition having been submitted and now being ready for decision,

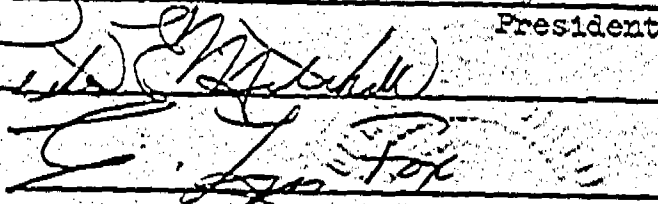
IT IS HEREBY ORDERED that the Petition for an Interim Increase in Rates, filed November 3, 1960, by Hesperia Water Company, a corporation, be and it is denied.

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

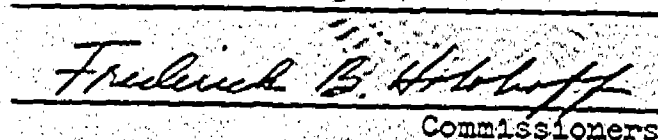
Dated at San Francisco, California, this 28th day of FEBRUARY, 1961.



President



Commissioners



Commissioners