

Decision No. 67346**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MALLIE O. RICHARDS )  
 and BERTHA A. RICHARDS, husband and )  
 wife, dba "LE GRAND WATER COMPANY" )  
 for an order, under Section 454 of )  
 the Public Utilities Code, authoriz- )  
 ing an increase in water rates. )

Application No. 43981  
 (Amended)

T. N. Petersen, for Mallie O. and Bertha A.  
 Richards, applicants.

Rev. E. Jesse Campbell, for a group of pro-  
 testant customers.

John L. Boyle, interested party.

Edmund J. Texeira and John D. Reader, appearing  
 for the Commission staff.

O P I N I O N

On August 28, 1962, the Commission entered Decision No. 64179 in this matter. That decision authorized applicants to increase their rates for water service. Applicants' basic rate was increased from \$2.25 to \$4.80 per month. Ordering Paragraph 5 of Decision No. 64179 provided that:

"On or before December 31, 1962, applicants shall install and have in proper operation an additional well equipped with suitable motor and pump to furnish not less than 400 gpm at a pressure of 40 psi, a 4,000-gallon pressure tank and at least one main no less than 4 inches in diameter to connect the new well at the present distribution system. Applicants shall inform the Commission, in writing, of the completion of such installation within ten days thereafter."

In establishing the estimated rate base for the proceeding, the Commission provided that applicants' estimated rate base should be increased in the amount of \$10,050 to provide for the additions to plant ordered in Ordering Paragraph 5. This amount was included

in the rate base prior to the actual addition of the facilities to permit applicants to have an established rate upon which they could secure financing.

On December 7, 1962, applicants requested an extension of time in which to comply with Ordering Paragraph 5. On May 7, 1963 the Commission entered an order extending the time for compliance with Ordering Paragraph 5 until June 30, 1963. On October 15, 1963, the Commission entered Decision No. 66134 which ordered this proceeding reopened (1) to inquire into the extent of compliance or noncompliance by applicants with the provisions of prior orders herein, and into the reasons for any noncompliance; (2) to determine whether or not the rates being charged for water service by applicants should be reduced or otherwise modified and (3) to enter any other order or orders that may be appropriate.

A duly noticed hearing was held in this matter before Examiner Jarvis in Le Grand on February 25 and March 18, 1964. It was submitted on March 18, 1964.

Applicants concede that the facilities required by Ordering Paragraph 5 of Decision No. 64179 have not been installed. No explanation was given for the failure to comply with Ordering Paragraph 5.

The Commission staff introduced in evidence a tabulation comparing the operating results adopted in Decision No. 64179, the effect on these operating results by adjusting the rate base to delete the sum of \$10,050 and operating results adjusted to produce the same rate of return provided for in Decision No. 64179 on an adjusted rate base which does not include the ordered improvements which were not installed.

The tabulation is as follows:

Item	D-64179 :Adopted Results:	:Adjusted : Rate Base:	:Adjusted : Operating Results:
Operating Revenues	\$ 7,125	\$7,125	\$5,880
<u>Deductions</u>			
Operating Expenses	4,550	4,550	4,550
Depreciation Expense	680	380	380
Taxes Other Than Income	300	300	300
Income Taxes	335	395	135
Allowance for Return	1,260	1,500	515
Total	7,125	7,125	5,880
Avg. Depr. Rate Base	17,000	6,950	6,950
Rate of Return	7.4%*	21.6%	7.4%

\* Calculated.

At the hearing, applicants devoted most of their presentation to attempting to persuade the Commission to change its long-standing policy of determining rate base by utilizing original (or historical) cost less depreciation. Applicants presented the report of an appraiser which included an historical cost valuation "for information only" and valuations based on reproduction cost less depreciation and "going value".

Applicants rely heavily on a discussion in California Jurisprudence, Second Series, in attempting to persuade the Commission not to use an historical cost rate base in this proceeding. The discussion relates to the Market Street Railway Case, 24 Cal 2d 378, affirmed 324 U.S. 548, where original or historical cost was not used for rate base because the company permitted unusual deterioration in view of negotiations for sale to the City started many years ago. The California Supreme Court there said: "The ordinary methods or theories of depreciation accounting therefore would not reflect the true record of plant consumption and the result, were such methods adopted, would not be in conformity with the facts. On the other hand, the evidence of obsolescence, depletion, depreciation, and deterioration is such as to justify the Commission's observation that there was no available or procurable evidence of the fair value of the property except the amount contained in the company's offer to sell to the City, made in the period, when business

was profitable." (24 Cal. 2d at 400) Mr. Justice Jackson, speaking for the United States Supreme Court in affirming the Commission's actions in the Market Street Railway Case, stated that "the due process clause never has been held by this court to require a commission to fix rates on the present reproduction value of something no one would presently want to reproduce, or on the historical valuation of a property whose history and current financial statements showed the value no longer to exist...." (324 U.S. at 567.)

Through the years the Commission has, absent special circumstances such as in the Market Street Railway Case, used original (or historical) cost in determining rate base. At one time the Commission used undepreciated historical cost along with sinking fund depreciation. (Railroad Com. of California v. Pacific Gas & Elec. Co., 302 U.S. 388, 395-396).

In determining rate base, it has been for many years, and it is presently, "the policy of this Commission to use the original cost of land and the depreciated original cost of other facilities where that cost can be ascertained." (Metropolitan Coach Lines, 54 Cal.P.U.C. 425, 431; Pac. Tel. & Tel. Co., 56 Cal.P.U.C. 277, 281, 283 [other portions of order, not here involved, were annulled in 34 Cal. 2d 822]; Pacific Telephone and Telegraph Co., 53 Cal.P.U.C. 275, 281; Southern California Edison Co., 53 Cal.P.U.C. 385, 390, affirmed 45 Cal.2d 152; The City of National City v. The Sweetwater Water Corporation, etc., 39 C.R.C. 118, 125.) The use of original or historical cost in establishing rate base will not be disturbed by the courts unless the rates fixed for the utility are confiscatory. (Federal Power Com. v. Hope Nat. Gas Co., 320 U.S. 591; Dyke Water Co. v. Public Utilities Com. 56 Cal.2d 105, 129; Market Street Railway Co. v. Railroad Com., 24 Cal.2d 378, affirmed 324 U.S. 548; Railroad Com. of California v. Pacific Gas & Elec. Co., supra, 302 U.S. 388.)

There is nothing in this record to cause the Commission to change its policy with respect to determining rate base.

Applicants presented, at the hearing, an historical cost appraisal of their water system prepared by a civil engineer for use by their appraiser. The engineer testified that his appraisal was an estimate and not precise. The civil engineer's estimated historical cost of the system differed somewhat from that utilized by the Commission in Decision No. 64179. The historical cost of the system utilized by the staff and adopted by the Commission was derived from the verified annual reports filed by the applicants. (Public Utilities Code § 584.) Neither applicant testified at the current hearing. No attempt was made to reconcile the civil engineer's estimate with the sworn declarations of the applicants in said reports. In the circumstances, the Commission finds no reason to alter its findings regarding the historical cost of the system.

Applicants' civil engineer and the staff also differed on the amount of depreciated rate base, based on historical cost, because the civil engineer made a depreciation reserve study using straight-line depreciation and the staff used the recorded depreciation reserve and straight-line remaining life depreciation. For many years the Commission, absent special circumstances, has used straight-line remaining life depreciation for rate-fixing purposes. As the Commission has often stated, the straight-line remaining life method meets the basic objective of depreciation, namely, recovering the original cost of the fixed capital over the useful life of the property. Consistent with this method the recorded depreciation reserve is used in developing the rate base. (Pacific Telephone and Telegraph Co., supra, 53 Cal.P.U.C..275, 292.) The use of straight-line remaining life depreciation is described in a 90-page Commission pamphlet entitled "California Public Utilities Commission Utilities

Division, Determination of Straight-Line Remaining Life Depreciation Accruals, Standard Practice U-4," which is available from the Commission. There is nothing in this record to cause the Commission to disregard the use of straight-line remaining life depreciation in establishing applicants' depreciation expense and rate base.

No other points require discussion.

Findings of Fact

1. Decision No. 64179 included in the average depreciated rate base estimated for the purposes of Application No. 43981 the sum of \$10,050 as the estimated cost of installing the facilities required by Ordering Paragraph 5 of said decision.

2. Applicants have failed to comply with Ordering Paragraph 5 of Decision No. 64179 and none of the facilities required by said paragraph have been installed.

3. The reasonable annual estimated operating results for the purposes of this proceeding, using the rates hereinafter authorized, are as follows:

Operating Revenues	\$5,880
Operating Expenses	4,550
Depreciation Expense	380
Taxes Other Than Income	300
Income Taxes	135
Allowance For Return at 7.4%	515
Total	<u>5,880</u>
Average Depreciated Rate Base	6,950

4. The rates presently charged by applicants are unjust and unreasonable.

5. The rates and charges authorized by this decision are justified. The rates and charges set forth in Appendix A attached hereto are fair and reasonable for the service to be rendered. The present rates and charges, insofar as they differ from the rates

herein prescribed, are for the future unjust and unreasonable.

6. Applicants' estimated average depreciated rate base for purposes of this decision reasonably is \$6,950.

7. A rate of return of 7.4 percent upon said estimated average depreciated rate base of \$6,950 is reasonable.

8. Applicants do not have the financial ability to make the improvements required by Ordering Paragraph 5 of Decision No. 64179.

Conclusions of Law

1. The sum of \$10,050 should be deleted from the estimated average depreciated rate base found to be reasonable in Decision No. 64179 and appropriate adjustments for such deletion should be made in the operating expenses found reasonable in said decision.

2. Applicants should reduce their rates for water service, as provided in the following order.

3. Ordering Paragraph 5 of Decision No. 64179 should be rescinded.

O R D E R

1. Applicants are directed to file with this Commission, on or before June 25, 1964, and in conformity with General Order No. 96-A, the schedules of rates attached to this order as Appendix A, and to make such rates effective for service rendered on and after July 1, 1964.

2. Ordering Paragraph 5 of Decision No. 64179 is hereby rescinded.

3. Ordering Paragraphs 2, 3, 4, 6 and 7 of Decision No. 64179 shall remain in full force and effect.

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

Dated at San Francisco, California, this 10th day of June, 1964.

William W. Bennett  
President  
John E. Kish  
Carol W. King  
George J. Trover  
Frederic B. Holchoff  
Commissioners



Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

LeGrand and vicinity, Merced County

RATES

		<u>Per Meter</u> <u>Per Month</u>	
Quantity Rates:			
First	800 cu.ft. or less .....	\$ 3.55	(R)
Next	4,200 cu.ft., per 100 cu.ft. ....	.35	
Next	5,000 cu.ft., per 100 cu.ft. ....	.25	
Over	10,000 cu.ft., per 100 cu.ft. ....	.17	
Minimum Charge:			
For	5/8 x 3/4-inch meter .....	\$ 3.55	(R)
For	3/4-inch meter .....	5.00	
For	1-inch meter .....	9.60	
For	1 1/2-inch meter .....	15.80	
For	2-inch meter .....	23.50	
For	3-inch meter .....	37.50	

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

Schedule No. 2

GENERAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate water service.

TERRITORY

LeGrand and vicinity, Merced County

RATES

	<u>Per Service Connection</u> <u>Per Month</u>	
1. For a single-family residential unit, including premises not exceeding 7,500 sq-ft. in area.....	\$4.00	(R)
a. For each additional single-family residential unit on the same premises and served from the same service connection..	3.10	
b. For each 100 sq. ft. of premises in excess of 7,500 sq. ft. ....	.05	
2. For each store, market or shop .....	5.00	
3. For each service station .....	6.00	
4. For each evaporative-type air cooler during the six-month period, May through October:		
Circulating Type .....	.45	
Noncirculating Type .....	.90	(R)

SPECIAL CONDITIONS

1. All service not covered by the above classification shall be furnished only on a metered basis.

2. For service covered by the above classification, if either the utility or the customer so elects, a meter shall be installed and service provided under Schedule No. 1, General Metered Service.

Schedule No. 21X

LIMITED TEMPORARY FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate water service furnished on a limited temporary basis.

TERRITORY

LeGrand, and vicinity, Merced County.

RATES

	<u>Per Month</u>	
1. Lambert's Locker and Restaurant .....	\$13.00	(R)
2. Packing Shed (4 months) .....	10.00	
3. Santa Fe Railroad .....	26.00	(R)

SPECIAL CONDITIONS

1. Service under this schedule shall be limited to the customers listed above.

2. This schedule shall be effective only until meters are installed and will thereafter be withdrawn.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, duly organized fire districts and other political subdivisions of the State.

TERRITORY

LeGrazd and vicinity, Merced County.

RATE

For each wharf type hydrant .....	<u>For Month</u>	
	\$2.00	(R)

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges shall be made at the quantity rates under Schedule No. 1, General Metered Service.
2. The cost of installation and maintenance of hydrants shall be borne by the utility.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. Fire hydrants shall be attached to the utility's distribution mains upon receipt of proper authorization from the appropriate public authority. Such authorization shall designate the specific location at which each is to be installed.
5. The utility will supply only such water at such pressure as may be available from time to time as a result of its normal operation of the system.