

ORIGINAL

Decision No. 63581

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JOHN SCIARRA, doing business as
SCIARRA WATER COMPANY for: (1)
transfer of assets of SCIARRA WATER
COMPANY to FITCH MOUNTAIN WATER
COMPANY, INC.; (2) for permission
to issue stock.

Application
No. 43428

ORDER AMENDING DECISION NO. 62830 AND DENYING REHEARING

Bernard A. Devine, John A. O'Kane, and Del Rio Woods Home Owners' Association having joined in a petition for rehearing of Decision No. 62830, the Commission having considered said petition, and each of the allegations thereof, and good cause appearing, IT IS ORDERED as follows:

1. Decision No. 62830, sheet four, second full paragraph, second sentence, is amended to read as follows:

"At the hearing an interested party urged that the properties designated as the Fitch Mountain Pipeline and the McDonough Heights Water (system) should be considered as donated or contributed plant, since the record shows that Sciarra acquired them for a cash consideration of \$1.00 for each system. The record shows that both of these systems had previously been operated as independent systems and that as of December 31, 1960, the estimated original cost of the two said systems totalled \$16,791.14, with a net amount of \$11,398.79 after deducting applicable reserves for depreciation."

2. Decision No. 62830 is further amended by striking therefrom the last paragraph on sheet four of said decision and substituting therefor the following:

"It has been the policy of this Commission, for accounting and rate making purposes, to recognize the original cost of operating systems acquired by purchase and to disregard the purchase price paid by the transferees. Under such policy the customers' rates reflect those costs associated with the actual cost of constructing the facilities devoted to their use and will not be subject to variations which might otherwise result in the event the purchase price, whether less than or in excess of the actual installed cost, were to be recognized for rate making purposes."

3. Rehearing of Decision 62830, as amended, is hereby denied.

Dated at San Francisco, California, this 17th day of APRIL, 1962.

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

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

I dissent.

The alleged "policy" referred to in today's order is contrary to the rule followed by this Commission in Market Street Railway Company, 45 C.R.C. 53, 73, a decision which was unanimously affirmed by the United States Supreme Court. (Market Street Railway Company v. Railroad Commission, 324 U.S. 548, 564-568, 65 S.Ct. 770, 89 L.Ed. 1171, 1183-1185; see also 24 Cal.2d 378, 401-402, 150 Pac.2d 196.) Only last month, we cautioned a utility that we might not recognize original cost in a future rate proceeding if its project should ultimately prove to have been unjustified. (Pacific Lighting Gas Supply Company, Decision No. 63414, dated March 16, 1962, in Application No. 43622.)

In the present case the two transactions in question were not gifts; in effect each seller has valued his property at \$1. No sound reason has been suggested for requiring rate payers to supply profits on the original investment after the original investors have sustained a total loss. This is the very "investment after it has vanished" which the United States Supreme Court has told us we are not required to recognize. (324 U.S. at 567, 89 L.Ed. at 1185.)

In making these purchases the new owner invested \$2. He should be treated accordingly.

George G. Grover

George G. Grover, Commissioner