

ORIGINALDecision No. 64486

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHWEST WATER COMPANY, a corporation,)
 for authority to increase rates in its) Application No. 43589
 La Mirada, Etiwanda and La Sierra)
 Districts.)

C. H. Deitz; and Overton, Lyman and Prince, by
Arthur D. Guy, Jr., for applicant.
David M. Horwitz, for himself and neighbors (in
 La Mirada); Chapman L. Bone, City Administra-
 tor, for City of La Mirada; Thelen, Marris,
Johnson and Bridges, by Frederick R. Schumacher,
 for E. C. Losch Co., Inc., interested parties.
K. F. Ambs or Erby N. Davidson, for La Sierra
 Community Services District; Ralph Winchester,
 for Loma Linda Food Company (in La Sierra);
Vernon L. Von Pohle, for himself and
 neighbors (in La Sierra), protestants.
Burt Shelby, for Etiwanda Service Club, protestant
 and interested party.
Hugh N. Orr, A. L. Gielegem and John R. Gillanders,
 for the Commission staff.

INTERIM OPINIONStatus of Proceeding

By the above-entitled application filed on July 7, 1961, applicant is requesting a general increase in its rates in all three of its operating districts so as to produce an over-all increase in revenue of about 43 percent.

By petition filed July 31, 1961, applicant requested an emergency interim increase of 25 percent to be spread almost uniformly over all classes of general metered customers in all three districts. Following six days of public hearing devoted primarily

to the determination of the necessity for the requested interim increase, which were held in September and October, 1961, before Examiner E. Ronald Foster, the Commission, by Decision No. 62923, dated December 12, 1961, denied the petition on the basis that applicant had not established that a precarious financial condition or a serious earnings deficiency existed. Applicant's petition for a rehearing was denied by Decision No. 63389, dated March 13, 1962. Hearings on the application were resumed before Examiner Leonard S. Patterson on March 21, 22 and 23, at La Mirada, La Sierra and Etiwanda, respectively, and on April 23 and 24 and May 24, 25 and 28, 1962, at Los Angeles. During the course of these hearings a point of major controversy between applicant and staff arose as to the alleged association of E. C. Losch or his organization with applicant. On May 28, 1962, upon request of applicant, the matter was submitted for interim decision on all phases of the proceeding except the unresolved issue concerning the alleged association between Losch and applicant. The submission was subject to receipt of concurrent briefs on June 11, 1962. After said briefs had been received applicant made a plea by letter dated June 13, 1962, that oral argument be permitted before the Commission. Oral argument was held on July 5, 1962, before Commissioner Peter E. Mitchell and Examiner Leonard S. Patterson, and the matter was then re-submitted on that date on the same basis as previously.

Applicant's Request

Southwest Water Company seeks authorization to increase its rates for water service pursuant to Section 454 of the Public Utilities Code. The amount and percentage increase proposed for

each of the districts and for the total company, as estimated by applicant, for the year 1961, may be summarized as follows:

<u>District</u>	<u>Proposed Increase in Revenue Year 1961 Estimated</u>	
	<u>Amount</u>	<u>Percent</u>
La Mirada	\$ 119,138	29
La Sierra	162,704	65
Etiwanda	11,342	47
Total Company	293,184	43

Applicant estimated that for the year 1961 its proposed rates would produce an 8.0 percent rate of return in its La Mirada and La Sierra districts and a 1.56 percent rate of return in its Etiwanda district, with a resulting over-all rate of return for total company of 7.28 percent.

Applicant's Operations

Applicant is engaged in the business of furnishing water service for domestic, commercial, industrial and fire protection service in three separated areas. The La Mirada district, serving the City of La Mirada and vicinity in Los Angeles County, serves about 6,270 customers; the La Sierra district serves about 4,185 customers in the community of La Sierra and vicinity in Riverside County; the Etiwanda district, comprising some 25 square miles of service area, serves about 287 customers in the communities of Etiwanda and Guasti and vicinity in San Bernardino County. Applicant's main office, along with Suburban Water Systems' general office, is located in La Puente. General administrative, engineering, field superintendents, accounting and billing personnel,

along with the necessary records and general files, are located at this point.

Water supply for the La Mirada district is obtained from company-owned wells and purchase of water from other water companies. Applicant has seven wells which produce over 80 percent of the district's requirements. Outlets have been provided on the Metropolitan Water District transmission line and at the optimum time a connection will be made thereto so that water may be purchased through the Central Basin Municipal Water District. Storage is provided by three reservoirs having a total capacity of 3.5 million gallons and a new 7-million gallon reservoir is now under construction. These reservoirs are located at ground level and water is pumped by means of nine booster pumps from the reservoirs to the distribution system. Distribution mains are almost entirely asbestos cement pipe, ranging in size from four-inch to 20-inch diameter. The area has been experiencing rapid growth as a result of subdivision activity and new industrial plants.

Water supply for the La Sierra district is obtained from company-owned wells, from a mutual water company, and from private wells. This area has also experienced a rapid growth and many improvements in plant have been made and are continuing to be made, some of which are in response to Decision No. 58138, dated March 17, 1959, in Application No. 40273.

Water supply for the Etiwanda district is obtained from one company-owned well, two mutual water companies and from private well supplies. The distribution system in the north half of the service area consists of steel pipelines and five ground-level reservoirs having a total capacity of 1.13 million gallons. A separate system in the industrial area includes a 40,000-gallon storage tank, a booster plant, and 12- and 18-inch asbestos cement

and concrete cylinder pipe. Growth in this area has not been as rapid as originally anticipated by applicant.

Accounting Records

A Commission staff accounting witness testified that applicant's books of account are generally maintained in conformity with the prescribed accounting procedures, except (1) investments in and transactions with associated companies are not recorded in the proper accounts, and (2) advances for construction when received are generally recorded in the account "Other Deferred Credits" instead of the account "Advances for Construction." These deficiencies in accounting procedure, along with certain other corrections, are incorporated in a revised balance sheet as of September 30, 1961, presented as Table 3-A in the staff Exhibit 19. Some of the corrections affect rate base and these effects are carried forward to staff Exhibits 22, 23 and 24 which treat the separate districts. We find that all of the corrections which appear in said Table 3-A are reasonable and proper. Included therein is the elimination from Utility Plant in Service of \$130,655 for the reservoir site in Etiwanda which is being held for future use and the elimination of \$8,177 representing the handling charge by Macco Corp. on pipe purchased by applicant, delivered to the job site and rebilled to applicant at invoice cost plus 10 percent.

Summary of Earnings

In support of its request, applicant presented earnings results for each of its districts and for the total company at present rates for the years 1959 and 1960 on both recorded and adjusted bases, and for the estimated year 1961 at both present and requested rate levels. The results may be summarized as follows:

Rate of Return on
Depreciated Rate Bases

<u>Year</u>	<u>La Mirada</u>	<u>La Sierra</u>	<u>Etiwanda</u>	<u>Total Company</u>
1959 Recorded	8.35%	7.29%	2.46%	7.23%
1959 Adjusted	7.00	6.63	2.26	6.29
1960 Recorded	6.14	4.52	.44	4.81
1960 Adjusted	5.51	4.34	.72	4.47
1961 Estimated:				
Present Rates	4.90	3.24	.31	3.69
Proposed Rates	8.00	8.00	1.56	7.28

The Commission's staff presented earnings results based on its independent investigation for the estimated year 1962, whereupon applicant then presented estimates for the year 1962. These results are compared in the tabulation which follows:

<u>District</u>	<u>Rate of Return on Depreciated Rate Bases Estimated Year 1962</u>			
	<u>Present Rates</u>		<u>Proposed Rates</u>	
	<u>Applicant Exh.28</u>	<u>Staff Exh.27 Amd.</u>	<u>Applicant Exh.28</u>	<u>Staff Exh.27 Amd.</u>
La Mirada	5.10%	5.88%	7.90%	9.29%
La Sierra	3.65	4.54	8.54	10.85
Etiwanda	.06	1.13	1.68	3.29
Total Company	4.06	5.04	7.59	9.43

The estimated year 1962 will be adopted as the test year in this proceeding. The difference between applicant's and the staff's results is due primarily to differences in rate bases, resulting from adjustments made by the staff which were not made by applicant. For purposes of comparison, initially we shall eliminate these staff adjustments from rate base and then consider them separately. When this is done, rates of return based on applicant's

and staff's estimates, before these staff adjustments, are almost identical as indicated by the following summary, which also shows the results, including all the staff adjustments, as contained in Exhibit 27 Amended.

SUMMARY OF EARNINGS
ESTIMATED TEST YEAR 1962 AT PRESENT RATES

<u>Item</u>	<u>Applicant</u> <u>Exhibit 28</u> (1)	<u>Based on</u> <u>Staff</u> <u>Exhibits 19,</u> <u>22, 23 & 24</u> (2)	<u>Staff</u> <u>Exhibit 27</u> <u>Amended</u> (3)
Operating Revenues	\$ 761,702	\$ 786,940	\$ 786,940
Operating Expenses:			
Source of Supply	60,772	61,620	
Pumping	74,280	76,770	
Water Treatment	7,272	6,910	
Transmission & Distribution	51,947	52,890	
Customer Accounting	51,037	50,900	
Sales	800	640	
Administrative & General	153,481	134,050	
Miscellaneous	(33,850)	(37,600)	
Subtotal	<u>365,739</u>	<u>346,180</u>	<u>346,180</u>
Depreciation & Amortization	120,432	119,070	116,770
Taxes Other than Income	71,861	70,925	69,425
Taxes on Income	37,097	73,100	75,200
Total Expenses	<u>595,129</u>	<u>609,275</u>	<u>607,575</u>
Net Revenue	166,573	177,665	179,365
Rate Base - Depreciated	4,107,100	4,387,810	3,561,100
Rate of Return	4.06%	4.05%	5.04%

(Red Figure)

Revenues, Expenses and Normal Rate Base Items

In considering the results as presented in columns 1 and 2 in the foregoing tabulation, it will be noted that there are differences in individual items such as the staff estimate of

revenues being about \$25,000 higher than applicant's, and administrative and general expenses about \$19,000 lower. The staff's estimated unadjusted rate base, however, as developed in the preceding tabulation, is \$281,000 higher than applicant's, with the result that the differences are offsetting so that the rates of return developed are almost identical under the two columns.

The only controversy between applicant and staff as to the individual items which make up the summaries contained in said columns 1 and 2 concerns the matter of operating revenues. The number of customers estimated by applicant and staff for the year 1962 were almost identical. Applicant's witness testified that he determined the normalized water consumption per customer by simply taking the average use per customer during the five-year period 1956 through 1960. The staff witness testified that he normalized the basic data by adjusting for rainfall in the spring and fall months in each year and after normalization the data indicated an upward trend in use per customer of 3.17 percent for the La Mirada district, 2.56 percent for the La Sierra district, and no trend for the Etiwanda district. His estimates for La Mirada and La Sierra for 1962, therefore, reflect a continuation of these upward trends. Although applicant's witness took exception to the staff reflecting this upward trend in the 1962 estimate, he testified that studies on a state-wide and nation-wide basis indicate there is an upward trend in water use per customer. On this record we adopt as reasonable operating revenues for 1962 which total \$786,940 for the entire company.

Having adopted revenue estimates at the level of \$786,940, we find it reasonable to adopt the staff's estimates of expenses and

the normal rate base items which make up the depreciated rate base figure in the amount of \$4,387,810 appearing in column 2 above. The additional adjustments to rate base, as proposed by the staff, will be considered individually.

Rate Base Adjustments

The components of the average depreciated rate base for the test year 1962 which make up the normal items included in applicant's and staff's rate base figures in columns 1 and 2 above, as well as the additional adjustments proposed by the staff, are summarized in the following tabulation along with the adopted results:

<u>AVERAGE DEPRECIATED RATE BASE</u> <u>ESTIMATED TEST YEAR 1962</u>			
	<u>Applicant</u> <u>Exhibit 28</u>	<u>Staff</u> <u>Exh. 19, 22,</u> <u>23, 24 & 27</u>	<u>Adopted</u>
Average Utility Plant & Construction Work in Progress	\$5,859,267	\$5,954,000	\$5,954,000
Deduction for Depreciation & Amortization Av. Net Util. Plant	672,934	674,660	674,660
	<u>5,186,333</u>	<u>5,279,340</u>	<u>5,279,340</u>
Modifications:			
Investments	257,201	258,500	258,500
Advances for Const.	(1,403,802)	(1,163,500)	(1,163,500)
Contributions in Aid of Construction	(50,114)	(47,830)	(47,830)
Materials & Supplies	56,857	38,000	38,000
Working Cash Allowance	60,591	23,300	23,300
Subtotal	<u>(1,079,267)</u>	<u>(891,530)</u>	<u>(891,530)</u>
Depreciated Rate Base	4,107,066	4,387,810	4,387,810
Additional Adjustments:			
Tract Extensions without Refund Contracts	-	(637,500)	(637,500)
Acctg. Adjustments	-	(63,500)	(63,500)
Adjust. for Purchases from Asso. Cos. (Exh. 27)	-	(81,000)*	(80,000)#
Adjust. for Mutual Water Co. Stocks (Exh. 27)	-	(45,000)	(17,000)
Rounding Adjustment	-	290	290
Subtotal	-	<u>(826,710)</u>	<u>(797,710)</u>
Adjusted Depreciated Rate Base		3,561,100	3,590,100

(Red Figure)

*Reflects a 6% rate of return for associated companies.

#Reflects a 6.3% rate of return for associated companies.

Tract Extensions Without Refund Contracts. The staff urged a deduction of \$637,500 from rate base representing the estimated unextinguished portion of some \$750,271 of applicant's own funds expended between 1955 and September 30, 1961, for extension of facilities which should have been financed by advances under the provisions of applicant's main extension rule. The record shows that there were many variations in the manner by which the financing was actually handled. In some instances common or preferred stock was exchanged by applicant for refund contracts previously executed, and in other cases stock was exchanged for promissory notes under which subdividers had advanced funds to applicant. The significant factor is that, in all those cases involved in the staff adjustment, the cost of plant as accounted for by applicant went directly into rate base, rather than only to the extent as would be warranted by refunds of advances.

Applicant contends that in the past it has consistently interpreted its main extension rule as permitting the investment of its own funds in water facilities in an area where the land developer has expressed an interest in the acquisition of the utility's securities, and where applicant's management has satisfied itself that the contemplated tract was likely to become saturated with active services within a reasonably short period of time. Applicant takes the position that such an interpretation was proper and, as support, cited portions of Decision No. 58835, dated July 28, 1959, in Application No. 41144, which related to the issuance of securities. Subsequently, however, applicant has terminated its practice of investing its own funds in tract installations pursuant to the directive contained in Decision No. 63145, dated January 23, 1962,

in Case No. 6541. Applicant argued that it would be confiscatory to delete from the rate base the amount proposed by the staff, all of which represents expenditures made prior to the Commission's directive in Decision No. 63145.

In considering the effect of our past decisions, we fail to find any justification for applicant's belief that such decisions had sanctioned use of its own funds for tract installations. Indeed, in the very decision, No. 58835, relied upon by applicant, the second ordering paragraph states:

"Southwest Water Company shall deposit the proceeds from the sale of the preferred stock herein authorized in a separate bank account and disburse such proceeds only for the purpose of paying outstanding indebtedness, as set forth in the tabulation in the preceding opinion, and of financing the cost of water works facilities other than those which are financed with sub-dividers' advances under the company's filed rules."

Similarly, Decision No. 60308, dated June 28, 1960, contains specific directives prohibiting applicant from using proceeds from the sale of stock to finance the cost of main extensions which must be financed by advances made in accordance with its main extension rule. We are persuaded that applicant had ample warning that the proceeds from sale of stock should not be used for financing the cost of water facilities which are required to be financed by sub-dividers' advances under the main extension rule. The record is clear that applicant proceeded at its own risk in so using its own funds, and the argument that the retroactive aspects of the adjustment is confiscatory is without merit.

It is apparent from a reading of the main extension rule that the provision requiring advances for main extensions is

mandatory.^{1/} Applicant points out that, assuming advances had been received, the staff made no test as to the extent of refunding which would have resulted from use of the proportionate cost method of refund. The record reveals, however, that where applicant has secured advances under refund contracts, it has never used the proportionate cost method of refund, and therefore the percent of revenue method used by the staff in developing the \$637,500 adjustment is consistent with applicant's practice. On the basis of the record made herein, we find that applicant has violated its main extension rule in the past, with the result that its rate base has been inflated, and we find that the staff's adjustment for this item is reasonable and necessary for rate-making purposes in order to protect the public interest.

Accounting Adjustments. The \$63,500 deduction from rate base urged by the staff as an accounting adjustment is the rounded amount resulting from \$17,059 transferred from advances for construction to miscellaneous long term debt, representing the balance due on two installment notes payable in the La Mirada district which had been classified improperly; the transfer of \$1,482.29 from capital surplus to contributions in aid of construction

^{1/} Applicant's Rule No. 15, Section C, states in part: "C. Extensions to Serve Subdivisions, Tracts, Housing Projects, Industrial Developments or Organized Service Districts 1. An applicant for a main extension to serve a new subdivision, tract, housing project, industrial development or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of the mains, from the nearest existing main at least equal in size to the main required to serve such development, including necessary service stubs or service pipelines, fittings, gates and housings therefor, and including fire hydrants when requested by the applicant or required by public authority, exclusive of meters." (Emphasis added.)

representing the excess of appraisal costs over the costs of acquiring the distribution lines from Nadig and Burkhardt in the La Sierra district; a deduction of \$7,000 representing the estimated cost of a nonoperative portion of the lower reservoir in the La Sierra district; and deductions of \$45,200 and \$26,900 representing items of plant installed at applicant's expense to serve Fruehauf Trailers in the Etiwanda district which should have been covered by advances from the customer. These items are explained in detail in Exhibits 19, 22, 23 and 24. We find that the staff's adjustments for these items are reasonable.

Purchases from Associated Companies. The staff urged a deduction from rate base for rate-making purposes of \$81,000 relating to purchases by applicant during the period 1953 through 1961 from five associated companies,^{2/} (Garnier Construction Company, Garnier Utility Service Company, Whittier Utility Supply Company, Garnier Machinery and Equipment Company, Valinda Engineering). Most of these purchases occurred during the period 1953 through 1956. Since 1956 much of applicant's construction work has been done by E. C. Losch Company under a unit cost contract. It is of record that Camille Garnier has been president of Southwest Water Company since its inception, that he is a director of that company and its active manager, and that he also has owned or controlled the five associated companies named above. The extent of his control was testified to in detail by staff witnesses in this proceeding and was set forth in detail in our Decision No. 64256, dated

^{2/} "Associated companies" means companies or persons that, directly or indirectly, through one or more intermediaries, control, or are controlled by, or are under common control with Southwest Water Company.

September 14, 1962, in Application No. 43241, concerning Suburban Water Systems, and will not be repeated here.

It was applicant's contention that its affairs are controlled by its Board of Directors and not by Mr. Garnier, and in an endeavor to support this contention extensive testimony was presented by a member of its Board of Directors. This testimony, although categorically denying that the Board was controlled by Mr. Garnier, clearly indicated that he (Garnier) has been the dominant influence in applicant's affairs and also indicated that at least the member of the Board of Directors testifying had virtually no knowledge of Mr. Garnier's participation and interest in the five associated companies.

We find from the record made in this proceeding that these five entities named and discussed herein are associated with applicant Southwest Water Company. The adjustment proposed by the staff is based on the principle, among others, that services and facilities purchased by a utility from its associates should not, for rate-making purposes, include a return greater than that which would exist had the utility performed the services or installed the facilities itself. The adjustment is of exactly the same nature as that proposed by the staff in the Suburban Water Systems' Application No. 43241 and found to be reasonable by Decision No. 64256, dated September 14, 1962. As we stated in the opinion of that decision,

"A fundamental principle involving public utilities and their regulation by governmental authority is that the burden rests heavily upon a utility to prove that it is entitled to rate relief and not upon the Commission,

the Commission staff, or any interested party, or protestant to prove the contrary. In this proceeding the burden is upon applicant to establish all necessary facts which would justify the requested increase in rates. A public utility is created for public purposes and performs a function of the State. It acquires the status of a quasi trustee (Smyth v. Ames, 169 U.S. 466, 544; Western Canal Co. v. R. R. Comm., 216 Cal. 639, 647)."

From the record made in this proceeding there is no reason why we should depart from the principles we have previously espoused.

It is our opinion and we so find that the adjustments made by the staff relating to purchases from associated companies, including adjustments to rate base, depreciation expense, and taxes are reasonable. Such adjustments assure that applicant's rate-payers will not be unduly burdened with profits of an associated company that directly or indirectly, through one or more intermediaries, control, or are controlled by, or are under common control with Southwest Water Company. They produce a fair and reasonable result, which is in the public interest. The staff adjustments are hereby adopted for rate-making purposes after giving consideration to the rate of return to be accorded applicant herein.

Adjustment for Mutual Water Companies' Stock. The Daly Water Company in the La Sierra district was purchased by applicant for the sum of \$52,495. The staff's analysis, Table 1-D, Exhibit 27 Amended, develops the depreciated recorded investment in utility plant of the Daly Water Company (less plant no longer used or useful), as estimated for the year 1962, as \$35,360. The staff recommended that the difference of \$17,000 between this figure and

the purchase price of \$52,495, as recorded under investments in securities of other companies, be deducted from rate base. This adjustment we find to be reasonable and is in accord with basic rate-making principles and will be adopted.

In the Etiwanda district applicant obtains a substantial portion of its water supply by virtue of owning 212½ shares of Etiwanda Water Company stock. Decision No. 54327, dated December 27, 1956, in Application No. 37413, among other things, authorized applicant to acquire certain assets which included 131 shares of Etiwanda Water Company stock at \$400 per share. Subsequently, applicant acquired 48 shares at \$200 per share by exchanging stock of applicant for said shares on the basis of \$200 a share and 33½ shares for cash at \$100 per share. The staff proposed a deduction from rate base of \$5,000, representing approximately one half the booked amount of the 48 shares purchased at \$200 per share. The adjustment was based on the premise that the 48 shares should not be given a value in excess of the 33½ shares. Applicant's witness testified that the purchase of 29½ shares of Etiwanda stock at \$100 per share was made under fortuitous circumstances in which the seller wished to liquidate her investment in these shares as she was leaving the area. In light of the record that the bulk of the Etiwanda stock has been valued and booked at \$400 per share, we find it would not be reasonable to penalize applicant for the purchase of stock at \$200 per share, and the proposed staff adjustment will not be allowed.

The staff proposed a similar adjustment in the amount of \$23,000 applicable to rate base in the La Mirada district. The adjustment was based upon the statement that much of the stock purchased in California Domestic Water Company and La Habra Water Company had been, in effect, acquired in exchange for Southwest stock, and, lacking any substantial proof that the booked cost of the mutual water companies' stock represented the actual equivalent cash cost to Southwest, it was proposed to exclude one-half of the booked cost of about \$46,000 from rate base. Since \$40,000 of this booked amount resulted from California Domestic Water Company stock included in the assets acquired from La Mirada Water Company as authorized by Decision No. 51192, dated March 15, 1955, in Application No. 36678, we find that the reasons advanced by the staff in this instance are not sufficient and the adjustment will not be allowed.

E. C. Losch Organization

As we have heretofore indicated, a matter which was a major issue in this proceeding was the alleged association between applicant and a construction organization known as E. C. Losch, E. C. Losch Company, or E. C. Losch Company, Inc. This organization has done a very substantial amount of construction work for applicant over the past six years, mostly under unit price contracts entered into on a yearly basis. In the course of its investigation the staff requested applicant to arrange for an examination of the records of the Losch organization, but applicant asserted that it had no authority to require the Losch organization to make such records available. The staff then directed a request to Mr. Losch who, in reply, offered to let the staff examine certain records, but the staff took the position that the offer was on such a limited access basis that it would preclude any worthwhile result and consequently no examination was made.

In an effort to go forward with its presentation, the staff included in Exhibit 27 as originally presented a rate fixing adjustment for the sales made by Losch to applicant, on a hypothetical but similar basis to the adjustment made for the five associated companies. Applicant objected vigorously to Exhibit 27, primarily on the basis that the staff had not established that there was association. In an endeavor to refute the staff allegations, Mr. E. C. Losch appeared voluntarily with counsel and testified that neither Mr. Garnier nor any of his associates had any stock ownership in the E. C. Losch Company, Inc.; that the Losch organization had purchased some Southwest Water Company stock in the ordinary course of business as an investment; that there had not been any

transactions between the Losch organization and any of the Garnier companies other than the normal customer-client relationship; and that the joint venture relationship which had existed at one time with Mr. Garnier had long since terminated.

As a consequence of a motion made by applicant to strike, Exhibit 27 was amended so as to physically delete therefrom all references to the Losch organization which were deemed by applicant to be objectionable.

The staff asserted that there are numerous facts which indicate a relationship between the Losch organization and applicant's management which suggests that dealings between applicant and Losch involved an associated interest rather than arms' length bargaining. As an example, staff testimony and cross-examination of Mr. Losch pointed up the fact that construction work in at least two tracts served by applicant's system was performed by Losch and the Garnier Construction Company under joint licenses. In addition, there was testimony that the Losch organization had purchased certain amounts of Southwest Water Company stock at par value of \$50 per share from Valinda Engineering, whereas the staff asserted that such stock could have been purchased from brokers at a price at least one-third less than par.

At the conclusion of the proceeding, the staff took the position that applicant has not adequately established its need for the increase in rates requested, and that, as to the materials and services furnished to applicant by the Losch organization, the burden rests upon applicant to establish the reasonableness of the costs paid by applicant to the Losch interests, and in the absence of proof of reasonableness, the staff asserted that such costs in their entirety could properly be disregarded for rate-making purposes. We are cognizant that by agreement of the applicant and the staff, this application has again been submitted for interim decision, excluding the Losch issue from consideration at this time. No deduction from rate base has been made because of any construction performed by the Losch organization. Nonetheless, the applicant is reminded that an affirmative showing of reasonableness as to all its expenses remains its responsibility. Such responsibility cannot be delegated nor shifted to other parties. Applicant will be required to justify the reasonableness of expenditures with the Losch organization before permanent rate relief is granted. The increase in rates authorized by this decision will expire as of June 30, 1963. Applicant is entitled to present whatever additional evidence it deems appropriate upon due notice to the Commission.

Adopted Results

Revenues, expenses and rate bases by districts and for the total company, for the test year 1962, which have been adopted herein to test the validity of applicant's requested increase in rates, are summarized in the following tabulation:

ADOPTED RESULTS
ESTIMATED TEST YEAR 1962 AT PRESENT RATES.

<u>Item</u>	<u>La Mirada</u>	<u>La Sierra</u>	<u>Etiwanda</u>	<u>Total Company</u>
Operating Revenues	\$ 481,260	\$ 280,350	\$ 25,330	\$ 786,940
Operating Expenses				
Source of Supply	42,720	15,070	3,830	61,620
Pumping	45,540	29,010	2,220	76,770
Water Treatment	3,330	2,080	1,500	6,910
Transmission & Distribution	22,800	28,440	1,650	52,890
Customer Accounting	24,690	22,320	3,890	50,900
Sales	370	230	40	640
Administrative & General	71,450	56,250	6,350	134,050
Miscellaneous	(19,050)	(16,800)	(1,750)	(37,600)
Subtotal	191,850	136,600	17,730	346,180
Depreciation & Amortization	70,630	39,010	7,130	116,770
Taxes Other than Income	45,655	21,800	1,975	69,430
Taxes on Income	56,570	23,090	(4,460)	75,200
Total Expenses	364,705	220,500	22,375	607,580
Net Revenue	116,555	59,850	2,955	179,360
Rate Base - Depreciated	2,005,000	1,319,400	265,700	3,590,100
Rate of Return	5.81%	4.54%	1.11%	5.00%

(Red Figure)

Rate of Return

Applicant seeks an 8 percent rate of return on its claimed 1961 depreciated rate bases in both the La Mirada and La Sierra Districts. It is not asking for a full return in the Etiwanda District as it represents that this district is in the early stages of development and that some of the facilities are presently oversized as they have been installed in anticipation of serving additional customers. The resulting rate of return for the total company is 7.28 percent based on applicant's 1961 estimated year.

A commission's staff accounting witness presented a cost of capital and rate of return study and giving consideration, among other things, to extensions into uneconomical service areas and to the company's practice of utilizing common shares instead of noninterest bearing refund contracts, he concluded that a rate of return within the range of 6.25 to 6.50 percent for the company as a whole would be fair and reasonable. The record shows that there is a declining trend in the rate of return.

Upon reviewing this matter fully, we are of the opinion and so find that a rate of return of 6.50 percent applied to the 1962 test year rate base, which return is expected to decline to 6.30 percent in the future, is fair and reasonable in the La Mirada and La Sierra Districts and that in the Etiwanda District the rates proposed by applicant, and which will be authorized herein will produce a rate of return of 3.22 percent based on the 1962 test year, which rate of return we find to be fair and reasonable.

Authorized Revenue Increases

Applying a rate of return of 6.5 percent to the test year rate base of \$2,005,000 found to be reasonable for the La Mirada district indicates a need for \$130,330 in net revenues, or \$13,775 more than the net revenues produced at present rate levels. We find an increase in gross revenues of \$30,990 is required and the rates herein authorized are designed to produce such results.

Applying a rate of return of 6.5 percent to the test year rate base of \$1,319,400 found to be reasonable for the La Sierra district indicates a need for \$85,760 in net revenues, or \$25,910 more than the net revenues produced at present rate levels. We find an increase in gross revenues of \$57,520 is required and the rates hereinafter authorized are designed to produce such results. In the rates proposed by applicant for the La Sierra district a

change in blocking is included which would result in the largest increases for the smaller consumers. Applicant, however, did not present any evidence as to the reasons it wished to change the blocking of the schedule. The rates to be authorized herein will retain the present blocking.

The rates as proposed for the Etiwanda district, and which will be authorized by the order herein, will produce an increase in gross revenues of \$12,440 in that district resulting in net revenues of \$8,565.

The gross revenue increases as authorized herein and as compared with gross revenue under present rates for the test year 1962 may be summarized as follows:

<u>District</u>	<u>1962 Estimated Gross Revenue</u>			
	<u>Present Rates</u>	<u>Authorized Rates</u>	<u>Increase</u>	
			<u>Amount</u>	<u>Percent</u>
La Mirada	\$481,260	\$512,250	\$ 30,990	6.4%
La Sierra	280,350	337,870	57,520	20.5
Etiwanda	25,330	37,770	12,440	49.1
Total Company	786,940	887,890	100,950	12.8

After considering all factors pertinent to this proceeding, it is our finding that an interim order should be issued authorizing increases in rates in the over-all amount of \$100,950, in the manner hereinbefore outlined and to the extent set forth in Appendix A following the order herein. Accordingly, we find that the increases in rates and charges authorized herein are justified, that the rates and charges authorized herein are reasonable, and that the present rates and charges, insofar as they differ from those herein prescribed, are for the future unjust and unreasonable.

INTERIM ORDER

Based on the evidence and the findings thereon as herein-
above set forth,

IT IS ORDERED as follows:

1. Southwest Water Company is authorized to file with this Commission, after the effective date of this order and in conformity with General Order No. 96-A, the schedules of rates attached to this order as Appendix A and, upon not less than five days' notice to the Commission and to the public, to make such rates effective for service rendered on and after December 1, 1962 to and including June 30, 1963.

2. Within sixty days after the effective date of this order, Southwest Water Company shall file a written report with this Commission setting forth fully the steps it has taken to comply with the requirements of General Instruction 8, Transactions with Associated Companies, as contained in the Uniform System of Accounts for Class A Water Utilities.

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

Dated at San Francisco, California, this 7th day of NOVEMBER, 1962.

[Signature]
President

[Signature]

Frederick B. Hallock
Commissioners

*I dissent. See
attachment for details.
[Signature]
Commissioners*

I DISSENT.

Again I dissent in particular to the manner in which the majority treats business transacted by the applicant with its nonutility affiliates, here involving six separate entities. With respect to five of these affiliates, the majority states (on page 14 of the mimeographed decision),

"We find from the record made in this proceeding that these five entities named and discussed herein are associated with applicant Southwest Water Company. The adjustment proposed by the staff is based upon the principle, among others, that services and facilities purchased by a utility from its associates should not, for rate-making purposes, include a return greater than that which would exist had the utility performed the service or installed the facilities itself. The adjustment is of exactly the same nature as that proposed by the staff in the Suburban Water System's Application No. 43241 and found to be reasonable by Decision No. 64256, dated September 14, 1962."

My disagreement as to establishing a rate base determined by applying a utility rate of return to transactions with a nonutility affiliate are set forth in my separate opinion in the cited decision and need not be repeated.

However, in the matter here before this Commission, we also have the sixth alleged affiliation or association of the E. C. Losch construction organization. In connection with this association the majority opinion states (on page 20 of the mimeographed decision),

"Nonetheless, the applicant is reminded that an affirmative showing of reasonableness as to all its expenses remains its responsibility. Such responsibility cannot be delegated nor shifted to other parties. Applicant will be required to justify the reasonableness of expenditures with the Losch organization before permanent relief is granted."

While I concur in the context of this quotation, I am unable to reconcile the position that the majority has taken with

respect to Losch and their position taken with respect to the five associates of the applicant. I reiterate that in my opinion the proper measure of the rate base is the "reasonableness of the expenditure" as applied to Losch and not the "utility rate of return" applied to the other five. While a retreat from an erroneous rule is both expected and proper, the withdrawal should not be so hasty as to leave two conflicting yardsticks for measurement in the same decision. I am convinced that such cannot be the proper exercise of this Commission's duties but to the contrary is an abuse of the Commission's powers.



CAROLYN FOX
Commissioner

November 2, 1962
San Francisco, California

APPENDIX A
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Schedule No. EG-LX

Etiwanda-Guasti Tariff AreaTEMPORARY GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The territory adjacent to the east boundary of Ontario, San Bernardino County.

RATES

	<u>Per Meter Per Month</u>
Quantity Rates:	
First 800 cu.ft. or less	\$ 3.75
Next 3,200 cu.ft., per 100 cu.ft. ....	.30
Next 296,000 cu.ft., per 100 cu.ft. ....	.20
Over 300,000 cu.ft., per 100 cu.ft. ....	.10
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 3.75
For 3/4-inch meter	4.00
For 1-inch meter	5.75
For 1 1/2-inch meter	7.50
For 2-inch meter	11.25
For 3-inch meter	37.50
For 4-inch meter	75.00
For 6-inch meter	150.00

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

SPECIAL CONDITION

This schedule shall be effective in lieu of Schedule No. EG-1, General Metered Service, only to and including June 30, 1963, and will thereafter be withdrawn.

APPENDIX A
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Schedule No. LM-1X

La Mirada Tariff Area

TEMPORARY GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

La Mirada and vicinity, Los Angeles County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 800 cu.ft. or less	\$ 2.70
Next 1,200 cu.ft., per 100 cu.ft. ....	.22
Next 2,000 cu.ft., per 100 cu.ft. ....	.19
Over 4,000 cu.ft., per 100 cu.ft. ....	.16
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 2.70
For 3/4-inch meter	3.20
For 1-inch meter	4.75
For 1 1/2-inch meter	6.50
For 2-inch meter	10.00
For 3-inch meter	25.00
For 4-inch meter	50.00
For 6-inch meter	100.00

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

SPECIAL CONDITION

This schedule shall be effective in lieu of Schedule No. LM-1, General Metered Service, only to and including June 30, 1963, and will thereafter be withdrawn.

APPENDIX A
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Schedule No. IS-IX

La Sierra Tariff AreaTEMPORARY GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

La Sierra and vicinity, Riverside County.

RATES

		<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:		
First	800 cu.ft. or less	\$ 2.75
Next	2,200 cu.ft., per 100 cu.ft. ....	.25
Next	7,000 cu.ft., per 100 cu.ft. ....	.20
Next	10,000 cu.ft., per 100 cu.ft. ....	.18
Over	20,000 cu.ft., per 100 cu.ft. ....	.15
Minimum Charge:		
For	5/8 x 3/4-inch meter	\$ 2.75
For	3/4-inch meter	3.65
For	1-inch meter	5.50
For	1 1/2-inch meter	8.50
For	2-inch meter	12.00
For	3-inch meter	25.00
For	4-inch meter	50.00
For	6-inch meter	100.00

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

SPECIAL CONDITION

This schedule shall be effective in lieu of Schedule No. IS-1, General Metered Service, only to and including June 30, 1963, and will thereafter be withdrawn.