

**ORIGINAL**

Decision No. 73001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the petition of )  
DENAIR COMMUNITY SERVICES DISTRICT )  
to fix the just compensation for )  
the acquisition of the Denair Water )  
Works, a public utility. )

Application No. 48122  
(Filed December 14, 1965)

Robert R. Coffin, Jr., for Denair Community Services  
District, petitioner.  
William C. Cullens, for William T. and Della Hammond,  
dba Denair Water Works, respondent.  
R. L. Bakman, for Bakman Water Company, interested  
party.  
Cyril M. Saroyan, Counsel, for the Commission staff.

O P I N I O N

Denair Community Services District, a political sub-  
division within the County of Stanislaus, California, by a petition  
of the first class requests that the Commission fix the just com-  
pensation to be paid by the District for the lands, property and  
rights of William T. and Della Hammond, doing business as Denair  
Water Works, a public utility (Public Utilities Code, Secs. 1401 -  
1421).

The Commission took jurisdiction following a hearing on an  
order to show cause (Decision No. 70446, dated March 15, 1966). The  
District then asked the Commission staff to prepare and present three  
studies pertinent to the petition. <sup>1/</sup> The studies, and certain stipu-  
lations by the District and Company concerning land values, were

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<sup>1/</sup> Reproduction Cost New Appraisal, excluding Land and  
Intangibles, as of December 14, 1965 (Exhibit 1);  
Accrued Depreciation in Connection with Reproduction Cost  
New Appraisal, also excluding Land and Intangibles, as of  
the same date (Exhibit 2); Original Cost Rate Base  
Components, as of December 14, 1965, and Rates of Return  
for Calendar Years 1963 through 1965 (Exhibit 3).

presented at a public hearing held, after due notice, at Denair before Examiner Gregory on May 4 and 5, 1967, at the conclusion of which the petition was submitted for decision.

The evidence shows that in 1949 two water systems that had served portions of the Town of Denair for many years were joined by 1,100 feet of 4-inch asbestos cement pipe laid through the Santa Fe Railway right-of-way, and now, as the Denair Water Works, serve about 288 customers in the town and some contiguous areas. The Hammonds acquired the utility in 1956 (Decision No. 53829, October 1, 1956, Application No. 38282).

The present system has four wells at three separate sites. The pumps for two of the wells are equipped with 7-1/2 hp motors; the other two pumps have, respectively, 15 and 20 hp motors. There are four pressure tanks with a total capacity of 8,400 gallons, and about 25,000 feet of distribution mains ranging from one to six inches in diameter, including some 2,100 feet of 4-inch mains, installed after 1963, that parallel older 2-inch lines.

The utility, following a rate increase in 1963 (Decision No. 66351, November 19, 1963, Application No. 45157) and the addition of some 37 new customers, increased its net revenues from a deficit of \$656 in 1963 to net gains of \$1,568 in 1964 and \$2,322 in 1965, as shown by the staff's adjusted summary of earnings (Exhibit 3, p. 3-5). The improved earnings resulted in rates of return on average depreciated rate bases for those years, respectively, of 6.17 percent and 8.51 percent.

Staff examination, in the present proceeding, disclosed that plant balances and related reserve for depreciation, as set forth in annual reports filed with the Commission, could not readily be verified due to inadequacy of the utility's accounting records and practices. Accordingly, the staff, as a starting point, used

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balances for utility plant accounts, related reserve for depreciation and other rate base components as of January 1, 1963, as adopted by Decision No. 56351, supra. Those balances were then modified by certain adjustments directed primarily to the reconstruction of plant additions, retirements and depreciation reserve from January 1, 1963 to July 31, 1966, based on available invoices, physical inspection of the plant and other data furnished by the owner.

The record discloses no substantial issue with respect to the results of the staff studies, summarized below.

A. Original Cost Rate Base Components at December 14, 1965 (Exhibit 3)

The utility's original cost rate base at December 14, 1965, exclusive of any working cash, is shown in the following tabulation. Utility plant balances are shown as of the end of the year 1965, as only minor charges to plant occurred between the filing date of the petition (December 14, 1965) and the end of the year.

Item	Amount
Intangible Plant	\$ 1,940
Land	1,763
Subtotal	<u>3,703</u>
Depreciable Utility Plant	52,505
Total Utility Plant	<u>56,208</u>
Reserve for Depreciation	<u>(21,624)</u>
Net Utility Plant	34,584
Unrefunded Advances for Construction	<u>(6,695)</u>
Unamortized Contributions in Aid of Construction	<u>(1,957)</u>
Materials and Supplies	725
Depreciated Rate Base	26,657

(Red Figure)

B. Reproduction Cost New and Accrued Depreciation, Including General Overheads, as of December 14, 1965 (Exhibits 1 and 2)

The staff's reproduction cost new appraisal of all water system plant and other properties used by Denair Water Works and existing on December 14, 1965, exclusive of land, rights-of way and

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Intangibles, together with accrued depreciation, is summarized in the tabulation below. All aboveground facilities were inventoried by field inspection. Subsurface pipelines were inventoried by marking out their location aboveground, measuring their length and verifying their size, type and location by standard engineering methods including the use of an electronic pipe locator and actual excavations. Wells, pumping station equipment, tanks, services, meters, hydrants, structures, materials and supplies were inventoried by inspection, analysis of available invoices and other company records, and from information furnished by the owner.

The reproduction cost new appraisal represents the staff's estimate of the cost of reconstructing, in a reasonable and efficient manner, the existing water system on a continuous, wholesale construction basis, reflecting conditions prevailing during a planned period immediately prior to and terminating upon the date of filing the petition. The tabulation follows (Exhibit 2, p. 1-5).

:No.:	Item	:Repro- :duction: :Cost New:	:Accrued: :Depre- :ciation:	:RCN Less :Accr. :Depr.:	:Percent: :Accrued: :Deprec.:
<u>Tangible Plant, Excluding Land</u>					
315	Wells	\$ 9,535	\$ 2,560	\$ 6,975	26.8%
324	Pumping Equipment	11,051	4,600	6,451	41.6
342	Reservoirs and Tanks	5,554	1,382	4,172	24.9
343	Water Mains	49,853	18,142	31,711	36.4
345	Services	13,345	5,080	8,265	38.1
346	Meters	1,139	366	773	32.1
347	Meter Installations	32	9	23	27.6
348	Hydrants	1,214	361	853	29.7
371	Structures and Improve- ments	1,136	419	717	36.9
374	Other Equipment	597	294	303	49.3
131	Materials and Supplies	1,000	-	1,000	-
	Total	94,456	33,213	61,243	35.2

The record discloses, with respect to the utility's landed capital, that the sum of \$1,763 was included in Account No. 306, Land, in the utility plant balances adopted in 1963 by Decision No. 66351 and was carried forward, unchanged, to the balances shown for the end of 1965 (Exhibit 3, Table 2-A, p.2-4). The land comprises the utility's three well sites located in the town.

Counsel for the District, the utility and the staff stipulated at the hearing that an appraisal of the bare land of the sites, contained in a report by Robert W. Ford, a Modesto real estate appraiser, dated May 3, 1967 (Exhibit 4) would be received in evidence; that if Ford were called as a witness he would testify to the content of the report and would also testify that the land values shown in the report would be the same if the appraisal were made as of December 14, 1965.

Counsel for the utility and the District also stipulated that if W. T. Hammond, owner of the utility, were called as a witness he would testify to certain values for the three well sites.

The tabulation below summarizes various data of record related to land, as of December 14, 1965:

Parcel No. (Exh. 4)	Area (sq.ft.)	Original Cost: Estimated Market Value 12-14-65:		
		Staff (Exh.3)	District (Exh. 4)	UTILITY (Hammond)
1	8,250	\$ -	\$2,500	\$3,000
2	3,994	-	1,500	2,000
3	625	-	350	750
Total:		1,763	4,350	5,750

The Ford appraisal, which describes the location and potential uses of the sites and gives data on sales of comparable land, notes that Parcel 1 is zoned R-1 and is adequate for building a residence; Parcel 2 though zoned R-2, is limited by its small

size and narrow street frontage and probably could only be used economically with one of the adjoining properties; Parcel 3 is a 25' x 25' well site located at the end of a 20' alley and could only be used as a well site or as plottage to the adjoining lot.

The only evidence of record concerning the value of any easements owned by the utility is a resolution by the Board of Supervisors of Stanislaus County, adopted in July, 1941, granting the right to lay water pipes in Denair (Exhibit 5). The document was offered by Counsel for the utility, without further comment. Counsel for the District, however, observed that since the original cost of land, shown in the staff's Exhibit 3, does not indicate additional values for easements, that fact "would be some evidence of what the easements are worth at the present time". (Tr. p. 96.)

#### Summary and Findings

Determination of just compensation by the Commission, under applicable law, requires the exercise of an informed judgment on what the record discloses with respect to the fair market value, in money, of the sought properties viewed as of the filing date of condemnor's petition. There is no universally applicable formula or mathematical computation for the determination of that issue.

The criterion of "fair market value" has, from time to time, been questioned when applied to the taking of utility properties because there is normally only a limited "market" for such properties and the utility is not ordinarily subject to the economics of the market place. But when a utility is for sale and a purchaser is interested in buying it, there is a "market" to that extent and use of the criterion is justified when necessary in the fixing of just compensation by an impartial body, when the parties cannot agree.

The term "market value", or "fair market value", has been variously defined and, as so defined, has been equated with "just compensation" in recent proceedings before the Commission (cf. City of North Sacramento, 56 Cal.P.U.C. 554, 561, cited in Monterey Peninsula Municipal Water District, 63 Cal.P.U.C. 533, 536 and Aldercroft Heights County Water District, 64 Cal.P.U.C. 429, 433).

As stated in City of North Sacramento, supra:

"In determining just compensation the Commission should consider those matters which would be considered by a willing seller and by a willing buyer each of whom has knowledge of all the uses and purposes to which the property is best adapted and for which it is capable of being used."

Informed and willing sellers and buyers would be expected to consider at least the following facts, ascertainable by inspection or by reference to public law and records, that concern the properties sought here:

1. The properties, for many years, have been operated as a public utility under regulation by this Commission and must continue to be so operated until some other use is authorized by the Commission.
2. No other privately owned utility may operate as a public utility in the company's service area unless granted a certificate by this Commission based on its finding of public convenience and necessity.
3. A public district may parallel the utility's lines and, subject to liability for payment of compensation (Public Utilities Code, Secs. 1501-1506), may operate a competing system in the Town of Denair without authorization from this Commission.
4. The utility's presently authorized rates for water service are those which this Commission has found will allow the owners an opportunity to earn a reasonable return on the original cost of the

utility's properties (plus an allowance for working capital), after deducting the depreciation reserve, unrefunded advances for construction and contributions in aid of construction.

The record makes plain that the district's officials and the owners of the utility are informed, or have had ample opportunity to become informed, on the foregoing matters.

The Commission may consider a number of criteria in determining just compensation. Among these are: (1) reproduction cost new, less accrued depreciation; (2) original cost of rate base components, less depreciation; (3) comparable sales; (4) capitalized earning, if earnings are shown; and (5) present day costs, defined as the sum of (a) reproduction cost new less depreciation of physical properties other than land and easements; (b) market value of land, easements and water rights; and (c) organization costs and going concern value.

Generally, and without regard to the status of petitioner as a public agency, a purchaser of water utility properties would undoubtedly consider both their present and potential earning power and their present day cost as factors affecting market value, and would expect to be able to earn a reasonable return on his investment. He would be unwilling to pay much, if anything, in excess of their present day cost, especially if he planned to continue operations as a public utility, in view of the possibility that a public agency might parallel or condemn his system.

This record, unlike others recently considered by this Commission in just compensation proceedings, does not contain an affirmative showing by the utility on cost, or by either the district or the utility on market value, of depreciable assets. Hence, we are not required to consider or weigh conflicting opinions on those subjects, for there are none. Our function here is to draw our own



conclusions on just compensation from the record before us. Value judgments cover a wide spectrum of subjective opinion. Cost determinations, being objectively verifiable, do not. Accordingly, we can do no more, on this record, than to express our opinion, in the form of a "finding", of what we consider to be the number of dollars that will compensate the utility, within the limits of constitutional guarantees and in accordance with judicial concepts of reasonableness and fairness, for the taking of its properties, and to state the factors used in reaching that determination.

Preliminarily, the record discloses that the Town of Denair (pop. 898, U.S. Census, 1960) is a small, agriculturally oriented community located some 16 miles southeast of Modesto, the county seat of Stanislaus County. The town provides goods and services to the surrounding farm area. The District has undertaken to provide a sewer system and, by this petition, seeks to acquire the utility's water system as a nucleus for developing its own water facilities and service in the Town and adjacent areas.

The record also shows that the utility, during 1964-1965, added 37 new customers to its service and had a rate of return, in 1965, of 8.5 percent on an average depreciated rate base of \$27,300. We have considered this evidence of growth and earning power as a positive value factor in reaching our ultimate determination here.

Other factors considered here are tabulated below:

Reproduction Cost New, Including Overheads, Less Accrued Depreciation and Excluding Land...	\$ 61,243
Original Cost Rate Base Components, Depreciated, Including Land and Intangible Plant .....	26,657
Land (3 well sites), Average of District and Company Estimates .....	5,050
Capitalized Earnings .....	45,320 (a)

(a) Original Cost Rate Base multiplied by 8.5% (1965 Rate of Return), and divided by nominal 5% interest rate.

We have concluded that the owners of the utility would be fairly compensated for the taking of their water system by payment to them, by the District, of a sum derived by giving approximately equal weight to the three measures of value available on this record, namely, (a) reproduction cost new, depreciated, plus market value of land; (b) original cost rate base; (c) capitalized earnings, determined as above. The value for land (\$5,050) comes to about \$1,800 more than the amount calculated by use of the average price per square foot of comparable lot sales in Denair, as shown in the District's exhibit (Exhibit 4).

The Commission finds, on this record, that:

1. Petitioner, Denair Community Services District (District), is a duly organized and existing public agency functioning under the laws of the State of California.
2. Respondent Denair Water Works (Company) is a public utility, owned and operated by William T. and Della Hammond, husband and wife, that presently supplies water to some 288 customers in the Town of Denair, Stanislaus County, California, pursuant to the regulatory authority exercised by the Public Utilities Commission.
3. District, on December 14, 1965, filed the instant petition to have this Commission fix the just compensation to be paid by it for all of Company's water system, including lands, property and rights of any character whatsoever; District requested and paid for the preparation and presentation by the Commission's staff of three studies, described hereinabove, concerning the original cost, reproduction cost new and accrued depreciation of the sought properties; thereafter, a hearing was held at Denair, after due notice, on May 4 and 5, 1967, at which District, Company and the Commission staff appeared, each represented by counsel; evidence, both oral and documentary, relative to the cost and value of the

sought properties as of December 14, 1965 was received, together with argument of counsel, and the petition was thereupon submitted for decision.

4. The record does not contain evidence from which can be determined, or approximated with reasonable certainty, the just compensation, if any, expressed in money, of: (a) going concern value; (b) good will; (c) easements, or (d) water rights.

5. The total just compensation to be paid by District for the lands, property and rights described in the petition herein is the amount of \$46,000.00.

The Secretary of the Commission is directed to cause certified copies of this decision to be served on the parties. The effective date of this decision shall be twenty days after the date hereof. No order is necessary.

Made and filed at San Francisco, California, this 29<sup>th</sup> day of AUGUST, 1967.

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