

**ORIGINAL**

Decision No. 71024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION  
OF EAST PASADENA WATER CO.  
FOR AUTHORITY TO INCREASE ITS  
RATES FOR WATER SERVICE

Application No. 47056  
(Filed October 19, 1964)

Gray and Maddox, by William R. Pippin,  
for applicant.  
Ralph E. Spencer and Virgil Heymanson,  
in propria persona, protestants.  
L. B. Plate, in propria persona, inter-  
ested party.  
Elinore C. Morgan, Chester O. Newman,  
and Raymond E. Heytens for the  
Commission staff.

O P I N I O N

East Pasadena Water Co.<sup>1/</sup> seeks authority to increase its rates for water service in its B-1 tariff area by approximately \$21,650, or 16.6 per cent, based on its estimated operations for the year 1965. A total of 153 customers in the A-1 tariff area and 2,294 customers in the B-1 area received metered water service during 1964. There were 73 fire hydrants and four private fire protection services connected to the system. No increases in rates are sought in the A-1 area or for fire hydrant or fire protection service.

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<sup>1/</sup> By amendment to its Articles of Incorporation, filed March 25, 1964, copy of which is attached to this application, East Pasadena Water Co., Ltd., changed its name to East Pasadena Water Co.

Public hearings were held before Examiner Warner on June 23, September 22 and 23, November 3, 4, and 5, and December 1 and 2, 1965, at Arcadia. Although all customers were notified of the hearings, none, except two, appeared to protest the application. The matter was submitted subject to the receipt of briefs which were filed on February 28, 1966.

Applicant's present A-1 rates applicable to the former East Pasadena area were authorized by Decision No. 57318, dated September 10, 1958; its present B-1 rates applicable to the former Cal-Michigan area were authorized by Decision No. 45013, dated November 8, 1950.

Applicant purchased the utility assets of California-Michigan Land and Water Company on January 1, 1964, pursuant to Decision No. 66295, dated November 12, 1963. Cal-Michigan was incorporated December 23, 1910; owns all of applicant's common stock; has advanced certain other moneys; and is primarily engaged in real estate transactions at the present time.

The following tabulation compares applicant's present and proposed rates in its B-1 area:

COMPARISON OF PRESENT AND PROPOSED  
RATES - B-1 AREA  
(Per Schedule 3, Page 1)

<u>Quantity Rates</u>	<u>Present</u>	<u>Proposed</u>
First 600 cu. ft., or less . . . . .	\$1.50	\$1.50
Over 600 cu. ft., per 100 cu. ft. . . . .	-	.18
Next 800 cu. ft., per 100 cu. ft. . . . .	.20	-
Next 1,300 cu. ft., per 100 cu. ft. . . . .	.15	-
Next 1,800 cu. ft., per 100 cu. ft. . . . .	.10	-
Over 4,500 cu. ft., per 100 cu. ft. . . . .	.07	-

Based on an average monthly use of approximately 2,500 cu. ft., the monthly charge at the present rates is \$4.75 and at the proposed rates it would be \$4.92. The charge for such usage in the A-1 tariff area under the existing rates is \$5.75.

The record shows that applicant's service area comprises approximately 680 acres of nearly completely developed property with little prospect of expansion or further development. The terrain is level, sloping gently from north to south. Sources of water supply are four wells in the Raymond Basin in which applicant has a "Decreed Right 1955"<sup>2/</sup> of 515 acre-feet per year. However, applicant's present policy is to pump from its Well No. 9 in the Rio Hondo Basin, which is uncontrolled, and to meet peak demands with water from the Raymond Basin wells. Such policy, although about twice as expensive, is practiced by applicant to maintain its full "Decreed Right" in Raymond Basin and to establish rights in Rio Hondo Basin.

Camille A. Garnier is president, general manager and a director of applicant and president and a director of Cal-Michigan. Applicant's assistant secretary and assistant manager is Roger Ellis, who is also assistant secretary of Cal-Michigan. Some construction, maintenance, operating, engineering, communications, water rights, regulatory and other services are performed by Pacific Utility Service Company (PACUS), which is a division of the Valinda Engineering Company, Water Suppliers Communication Service, Water Rights Research Association, and Suburban Water Systems, which applicant's president either controls or dominates. James Campbell

<sup>2/</sup> City of Pasadena vs. City of Alhambra, et al, Calif. Superior Court, Los Angeles County, Pasa. C. 1323; see 33 Cal.2d 908. ✓

is assistant treasurer and superintendent. Other directors are Roger A. Pfaff, vice president of applicant and Cal-Michigan; Richard Goodspeed, longtime treasurer of applicant and Cal-Michigan; and Christene Kelly, who is also secretary and a director of Cal-Michigan. Total recorded administrative and general salaries expense in 1964 was \$23,596, less \$1,938 transferred to capital. The record shows that Messrs. Garnier, Ellis and Campbell are compensated \$50, \$50 and \$70 per month, respectively, for use of their private cars. They live in Covina, Hacienda Heights in La Puente, and Whittier, respectively. Garnier attends directors' meetings; Ellis has recently sought financing for applicant; and Campbell generally supervises all of applicant's day-to-day operations. The record shows that applicant's water system is fairly old and has required some replacement of mains. From a water supply standpoint, operations are automated and require little attention. Because many meters are located at the rear of property lines, meter reading is more time-consuming and costly than if meters were located at property fronts in parkways or at street curbs.

Applicant proposed \$190,948 of plant additions during 1964 according to Schedule No. 7 attached to the application, and \$130,803 during 1965 according to Exhibit 5. Many of these proposed expenditures have been deferred pending the securing of a \$60,000 loan from Security First National Bank, Whittier Branch. This loan is to be refinanced on a long-term basis by Pacific Mutual Insurance Company, or an equally responsible company, as shown in Exhibit 4. Applicant's witness Ellis

testified that applicant would not be able to properly service a loan of this kind without additional revenues; hence, the instant application.

The following tabulation is a comparison of earnings data contained in Exhibit 5, applicant's estimate of its results of operations for the year 1965, and Exhibit 10, the results of applicant's operations for the year 1965, as estimated by Commission staff engineers:

SUMMARY OF EARNINGS

Item	Year 1965 Estimated			
	Present Rates		Proposed Rates	
	Per Co. Ex. 5	Per PUC Ex. 10	Per Co. Ex. 5	Per PUC Ex. 10
Operating Revenues	\$130,126	\$130,840	\$151,783	\$153,830
Operating Expenses	98,108	75,960	98,108	75,960
Depreciation	17,762	14,560	17,762	14,560
Taxes	12,661	17,000	15,750	26,630
Subtotal	128,531	107,520	131,620	117,150
Net Revenue	1,595	23,320	20,163	36,680
Rate Base	501,022	381,000	501,022	381,000
Rate of Return	0.32%	6.1%	4.0%	9.6%

There are no significant differences in the estimates of revenues at either the present or proposed rates submitted by applicant and the staff. The staff's estimates appear to be the more accurate and are adopted for the purposes of this proceeding.

The principal differences in operating expense estimates between applicant and the staff are those for executive salaries, pumping expense, contract repairs, transportation expense, executive car allowance, utilities, building service and insurance

costs, rental charges of the old office building and of a chlorinator, rate case expense, and the prorating of abnormal and nonrecurring operating expenses over a period of years and the elimination of expenses not considered proper for rate-making purposes.

The staff's estimates of operating expenses, including payroll, are more reasonable than those of applicant, except that the staff's estimate of \$150 per year for rate case expense is too low and should be increased to \$400, and applicant's estimate of \$18,100 for power for pumping is more reasonable than the staff's estimate of \$17,400 for this item. Pursuant to the foregoing, we adopt an amount of \$76,910 as reasonable operating expenses.

The principal differences in rate base are (1) inclusion by applicant and exclusion by the staff of \$60,000, purportedly representing the cost of water rights obtained from Cal-Michigan and (2) capital expenditures, proposed in 1965.

Applicant's theory with respect to the water rights issue is that its predecessor purchased land and water rights in 1911 for a total payment of over \$297,000; that \$60,000 is a reasonable estimate of the portion of that payment which was then attributable to water rights, the remainder being for the land itself; that as the land was thereafter developed and sold, the water rights were systematically reserved (income taxes were computed accordingly); and that the approximately \$57,000 allowed for water rights by the staff was for later expenditures, mostly connected with legal costs in Pasadena v. Alhambra, 33 Cal.2d 908. Although a difficult fact question is presented, we would not be unwilling on proper evidence to allocate to water rights a reasonable portion of any single payment made by a utility for land and water rights together. (See Decision No. 70739, dated May 24, 1966, in Application No. 47984.)

Nevertheless, even if we were to accept applicant's evidence that the reasonable value of the claimed water rights was \$60,000 at the time of purchase, the record is deficient in other respects. Applicant has failed to show the nature of the rights involved, the legal means by which they were reserved when the land was sold, and even that the rights still exist. Thus, if they were riparian or overlying rights, they would have been "part and parcel" of the land and the attempt to "reserve" them may not have been legally successful. Moreover, if these rights were to water in the Raymond Basin, they may have been lost in the years preceding Pasadena v. Alhambra, supra, 33 Cal.2d at 932, wherein the Court declined to pass on the question whether applicant's predecessor had preserved its old right or acquired a new one. The expense of that litigation is included in the staff's estimate of rate base because it was related to the water rights there adjudicated; but the evidence here is not sufficient to determine whether or not the rights obtained by purchase in 1911 were part of those same rights and, if not, whether they are still used and useful utility property. Once before (Decision No. 45013 in Application No. 31520) we denied "without prejudice" a request to include in rate base the \$60,000 claimed to have been paid for water rights in 1911; although the showing here may have overcome the deficiencies noted in that decision, we are compelled again to the same result because the evidence concerning the nature of these claimed rights is inadequate.

The other rate base differences amount to \$60,000, primarily for estimated capital additions not related to customer growth, which the staff excluded because the applicant's planning on most of these additions had not been completed nor had financing therefor been arranged at the time of the staff's investigations.

It appears, however, that certain additions are reasonably necessary to improve service, that some have been installed, and that this amount is reasonably includable in rate base for the test year.

The staff's estimate of depreciation expense is reasonable, after modification to reflect the inclusion of additional depreciable plant in rate base as discussed above.

The staff's estimate of taxes other than on income is higher than applicant's estimate and is adopted as being the more representative for the purposes of this proceeding.

The Commission finds as follows:

1. The record discloses no operating problems except applicant's choice to pump its major water supplies from the Rio Hondo Basin rather than from its wells in the Raymond Basin. Such choice results in substantial increases in pumping costs, but this is done to preserve water rights in the Raymond Basin and develop water rights in the Rio Hondo Basin.

2.a. Applicant has not supported the reasonableness of its estimates of administrative and general office salaries expense. Neither has it supported the reasonableness of its estimates of executive car allowance, engineering services, communication services, regulatory, or rent expenses.

b. Exhibit 10 shows that applicant's president and general manager, in addition to the annual compensation of \$6,000 he receives from applicant, receives \$8,400 from Vallecito Water Company, \$14,400 from Southwest Water Company, and \$27,000 from Suburban Water Systems, for a total of \$55,800 of annual compensation from California public utility water companies.

c. In 1964, total administrative and general salaries were \$23,596 and total payroll was \$43,560. In addition, there was \$1,920 of private car expense, and there were additional water



rights, research, and communication service expenses incurred by applicant for Garnier-controlled enterprises' services.

d. Applicant's service area is fully developed with little or no opportunity for expansion and, although the water system is fairly old, it operates automatically and could and should be managed by a single manager, two or three field men, and one or two office clerks.

e. Applicant could and should install and operate its own radio communication service, if it is needed, rather than rely on Water Suppliers Communication Service from La Puente, about 20 miles south of applicant's service area. Construction and engineering services of all types should be contracted for by independent bids.

f. Applicant's customers and other stockholders should not be called upon to pay rates to support unreasonable charges to applicant by associated companies and entities in which applicant's president has an interest.

3. Applicant has not supported the original cost to it, if any, of water rights in the claimed amount of \$60,000 obtained by Cal-Michigan since the year 1910.

4. If additional financing is required, the economies of operation suggested by the Commission staff's engineering estimates for the year 1965, could and should produce a favorable financial statement attractive to a bank or a lending institution.

5.a. Applicant is in need of additional revenues but the proposed rates set forth in the application are excessive.

b. The rate of return of 6.5 percent recommended by the Commission staff is reasonable.

c. At the rates hereinafter authorized, the following adopted results of operation are reasonable for the test year 1965:

Operating Revenues	\$148,000
Operating Expenses	76,910
Depreciation	16,020
Taxes Other Than on Income	13,030
Taxes on Income	<u>13,420</u>
Subtotal	\$119,380
Net Revenue	28,620
Average Rate Base (Depreciated)	441,000
Rate of Return	6.5%

6. The increases in rates and charges authorized herein are justified; the rates and charges authorized herein are reasonable; and the present rates and charges, insofar as they differ from those prescribed herein, are for the future unjust and unreasonable.

7.a. The recommendation of the Commission staff, that any rate increases authorized in this proceeding should be spread more equitably among the customers than as proposed by applicant, is reasonable and has been implemented in the rate schedule authorized herein.

b. The Commission staff made certain recommendations with respect to the filing of tariff sheets, comprehensive maps and depreciation reviews, which applicant should be directed to carry out.

c. Applicant should be required to make periodic progress reports to the Commission with respect to the proposed service improvements and other plant additions set forth in Exhibit No. 5 herein.

The Commission concludes that the application should be granted to the extent set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. After the effective date of this order, East Pasadena Water Co. is authorized to file the revised rate schedule attached to this order as Appendix A. Such filing shall comply with General Order No. 96-A. The effective date of the revised schedule shall be September 1, 1966, or four days after the date of filing, whichever is later. The revised schedule shall apply only to service rendered on and after the effective date thereof.

2. Within forty-five days after the effective date of this order, applicant shall file a revised tariff service area map and sample copies of revised printed forms that are normally used in connection with customers' services. Such filing shall comply with General Order No. 96-A. The effective date of the revised tariff sheets shall be four days after the date of filing.

3. Applicant shall prepare and keep current the system map required by paragraph 1.10.a. of General Order No. 103. Within ninety days after the effective date of this order, applicant shall file with the Commission two copies of this map.

4. For the year 1966, applicant shall determine the depreciation rate for each depreciable primary plant account by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant; (2) dividing the result by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant. Until review indicates otherwise, applicant shall continue to use these rates. Applicant shall review its depreciation rates at intervals of three years and whenever a major change in depreciable plant occurs. The results of each review shall be submitted promptly to the Commission.

5. Applicant shall submit to the Commission, in writing, periodic progress reports with respect to the installation of plant additions. The first such report shall be furnished as of December 31, 1966, within fifteen days thereafter, and succeeding reports shall be furnished as of June 30, 1967 and December 31, 1967, within fifteen days after each of said dates.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of July, 1966.

[Signature]  
President

George J. Hoover

Fredrick B. Holbrook

[Signature]

[Signature]  
Commissioners

APPENDIX A

Schedule No. B-1

(c)

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The territory within and adjacent to the Cities of Temple City and Arcadia and adjacent to the Cities of Pasadena and San Marino, and as described on service area map as the B-1 area. (c)

RATES

Per Meter  
Per Month

Quantity Rates:

First 500 cu.ft. or less .....	\$ 1.50	(c)
Next 2,500 cu.ft., per 100 cu.ft. ....	.18	
Next 2,000 cu.ft., per 100 cu.ft. ....	.15	
Over 5,000 cu.ft., per 100 cu.ft. ....	.12	(c)

Minimum Charges:

For 5/8 x 3/4-inch meter .....	\$ 1.50
For 3/4-inch meter .....	2.25
For 1-inch meter .....	3.00
For 1 1/2-inch meter .....	5.00
For 2-inch meter .....	8.00
For 3-inch meter .....	17.00

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