

ORIGINAL

Decision No. 62183

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

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

Hesperia Water Company, a corporation, by the above-entitled application filed February 19, 1959,^{1/} as amended September 6, 1960, seeks authority to increase its rates for general metered

^{1/} In the period between February 19, 1959, and the original hearing on the instant application on September 20, 1961, hearings were held 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, instituted on July 29, 1958. Pending the initial results of the hearings on said Case and the investigation in connection therewith, no hearings on the instant application were held.

service and for authority to cancel schedules of flat rates and irrigation rates. The increase in gross annual operating revenues sought by the application, as originally filed, was \$55,550 based on the applicant's estimates of its operations for the year 1960. This would be an increase of 80.7%. The increase in gross annual revenues at the proposed rates sought by the amended application would amount to \$146,250 according to estimates of the applicant's operations submitted by Commission staff engineers. The applicant submitted no independent estimate of its operations based on the application as amended.

On November 3, 1960, the applicant filed a petition for an interim increase in rates seeking authority to place in effect the rates sought by the application as originally filed. By Decision No. 61584, dated February 28, 1961, said petition was denied.

Public hearings were held before Examiner Stewart C. Warner on September 20 and 21 and November 16, 17, and 18, 1960, at Hesperia, and the matter was submitted for decision subject to the receipt of briefs on or before March 7, 1961. The matter is now ready for decision.

By Decision No. 59281, dated November 17, 1959, in Case No. 6159 (See Footnote 1), Kayem was declared to be a public utility water corporation and was ordered, among other things, to bring its books and accounts into conformance with the Uniform System of Accounts for Water Utilities prescribed by this Commission.

The instant application, as amended, was consolidated for hearing with adjourned hearings on Case No. 6159 commencing

on September 20, 1960, as noted heretofore, and the record before the Commission on said Case is a part of the record on the instant application.

General Information

It is not necessary to repeat the involved and complicated relationships between the applicant and Kayem, which have been fully set forth in prior decisions.

It is important, however, to the instant matter that the applicant started out as Appleton Land and Water Company in the year 1915 to serve water in Hesperia Townsite, in unincorporated territory of San Bernardino County, and until approximately the year 1954, the applicant operated on a modest scale and in a fairly limited manner and was primarily engaged in furnishing domestic and irrigation service only to its customers in Hesperia Townsite, which is approximately one mile square; that commencing in 1954, large areas of land surrounding Hesperia Townsite were subdivided and, as of September 1958, there were 68 subdivisions, including 24,325 lots covering 36 square miles; that many of the subdivided lots can be re-subdivided resulting in a potential total of 32,693 lots; that the combined domestic and irrigation water distribution pipe line facilities include over 400 miles of distribution pipe lines; that the distribution system is purportedly owned by Kayem and leased to the applicant according to the terms of an agreement entered into between the applicant and Appleton Land and Water Company in 1915. (Although submitted to and approved by the Commission in the year 1915 for a period of 5 years, the extension of

this agreement was never so submitted or further approved; nor was the present agreement, dated May 1, 1956, between the applicant and Kayem ever submitted to the Commission for approval or approved by it.) Said agreements not only provide, among other things, for a rental of 10% per annum of the applicant's gross revenues received from the use of Kayem's pipe lines, but by an amendment to the 1956 agreement, entered into between the applicant and Kayem on May 1, 1957 (see Exhibit No. 5 in Case No. 6159), the applicant is required, among other things, to pay the ad valorem taxes assessed and levied against Kayem's facilities; that the weighted average number of metered commercial customers for the year 1960 was estimated to be 1,650, and that there were 68 irrigation customers throughout the year 1960; that this number of customers results in customer density at the present time of about 5%.

The record shows that the applicant's plant and operations are nominal compared with those of Kayem; that Kayem, although not the applicant herein, simply uses the applicant's water production facilities as actual and potential sources of water supply for miles of distribution pipe lines spread throughout the desert.

Rates

The applicant's present rates for general metered service have been in effect since the year 1920. By Decision No. 57283, dated September 2, 1958, in Application No. 39900, its request to cancel its irrigation rate schedule was denied, but the then effective rate of \$0.015 per "inch hour" was authorized to be increased to \$0.065 per 100 cubic feet, and the service was limited to the irrigation customers receiving service as of the effective date of said schedule, which date was October 4, 1958.

The following tabulation summarizes and compares the present general metered service rates with those originally proposed, with those proposed in the amendment to the application, and with those authorized hereinafter:

<u>Quantity Rates:</u>	<u>Per Meter Per Month</u>		<u>Authorized</u>
	<u>Present</u>	<u>Originally Proposed</u>	
First 400 cu. ft. or less	\$1.50	\$2.60	\$2.05
Next 500 cu. ft., per 100 cu. ft.	.20		.27
Over 900 cu. ft., per 100 cu. ft.	.15		.21
Next 600 cu. ft., per 100 cu. ft.		.35	.60
Next 3,000 cu. ft., per 100 cu. ft.		.25	.45
Over 4,000 cu. ft., per 100 cu. ft.		.15	.25

As noted hereinbefore, the present limited irrigation service rate is \$0.065 per 100 cu. ft. of usage per meter per month. The authorized rate for such service is \$0.08 per 100 cu. ft.

Earnings

Applicant's Showing

Exhibit No. 1 is a report on the applicant's operations submitted by its consulting engineering witness. Said report on page 21 thereof attempts to show the total income requirement of Kayem in the amount of \$133,560 to cover its legal fees of \$1,000, accounting fees of \$200, depreciation expense of \$87,518 on Kayem's entire pipe line distribution system, Kayem's property taxes of \$22,000 (paid by the applicant as hereinbefore noted), return on total fixed capital amounting to \$2,619,507, less a depreciation reserve of \$335,347, resulting in a rate base of \$2,284,160; said return, amounting to \$22,842, being computed at 1%. Kayem's total income requirement, as computed to be \$133,560, was included by the applicant under Hesperia's operating expenses as "rent" set forth in

the tabulation which follows. The earnings data of the applicant, as submitted by the applicant for the year 1960, estimated, at present and proposed rates, as shown in Exhibit No. 1, is summarized as follows:

<u>Item</u>	<u>Year 1960 Estimated</u> (Per Co. Exhibit No. 1)	
	<u>Present Rates</u>	<u>Originally Proposed Rates</u>
Operating Revenue	\$ 68,805	\$ 124,355
Operating Expenses*	214,370*	214,370*
Depreciation	805	805
Taxes	<u>3,100</u>	<u>3,100</u>
Subtotal	218,275	218,275
Net Operating Revenue	(149,470)	(93,920)
Rate Base		
Utility Plant	146,302	146,302
Less:		
Reserve for Depreciation	13,416	13,416
Contributions in Aid of Construction	158,000	158,000
Rate Base	-	-

(Red Figure)

* Includes \$133,560 of "rent" to Kayem.

Although not shown in Exhibit No. 1, the preceding tabulation indicates a negative rate base, at both present and originally proposed rates, as developed by the applicant, of \$25,114, and a negative rate of return.

It was the applicant's contention that all of Kayem's investment in fixed capital was used and useful in the public service, and that the total amount of \$2,619,507 hereinbefore shown was the amount upon which it should be legally, properly, and reasonably allowed to earn a rate of return.

Staff Financial Showing

Exhibit No. 14 is a supplemental financial report on the operations of the applicant and Kayem submitted by a Commission staff financial witness. The financial information contained in said Exhibit and the staff financial witness' testimony are set forth in tabular form in Table A on page 12 and Table D on page 31 of said Exhibit.

The result of the staff investigation into the financial aspects of the operations of the applicant and Kayem is that whereas, for instance, Kayem claimed recorded fixed assets on April 30, 1960, of \$420,000, less depreciation reserve of \$37,469.26, it recorded on May 1, 1960, total fixed assets of \$2,210,569.28, less reserve for depreciation of \$287,760, with no recorded Contributions in Aid of Construction as of either date.

As a further result of the staff financial investigation, the staff financial witness submitted a pro forma adjusted balance sheet as of May 1, 1960, which showed total fixed assets of \$1,800,380.53, with a related depreciation reserve of \$240,686.24, and Contributions in Aid of Construction amounting to \$877,441.32.

The record shows that the staff financial Exhibit No. 14 is based on original costs of Kayem's water system to Kayem as acquired by Kayem from subdividers. The position throughout of the staff financial witness in preparing Exhibit No. 14 was that the original cost to Kayem of water system facilities acquired by Kayem, either for its own or Hesperia's use and, also, to Hesperia of water system facilities acquired by Hesperia either for its own or Kayem's use, was the actual cost to them and which was the price paid by them therefor.

The general acquisition procedure was that Kayem acquired water systems for approximately 20c on the dollar from subdividers who had installed water distribution pipe lines in their various subdivisions without, however, providing water service connections to lots, or without providing any source of water supply to the pipe lines in the subdivisions. The record shows that such distribution pipe line installations made by subdividers were physically incapable of delivering or furnishing water service to subdivided lots until Kayem acquired the installations and arranged for Hesperia to connect its water production facilities to the said distribution lines.

Staff Engineering Showing

Exhibit No. 15 is a report of the results of an investigation of the operations of the applicant and Kayem dated November 15, 1960, submitted by a staff engineer. Pages 6, 9, 10 and 20 of Exhibit No. 15 were revised by late-filed Exhibit No. 15-A, in order to reflect the revenue and income tax effects of a reduction in number of irrigation customers at applicant's proposed rates. Said Exhibit, on pages 15 and 19 thereof, shows that this staff engineering witness utilized the adjusted pro forma data submitted by the staff financial witness in Exhibit No. 14. It was the staff engineering witness' opinion that the adjusted combined utility plant of the applicant and Kayem, the depreciation reserve, depreciation expense, and Contributions in Aid of Construction, as of January 1, 1960, adjusted on a pro forma basis by the staff financial witness, should be further adjusted, for rate-making purposes, to reflect that portion of the rate base items which should reasonably be included for service to the existing rate payers. The staff engineer, therefore, further adjusted the pro forma financial data submitted by the staff financial witness by utilizing the ratio of existing customers to the potential number of customers in the total service area which has been subdivided

and includes water system facilities, and said adjustment, called a "saturation factor",^{2/} amounted to 7%. The staff engineer applied such factor both to the applicant's and Kayem's pro forma adjusted utility plant and to appropriate rate base accounts and items, except as hereinafter noted. The results of the engineering witness' adjustment are set forth in Chapter 4 of Exhibit No. 15 and are carried forward into the summary of earnings shown in Chapter 5 on page 20 of said Exhibit, as revised by Exhibit No. 15-A. It is apparent, however, that the staff engineering witness did not adjust Account No. 265, Contributions in Aid of Construction, of the applicant, by applying the 7% factor thereto; this witness having assumed, for rate-making purposes, that no such adjustment was appropriate.

The following tabulation summarizes the earnings data for the year 1960, estimated, at present and proposed rates, submitted by the staff engineer in Exhibit No. 15-A. It should be noted that the rate of return components set forth in the tabulation are based on estimates of operating revenues and expenses which he estimated would result were the rates sought in the application, as amended, authorized.

^{2/} A "saturation factor" was adopted and applied by the Commission in Decisions Nos. 50971, dated January 10, 1955, and 56261, dated February 18, 1958, in Application No. 34541 of Big Bear Pines Water Company; also, in Decision No. 51794, dated August 9, 1955, in Application No. 35657, of Malibu Water Company; and, also, in Decision No. 56528, dated April 15, 1958, in Application No. 39335, of Rocket Town Water Co.

Although the applicant and Kayem are not one legal entity, their operations are combined. The staff engineer's estimates of operations, as set forth hereinafter in the summary of earnings tabulation, and as shown in Exhibit No. 15-A, were so combined by him.

Summary of Earnings
(Combined Operations of Hesperia & Kayem)
(Per PUC Exhibit No. 15-A)

Item	Year 1960 Estimated	
	Present Rates	Amended Proposed Rates
Operating Revenues	\$ 68,100	\$214,350
Operating Expenses		
Operating Expense	39,155	39,505
Administrative & General Expenses	13,490	13,490
Taxes other than Income	3,300	3,300
Depreciation	12,775	12,775
Income Taxes *	<u>100*</u>	<u>73,881*</u>
Total Operating Expense	68,820	142,951
Net Revenue	(720)	71,399
Adjusted, Depreciated Rate Base**	55,480**	55,480**
Rate of Return	-	128.7%

(Red Figure)

* If the 7% saturation factor were not applied to the applicant's depreciable utility plant, income taxes would be nil.

** Utilizing 7% saturation factor applied against staff financial witness' adjusted pro forma utility plant in service and other pro forma balance sheet items, except applicant's Account No. 265, Contributions in Aid of Construction.

Operating and Water Service Conditions

Exhibit No. 2 is a supplemental report on the physical operations of the applicant and Kayem, dated September 19, 1960, submitted by a staff engineering witness. Said Exhibit presents the results of an investigation of operating and water service conditions found by him during 1960; this Exhibit, having been submitted in connection with Case No. 6159 at the hearing of September 21, 1960, on the consolidated matters. The disposition of the revelations of said Exhibit will be made with the disposition of the record on Case No. 6159 when the disposition is made.

Staff Recommendations

Exhibit No. 15 contains in Chapter 6 thereof five recommendations of the staff engineer pertaining to depreciation practices; the filing by the applicant of a modern and complete set of tariff schedules, including service area maps, rates, rules and sample copies of printed forms that are normally used by the utility in its operations in connection with customers' services; that all contracts, for main extensions and services to customers, not presently a part of the applicant's filed tariffs, be submitted to the Commission for approval, except those contracts which the applicant may by the presenting of evidence prove have already been submitted to the Commission for approval; that the applicant be required to return all meter deposits which have been collected and that the applicant be ordered to discontinue the practice of collecting a meter deposit from an applicant for water service; and that the applicant be required to present evidence that all charges that had been made for inclusion to the service area of the applicant (\$100 per acre) have been returned to the respective contributors, and that the cost of the land, wells, and pumping equipment contributed by the subdivider of Tract No. 5694 "Hesperia Park" has been returned to the subdivider of said tract.

Findings and Conclusions

After a careful review of the record and after full consideration of the arguments in brief by counsel, the following findings and conclusions are made:

1. That the applicant, based on the evidence submitted by the staff financial and engineering witnesses in Exhibits Nos. 14, 15, and 15-A, is in need of financial and rate relief; that the rate of return, as computed and estimated by the staff engineer in Exhibit No. 15-A, which would be produced by the rates proposed in the application, either as originally filed or as amended, would be excessive; that the irrigation rates should be increased moderately in order that irrigators bear their fair share of the costs of the applicant's operations; that applicant's request to cancel its fiat rate schedule and retain a separate schedule for fire hydrant service is reasonable; and that the application should be granted in part and denied in part.
2. That the staff engineer should have applied a saturation factor to Account No. 265, Contributions in Aid of Construction, of the applicant. Had this been done the staff adjusted depreciated rate base for the test year 1960 utilizing a 10% saturation factor, hereinafter found to be reasonable, would have been \$216,115.
3. That a saturation factor of 7%, although based on mathematical accuracy, is unreasonably restrictive, and that a saturation factor of 10%, which will take into account the growth in the number of the applicant's water customers in the foreseeable future, is reasonable.
4. That it is realistic and reasonable to combine, for rate-making purposes, the estimated operations for the test year 1960 of the applicant and Kayem Investment Corporation.
5. That the estimates of operating revenues, operating expenses, including depreciation, taxes other than income taxes and income taxes, and adjusted depreciated rate base of the combined operations of the applicant and Kayem submitted by the staff engineer in Exhibit No. 15-A, after applying a 10% saturation factor, are reasonable. They are hereby adopted for this proceeding.
6. That a rate of return of 6½% on an adjusted depreciated rate base of \$216,115 for the estimated year 1960, which is adopted as the test year for rate-making purposes in this proceeding, is reasonable.

7. That it is unreasonable, unjust, and discriminatory to burden the existing approximate 1,700 water service consumers of the applicant with any more than their share of the costs of the applicant's operations, including operating expenses, taxes, and depreciation, and a rate of return on a reasonable portion of the property, used and useful, in service to them, which said portion has hereinbefore been found as a fact to be 10%.
8. That the applicant should be authorized to file new schedules of rates which will produce the following adopted results of operation for the test year 1960 based on the combined operations, for rate-making purposes of the applicant and Kayem.

Adopted Results of Operation
Test Year 1960
(Combined Operations of Hesperia & Kayem)

<u>Item</u>	<u>Amount</u>
Operating Revenues	\$ 92,660
Operating Expenses	52,745
Taxes other than Income	4,195
Depreciation	14,480
Income Taxes*	<u>7,190*</u>
Subtotal	78,610
Net Operating Revenue	14,050
Rate Base**	216,115**
Rate of Return	6.5%

* If the 10% saturation factor were not applied to the applicant's depreciable utility plant, income taxes would be nil.

** Applying 10% saturation factor.

The authorized increase in rates will produce increased revenues amounting to approximately \$24,560 over the revenues which the staff engineer estimated would be produced by the present rates for the test year 1960, but such authorized increased rates will produce revenues amounting to approximately \$31,695 less than the increases sought by the original application, and approximately \$121,690 less than the increases sought by the application as amended.

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

9. That the staff engineer's recommendations contained in Exhibit No. 15 are reasonable and that the applicant should be required to carry them out.
10. That the applicant should, pursuant to the provisions of Section 489 of the Public Utilities Code, and, further, pursuant to the provisions of General Order No. 96, be directed to, within 10 days after the effective date hereof, seek approval and authority to carry out the provisions of its agreements with Kayem Investment Corporation, a public utility corporation, dated May 1, 1956, and May 1, 1957, copies of which said agreements are contained in Exhibit No. 5 in Case No. 6159, the record on which said Case, as hereinbefore noted, is consolidated with the record on the instant application.

O R D E R

Application as above entitled having been filed and having been amended, public hearings having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. (a) That Hesperia Water Company, a corporation, be and it is authorized to file in quadruplicate with the Commission on or 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 upon not less than five days' notice to the Commission and to the public to make such rates effective for water service rendered on and after August 1, 1961.
- (b) That concurrently with the filing authorized herein, Hesperia Water Company be and it is authorized to withdraw and cancel by appropriate advice letter its presently filed effective rate schedules as follows:

Schedule No. 1 - General Metered Service
Schedule No. 2 - Flat Rates
Schedule No. 3 - Limited Irrigation Service

2. That the applicant shall determine accruals for depreciation by dividing the original cost of the utility plant, less estimated future net salvage, less depreciation reserve by the estimated remaining life of the plant; that the applicant shall review the accruals as of January 1st of each year and at intervals of not more than one year; and that the results of these reviews shall be submitted to this Commission.
3. That the applicant shall file in quadruplicate with the Commission, within sixty days after the effective date hereof, in accordance with the provisions of General Order No. 96, and in a form acceptable to the Commission, a modern and complete set of tariff schedules, including tariff service area maps, rules, and sample copies of printed forms that are normally used by the utility in its operations in connection with customers' services. Such rules, tariff service area maps and sample forms shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.
4. That the applicant shall within sixty days after the effective date hereof present evidence in writing to the Commission of the following:
 - (a) That copies of all contracts relating to utility service, including any main extension contracts or agreements which do not conform to applicant's Main Extension Contract Form on file and in effect as a part of applicant's tariff schedules or which were entered into prior to having on file said form, or which deviate in any respect from applicant's filed main extension rule, have been filed with this Commission in accordance with the provisions of General Order No. 96.
 - (b) That all meter deposits collected have been returned and that the practice of collecting this "deposit" has been discontinued.
 - (c) That all charges that have been made for inclusion to the service area of Hesperia Water Company (\$100 per acre) have been returned to the respective contributors. That the cost, as estimated by the applicant's consulting engineer, has been returned for the land, wells and pumping equipment contributed by the subdivider of Tract No. 5694 "Hesperia Park".

5. That Hesperia Water Company be, and it hereby is, directed to, within ten days after the effective date hereof, pursuant to the provisions of Section 489 of the Public Utilities Code, and, further, pursuant to the provisions of General Order No. 96, seek approval and authority to carry out the provisions of its agreements with Kayem Investment Corporation, a public utility corporation, dated May 1, 1956, and May 1, 1957, copies of which said agreements are contained in Exhibit No. 5 in Case No. 6159, the record on which said Case, as noted in the opinion herein, is consolidated with the record on the instant proceeding.
6. That in all other respects the application and the application as amended be and they are denied.

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

Dated at San Francisco, California, this 27th day of June, 1961.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated community of Hesperia, and vicinity, San Bernardino County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 400 cu. ft. or less	\$ 2.05
Next 500 cu. ft., per 100 cu. ft.27
Over 900 cu. ft., per 100 cu. ft.21
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 2.05
For 3/4-inch meter	2.75
For 1-inch meter	4.00
For 1 1/2-inch meter	7.00
For 2-inch meter	10.00
For 3-inch meter	18.00
For 4-inch meter	30.00
For 6-inch meter	60.00

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

Schedule No. 3LM

LIMITED MEASURED IRRIGATION SERVICE

APPLICABILITY

Applicable to all water delivered for irrigation purposes.

TERRITORY

The unincorporated community of Hesperia, and vicinity, San Bernardino County.

RATE

Per Meter
Per Month

Monthly Quantity Rate:

Per 100 cu. ft. \$.08

Per Meter
Per Year

Annual Minimum Charge:

For 5/8 x 3/4-inch meter \$6.50
For 3/4-inch meter 9.00

SPECIAL CONDITION

Service under this schedule is limited to those premises served as of October 4, 1958.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

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

TERRITORY

The unincorporated community of Hesperia, and vicinity, San Bernardino County.

RATE

	<u>Per Month</u>
For each hydrant	\$2.00

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. The cost of installation and maintenance of hydrants will be borne by the utility.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. 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.