MS

Decision No. 77766

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN JOSE WATER WORKS, a corporation, for an order authorizing it to increase rates charged for water service in San Jose, Campbell, Cupertino, Los Gatos, Monte Sereno, Saratoga and vicinity.	Application No. 51283 (Filed July 30, 1969; Amended April 3, 1970)

McCutchen, Doyle, Brown & Enersen, by Robert Minge Brown, for applicant.
Caputo, Riccardo & Burriesei, by Richard P. Caputo, for San Jose Highlands Homeowners' Association, protestant.
R. L. Warnick, for the Town of Los Gatos, interested party.
Cyril M. Saroyan, Counsel, and Donald L. Houck, for the Commission staff.

O P I N I O N

Applicant San Jose Water Works seeks authority to increase rates for water service.

Public hearing was held before Examiner Catey in San Jose on October 22 and 23, 1969. Copies of the application had been served, notice of filing of the application published, and notice of hearing published and posted, in accordance with this Commission's rules of procedure. A motion to dismiss was taken under submission on October 23, 1969 and was denied by Decision No. 76569, dated December 16, 1969. The application was amended on April 3, 1970. Public hearing on the amended application was held before Examiner Catey in San Jose on May 11, 12 and 13, 1970. Copies of the amendment had been served and notice of filing of the amendment had been published in accordance with this Commission's rules of procedure. The matter was submitted on May 13, 1970, subject to receipt of concurrent briefs on June 3, 1970.

Testimony on behalf of applicant was presented by applicant's president, its vice president in charge of new business, its vice president and treasurer, its controller and assistant treasurer, its chief engineer, its director of planning and its general accounting supervisor. Two customers testified in their own behalf. The Commission staff presentation was made through three engineers and two accountants.

Service Area and Water System

Applicant's service area consists of some 126 square miles of territory in Santa Clara County, in and about San Jose, Los Gatos, Monte Sereno, Saratoga, Campbell, Cupertino and Santa Clara. The service area is relatively flat in the central portion but extends into the foothills to the northeast and the mountains to the southwest. The wide range of elevations of the area, from almost sea level to over 1,000 feet above sea level, required the establishment of 30 pressure zones.

Part of applicant's water supply is obtained by the diversion and storage of runoff from the Santa Cruz Mountains watershed. Most of the supply is obtained from 157 wells drilled in various parts of the Santa Clara Valley. The rest of the supply is obtained from the Rinconada filter plant of Santa Clara County Flood Control and Water District, which obtains water from the South Bay Aqueduct of the California Water Plan. Applicant's mountain reservoirs have a combined storage capacity of over 2-1/4 billon gallons. In addition, distribution storage reservoirs and tanks provide a combined capacity of over 200 million gallons.

Applicant's transmission and distribution system includes approximately 1,600 miles of main, ranging in size up to 48 inches in diameter. Metered service is provided to about 140,000 customers,

flat rates being limited almost exclusively to less than 500 private and almost 9,000 public fire protection services.

Service

The Commission staff's Exhibit No. 17 contains the statement that applicant's facilities are in good condition, that satisfactory service is being furnished, and that there were only 33 customer complaints to the Commission during 1969, of which 31 related to disputed bills, rather than service. All 33 complaints were resolved in a manner acceptable to the customers. It is rather remarkable that only two of applicant's 140,000 customers presented any complaints at the hearing, and those complaints related to matters other than service.

Rates

Applicant's present tariffs include schedules for general metered service, metered service from applicant's Almaden Pipeline and from a pipeline installed by a water conservation district, limited temporary flat rate service, limited irrigation service, private fire protection service, public fire hydrant service, and service to applicant's employees.

Applicant's present basic rates for metered service and for limited temporary flat rate service became effective on July 1, 1967. Provision for a 12-inch service was added to the private fire protection service schedule on May 10, 1968. All of the other present rates became effective July 1, 1964.

Applicant proposes to increase its rates for metered service, limited temporary flat rate service and limited irrigation service. The only other significant proposed changes in the schedules are the elimination of reference to three of the former limited temporary flat rate service customers who no longer receive flat rate

service. The following Table I presents a comparison of applicant's present rates, those requested by applicant in its original and amended application, and those authorized herein. The amendment proposes that the second and third step increases be effective July 1, 1971 and July 1, 1972, respectively.

TABLE I

COMPARISON OF MONTHLY RATES

Item	Present	Proposed Original	Proposed Amended	Proposed Authorized+
General Metered Service				
Step #1				
Service Charge*	$2.00	$2.35	$2.32	$2.25
Quantity Rates:				
1st 30,000 cf, per 100 cf	.291	.338	.334	.325
Over 30,000 cf, per 100 cf	.255	.295	.292	.286
Step #2				
Service Charge*	2.00	2.35	2.37	2.30
Quantity Rates:				
1st 30,000 cf, per 100 cf	.291	.338	.342	.332
Over 30,000 cf, per 100 cf	.255	.295	.299	.289
Step #3				
Service Charge*	2.00	2.35	2.42	2.35
Quantity Rates:				
1st 30,000 cf, per 100 cf	.291	.338	.349	.338
Over 30,000 cf, per 100 cf	.255	.295	.305	.297
Limited Flat Rate Service	2.70	3.15	3.15	3.10
Limited Irrigation Service				
For 650 gpm, rate per hr.	4.62	5.35	5.35	5.25

* For 5/8 x 3/4-inch meter. A graduated scale of increased service charges is provided for larger meters.

\+ Except that no increase is authorized for resale service.

Table 15-C of Exhibit No. 10 shows that, for a typical residential metered service customer with average monthly consumption

of 2,175 cubic feet through a 5/8 x 3/4-inch meter, the average charge would increase 15 percent from $8.33 under present rates to $9.58 under applicant's proposed Step #1 rates. Subsequent Step #2 and Step #3 would each have added about two percent to the monthly charges. Under the rates authorized to be effective until October 1, 1971, the charge for 2,175 cubic feet will be $9.32, an increase of 12 percent over the charge under present rates.

Results of Operation

Witnesses for applicant and the Commission staff have analyzed and estimated applicant's operational results. Applicant's original analysis was presented in Exhibit No. 2 at the original hearing. This analysis was revised in Exhibit No. 2-A, presented at the adjourned hearing, to give recognition to corrected levels of advances for construction, revised working capital calculations and changes in depreciation deductions allowed by income tax authorities. The revised analysis was carried forward into Exhibit No. 10, which is based upon the step rates requested in the amended application. Further adjustments were made by applicant, after review of the staff's presentation, in Exhibit No. 18. These adjustments were (1) an increase in the average amount of water originally estimated by

applicant to be produced from surface supplies, (2) a decrease in the assessment ratio used by the County Assessor, (3) an increase in interest deduction for income taxes, to "roll back" debt allocated to the new filter plant, and (4) a decrease in rate base resulting from a revised basis of adjusting advances for construction.

The staff's original analysis reflected the revised rate proposal in the amended application and was presented in Exhibit No. 17 at the adjourned hearing. This exhibit was modified in Exhibit No. 17-A to reflect a decrease in the average amount of water estimated by the staff to be produced from applicant's surface sources of supply.

Summarized in Table II, from applicant's Exhibits Nos. 10 and 18 and the staff's Exhibits Nos. 17 and 17-A are the estimated results of operation for the test year 1970, under present rates and under the Step #1 rates proposed in the amended application, before considering the additional expenses and offsetting revenue requirement which would have resulted from the federal income tax surcharge, which now has expired. For comparison, this table also shows the corresponding results of operation modified as discussed hereinafter, and test year 1970 results of operation at the Step #1 rates authorized herein.

TABLE II

ESTIMATED RESULTS OF OPERATION, TEST YEAR 1970

(Dollars in Thousands)

Item	Applicant	Staff	Adopted
At Present Rates			
Operating Revenues	$15,981.7	$15,990.8	$15,991
Deductions			
Purch. Power	822.6[a]	786.7	800
Pump Taxes	2,222.4	2,151.1	2,170
All Other Expenses, Excluding Franchise and Income Taxes	8,344.9	8,379.2	8,360
Subtotal	11,389.9	11,317.0	11,330
Local Franchise Taxes	34.7	34.4	34
Income Taxes	1,172.2[b]	1,194.2	1,188
Total	12,596.8[c]	12,545.6	12,552
Net Revenue	3,384.9[c]	3,445.2	3,439
Rate Base	56,715.4	56,734.6	56,730
Rate of Return	5.97%[c]	6.07%	6.06%
At Step #1 Rates Proposed by Applicant			
Operating Revenues	$18,325.2	$18,334.4	$18,334
Deductions			
Excluding Franch. and Income Taxes and Increase in Uncollectibles	11,389.9	11,317.0	11,330
Local Franchise Taxes	39.8	39.4	39
Income Taxes	2,379.8	2,398.2	2,392
Increase in Uncollectibles	0.0	7.2	7
Total	13,809.5	13,761.8	13,768
Net Revenue	4,515.7	4,572.6	4,566
Rate Base	57,052.4	56,734.6	56,810
Rate of Return	7.92%	8.06%	8.04%
At Step #1 Rates Authorized Herein			
Operating Revenues		$17,848	
Deductions			
Excl. Income Taxes		11,376	
Income Taxes		2,141	
Total		13,517	
Net Revenue		4,331	
Rate Base		56,810	
Rate of Return		7.62%	

a. $807,800 excluding new filter plant (Exh. No. 18) plus $14,800 for new filter plant (Exh. No. 17, pg. 7-1, footnote 3).

b. Calculated from Exhs. Nos. 10 and 18.

c. Derived from figures shown higher up in same column.

From Table II it can be determined that the increase in operating revenues would be about 15 percent under applicant's proposed Step #1 rates, and 11.6 percent under the Step #1 rates authorized herein.

Revenues

The small difference between the revenue estimates of applicant and the staff is due to the availability of more recent recorded data when the staff's estimates were being prepared. The staff's estimates are adopted in Table II.

Purchased Power

The difference between the purchased power estimates of applicant and the staff results from two differences in the basic assumptions behind the estimates. First, the staff's estimate of the average amount of additional Los Gatos Creek water to be made available by applicant's new filter plant is greater than applicant's estimate, resulting in the assumption of less water to be pumped from wells in the staff's estimates. Second, applicant developed an estimated composite unit cost of power, including power for booster pumps, per million gallons of water produced from applicant's wells, whereas the staff's lower estimate of power costs is based upon a more detailed study which reflects such factors as improving subsurface water levels in the area and the relative proportions of water which require boosting.

In regard to the effect of the new filter plant on average availability of surface water supplies, a precise determination is not possible before the plant has been in operation for a few years. Applicant's use of an average of yields for a maximum year and a minimum year appears to understate the average potential yield for intermediate years. On the other hand, the staff's assumptions of

available yields, although theoretically possible, could well be unattainable under actual practical operating conditions.

In regard to the estimated unit costs of power for pumping water, applicant's combining of power used by well pumps with that used by booster pumps is somewhat imprecise. Also, applicant's use of a long-term average unit cost, even though modified downward to reflect normal annual use and savings due to stabilizing the amounts of water pumped, ignores the effect of rising water tables on power consumption.

The staff's method of estimating power cost attempted a correlation of past years' power costs with the multiple variables of amount of water produced, percentage of total water represented by purchased water and surface supplies which required boosting only, and average depth to water table. This approach has a potential for greater accuracy in estimating future expenses than does applicant's method, but the end result indicates that there may be infirmities in the assumptions used in the study. For example, based upon the study, the staff concludes that a 12-foot rise in the underground water table would reduce pumping costs by about 5 percent. Assuming an approximately linear relationship between power cost and total head against which the water is pumped, the 5 percent reduction in cost implies that the total lift, including (1) distance from the underground water table to ground level and (2) additional lift above ground level, is about 230 feet. Scanning the elevations shown on Chart 3C of Exhibit 2, it appears that the average total lift must exceed 230 feet. It seems likely, therefore, that the staff's method gave insufficient weight to the quantities of water requiring boosting.

In view of the foregoing discussion of the power cost estimates of applicant and staff, a reasonable allowance for power costs

would probably fall somewhere between the two estimates, with somewhat greater weight being given to the staff estimate. This is reflected in the purchased power expense adopted in Table II.

Pump Taxes

The difference between applicant's and the staff's estimates of pump taxes results from (1) a lower staff estimate of total water requirements and (2) the higher staff estimate of surface water diversion hereinbefore discussed under "Purchased Power." The staff estimate of total water requirements is based upon somewhat more recent data and appears reasonable but, as previously indicated, the estimate of surface water production may be a little optimistic under actual operating conditions. The staff estimate is increased to offset this in the pump taxes adopted in Table II.

Other Expenses

The estimates of total expenses other than purchased power, pump taxes, franchise taxes and income taxes presented by applicant and the staff differ primarily due to costs related to quantities of water estimated to be processed through the new filter plant. The amount adopted in Table II is consistent with the treatment accorded purchased power and pump taxes.

The various differences between applicant's, the staff's and the adopted estimates of revenues and expenses affect the corresponding estimates of income taxes. Also, applicant's and the staff's estimates of interest deduction for income tax purposes differ somewhat, causing additional differences in the income tax estimates. The staff's estimate of interest deduction is reasonably consistent with the capitalization ratios and composite cost of debt capital shown by the staff in Exhibit No. 16. The income taxes adopted in Table II reflect the revenues and expenses adopted in that table and the interest deduction utilized by the staff.

Applicant used the same estimate of uncollectibles under proposed rates as it did under present rates, whereas the staff reflected the anticipated difference in uncollectibles at the different levels of rates. The staff's estimates are adopted in Table II.

Rate Base

In developing the average utility plant component of the rate base, the staff deducted certain nonoperative plant not deducted by applicant and the staff included weighted average net plant additions rather than the unweighted average used by applicant. The staff's estimate for average utility plant is included in the rate base adopted in Table II.

In developing the working cash allowance component of the rate base, both applicant and the staff utilized lead-lag studies. For the income tax accrual portion of the lead-lag study, applicant used the applicable taxes under present water rates in developing the rate base applicable under present water rates, whereas the staff used the applicable taxes under rates which would produce a return of about seven percent on rate base. It is generally considered that a working cash allowance should reflect the requirement at somewhere near a reasonable rate of return. The staff's estimate of working cash is included in the rate base adopted in Table II under present, proposed and authorized water rates.

In developing the advances for construction component of the rate base applicable under present water rates, both applicant and the staff utilized refunds of advances which would result from present water rates. In developing the corresponding item applicable under proposed water rates, applicant utilized refunds which would have resulted if the proposed water rates had been in effect for the full year, whereas the staff made no adjustment for the effect of the

proposed water rates during any portion of the year. Inasmuch as increased water rates will be in effect for part of the year and refunds of advances are made in proportion to gross revenue, the proper level of estimated advances for construction falls between the estimates made by applicant and the staff. The staff's estimate has been increased accordingly in the rate base adopted in Table II under proposed and authorized rates.

Rate of Return

Applicant seeks an average rate of return of 7.5 percent on rate base over a three-year period commencing with the effective date of the rates to be authorized herein. A staff financial witness recommends in Exhibit No. 16-A, a rate of return in the range of 7.10 to 7.35 percent.

In Exhibits Nos. 6 and 6-A, applicant presents various financial statistics in support of its position. These include charts and tables showing the sharp upward trend in yield of A-rated utility bonds, the sharp upward trend of composite effective interest rates of applicant's own bonds, and rates of return on total capitalization required in various years to produce various rates of return on common equity.

In Exhibit No. 16, the staff presents various financial statistics in support of its position. These include tables showing the sharp upward trend in yields of A-rated and Baa-rated public utility bonds, State and Federal bonds, and other securities. Additional tables show applicant's historical capital structure, financing and earnings, applicant's cost of bonds and preferred stock, historical earnings of nine other water utilities throughout the United States, and related data. The staff witness further points out in Exhibit No. 16-A that he considered a number of additional factors in making his recommendation.

Those factors influencing his judgment toward a higher recommended rate of return include (1) applicant's capital structure, (2) the growth potential in applicant's service area, (3) the trend toward higher debt costs, (4) applicant's future needs for large amounts of external financing, and (5) the effects of continued inflation.

Those factors influencing his judgment toward a lower recommended rate of return include (1) applicant's monopoly, (2) customers' essential need for water, (3) general trend toward increasing internal financing, and (4) an upward trend of applicant's earnings over the last ten years.

There is little difference between the basic results of applicant's and the staff's studies on rate of return. Both show that, at the staff's recommended range of rate of return on rate base, a return of from 10-1/2 to 11-1/4 percent on common equity would result under the capitalization expected as of December 31, 1970. Under applicant's projected future financing as of December 31, 1972, however, Exhibit No. 6-A shows that returns of from 7.4 to 7.7 percent on rate base then will be required to maintain the 10-1/2 to 11-1/4 percent return on equity. On that basis, average returns of from 7.3 to 7.5 percent on rate base would be required during the first three years that the rates authorized herein will be in effect to maintain the 10-1/2 to 11-1/4 percent return on equity.

We have considered all of the evidence presented on recommended rates of return. We have also considered the evidence that applicant provides good water service to its customers and has adopted liberalized depreciation for income tax purposes with the benefits therefrom flowing through to ratepayers. Both of these circumstances are favorably impressive in an application of this nature. In

addition, we have considered the fact that applicant's projected future borrowings are based upon the assumption of present extremely high interest rates, which rates could decline somewhat in the next few years. Weighing all of these factors, we find that a return of 7.4 percent on rate base over the next three years is reasonable for applicant's operations. This should produce a return of about 11 percent on common equity during that period.

Trend in Rate of Return

Decision No. 72627, dated June 20, 1967, in Application No. 48795, established applicant's present rates. As discussed in that decision, there had been a significant downward trend in applicant's rate of return. Both applicant and the staff, at that time, estimated the near-term trend to continue at about 0.4 percent decline in rate of return per year. That prognosis was adopted in setting the present water rates and has proven to have been quite accurate for the three-year period subsequent to that decision.

In the current proceeding, applicant's estimates for the test years 1969 and 1970 indicate a continuation of the annual decline of about 0.4 percent at proposed Step #1 water rates. The staff's estimates show an annual decline of only 0.14 percent at proposed Step #1 water rates.

The comparative rates of return for two successive test years, or for a series of recorded years, are indicative of the future trend in rate of return only if the rates of change of major individual components of revenues, expenses and rate base in the test years, or recorded years, are reasonably indicative of the future trend of those items. Distortions caused by abnormal, nonrecurring or sporadically recurring changes in revenues, expenses, or rate base items must be avoided to provide a valid basis for projection of the anticipated future trend in rate of return.

As an indication of the reasonableness of the trend in rate of return derived from the test years 1969 and 1970, applicant prepared Exhibit No. 5, a comprehensive analysis of the many changes in recorded items of revenues, expenses and rate base during the years 1964 through 1968. Applicant analyzed and evaluated distortions during these years caused by such factors as changes in its water rates, changes in pump tax rates and changes in income tax rates and allowances. Exhibit No. 5 shows that, eliminating the effects of changes in water rates, changes in pump tax rates and changes in income tax rates and allowances, the average annual decline in rate of return during the period from 1964 through 1968 would have been 0.40 percent at applicant's present water rates.

In addition, both applicant and the staff analyzed their 1969 and 1970 estimates of revenues, expenses and rate base to show the effect of the various components on the trend in rate of return between the two test periods. Those analyses disclose that practically the entire difference between applicant's and the staff's projected trend in rate of return is due to the differences in projected trends of ad valorem taxes and rate base.

In regard to the trend of ad valorem taxes, we frequently have adopted estimates based upon reasonably well-established historical trends of composite ad valorem tax rates. In the absence of a reasonably well-defined historical trend of such composite rates, we generally have adopted estimates based upon the use of either the latest known tax rates or the average of such rates for recent years, with neither an upward nor a downward trend being assumed between two adjacent test years.

In the present proceeding, there is an element of discontinuity in the historical trend of composite ad valorem tax rates.

This results from a change in methods used by the local assessor in arriving at the assessed value of applicant's property. The first period in which ad valorem taxes are affected by this change is the 1970-71 fiscal year. The change results from the adoption by the local assessor of a market value more nearly approaching applicant's rate base, apparently due to the recommendations of the Assessment Standards Division of the Property Tax Department of the California State Board of Equalization, set forth in a document entitled "Assessors' Handbook - Valuation of Water Companies." This document, a copy of which is Exhibit No. 19, had been revised in August, 1969.

Both applicant and the staff reflected the lower taxes resulting from the revised assessment method for half of the calendar year 1970. Consistent with this, the staff reflected none of the reduction in the test year 1969 and thus projected a continuation into the future of the downward trend of assessment ratios which occurred between 1969-70 and 1970-71. If no further future reductions in assessment ratios had been assumed, it would have been appropriate to "roll back" the full-year effect of the 1970-71 change in assessment method into both the 1969 and 1970 test years. This would have decreased the estimated ad valorem taxes, and increased the indicated rates of return for both test years.

Applicant contends that no further reductions in assessment ratios are likely, whereas the staff contends that full implementation by the local assessor of the recommendations in the new assessment manual would effect further reductions. It is apparent that, even without further changes in assessment ratios, the 1970-71 change will affect future years to a greater extent than the half-year effect reflected in applicant's and the staff's 1970 estimates. Further reductions beyond 1971 are possible but somewhat speculative at this

time. We will assume, for the purposes of this proceeding that the effect on trend in rate of return of applicant's future ad valorem taxes will be about midway between the trends indicated by applicant and the staff for this item.

In regard to the trend of rate base under applicant's proposed water rates, applicant gave recognition to the higher annual refunds of advances for construction which will result under 22-percent-of-revenue refund contracts at the higher level of water rates. The staff did not. The receipt of new advances for construction and the corresponding utility plant installed by those advances offset each other in the rate base calculation, so the rate of refunding of advances is of considerable importance in projecting the trend of future levels of rate base. Applicant's estimate of the effect on trend in rate of return due to trend in rate base under proposed water rates appears to be more reasonable than the staff's, and therefore the adopted trend in rate of return will reflect greater weight being given to applicant's estimate.

Based upon the foregoing discussion, we anticipate that applicant's rate of return can be expected to decline by about 0.30 percent per year under the water rates authorized herein. In many decisions involving water utilities, where the indicated downward trend is not too great, the apparent future trend in rate of return has been offset by the authorization of a level of rates to remain in effect for several years and designed to produce, on the average over that period, the rate of return found reasonable. In other instances, when the indicated downward trend was quite steep, it is deemed more appropriate to increase the rates in steps which were designed to maintain, in each of several future years, the rate of return found reasonable. Although the indicated downward trend in

rate of return is not as great as in some instances when the Commission has authorized step progression of rates, there appear to be sufficient advantages to make that procedure preferable to a single increase for applicant.

The rate increases authorized herein will not be in effect during almost the first three-fourths of the year 1970. With the indicated future trend in rate of return, a 7.62 percent return for the test year 1970 under the rates authorized herein should produce a rate of return of 7.4 percent over a period of about 36 months after the effective date of the first step of the new rates.

The order that follows will, however, require that applicant file additional earnings statements to permit review of future decline in rate of return, and the initiation of appropriate action if a reduction in rates is indicated.

Water Sold For Resale

Applicant has, for a number of years, permitted other purveyors of water to commence operation in areas logically within applicant's ultimate service area, by selling water to those other purveyors for resale to their customers or members. In Decision No. 67296, dated June 3, 1964, in Application No. 45787, the Commission expressed concern over this practice:

> "The record is quite clear that applicant's quality of service and its ability to fulfill its public obligations are unusually good. An exception is its somewhat shortsighted policy of refusing to extend its mains to serve areas located at higher elevations outside its present service area and, instead, furnishing water for resale by newly formed small utilities in those areas."

This issue was brought up in the current proceeding by the Town of Los Gatos and by customers of San Jose Highlands Water Company, one of applicant's resale utility customers. Applicant has

reviewed its past positions in regard to resale service and expansion of its service area and has presented, in Exhibit No. 11, a statement of its present position. In general, applicant's present position is:

1. Service will be extended in accordance with filed tariffs anywhere within the boundaries of applicant's filed tariff service area map.

2. Service will be extended outside of the boundaries of the filed tariff service area map, if the new territory is not more than 300 feet higher in elevation than the adjacent territory within the boundaries of that map.

3. Service will be extended outside of the boundaries of the filed tariff service area map to territory more than 300 feet higher in elevation than the adjacent territory within the boundaries of that map if so requested by an appropriate governmental agency, provided such additional territory consists of a cohesive unit, includes the total area logically to be served by necessary special transmission, pumping and storage facilities, and satisfactory arrangements are made to finance the cost of those special facilities.

4. Applicant's previous offer to acquire the Evergreen water system from the City of San Jose is still open.

5. Applicant is willing to operate the Alviso water system under terms mutually agreeable to applicant and the City of San Jose.

6. Applicant is willing to acquire existing resale water systems within the elevation limitations of Item 2 above, provided the systems are brought up to applicant's standards before acquisition and the terms of acquisition are not unduly burdensome.

7. Applicant will not take on additional resale customers outside applicant's service area.

The implementation of the foregoing policy should result in the orderly expansion of an integrated system to serve the territory surrounding applicant's present service area. The staff in its brief, however, also points out that many of the small water utilities receiving water from applicant for resale purposes are presently

being operated in an uneconomic, unsatisfactory, and marginal way and that as a consequence the existing water service is unsatisfactory and not in the public interest. The staff further contends that San Jose, as the major responsible water purveyor in a large and growing metropolitan and suburban area, has a moral obligation to grow into contiguous areas and to recognize its responsibility to the less fortunate individuals being supplied unsatisfactory water service within applicant's present spheres of influence.

With these staff statements we are in agreement. However, rather than direct the utility as the staff suggests, we will encourage the utility to aggressively seek appropriate solutions to these important problems. Exhibit No. 11 is a constructive initial step. A realistic implementation of this policy is also necessary.

With regard to water furnished for resale purposes, Exhibit No. 13 shows, however, that applicant has avoided a considerable investment in facilities by providing water for resale instead of serving the ultimate customers directly. The record does not include sufficient detail to determine the actual saving nor to what extent some of the investment would still have been offset by unrefunded advances for construction. Also, there is nothing to indicate the extent, if any, to which net revenues from the aggregate individual consumers would have exceeded revenue from the present resale purveyors.

Under these circumstances, applicant has not sustained the burden of proof that the present water rates are unreasonably low for resale customers. No increase is authorized for that class of customer.

Findings and Conclusion

The Commission finds that:

1. Applicant is in need of additional revenues but no increase has been justified for resale customers.

2. The adopted estimates, previously discussed herein, of operating revenues, operating expenses and rate base for the test year 1970, and an annual decline of 0.30 percent in rate of return, reasonably indicate the probable range of results of applicant's operations for the near future.

3. A rate of return of 7.4 percent on applicant's rate base for the next 36 months is reasonable.

4. 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.

The Commission concludes that the application should be granted in part, as provided by the following order.

O R D E R

IT IS ORDERED that:

1. After the effective date of this order, applicant San Jose Water Works is authorized to file the revised rate schedules attached to this order as Appendix A. Such filing shall comply with General Order No. 96-A. The effective date of the revised schedules shall be four days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date thereof.

2. On or before September 1, 1971 applicant shall file with the Commission an earnings statement with rate of return for the 12 months ended June 30, 1971 normalized and adjusted to the rate levels authorized herein as the first step increase, together with an estimate

of earnings for the 12 months ended December 31, 1971 under similar normalized conditions. On or before September 1, 1972 and 1973 applicant shall file similar earnings statements for appropriate similar 12 months ended periods.

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

Dated at San Francisco, California, this 22nd day of SEPTEMBER, 1970.

Chairman

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to general metered water service. (C)

TERRITORY

Portions of Campbell, Cupertino, San Jose and Santa Clara, and in Los Gatos, Monte Sereno, and Saratoga and in contiguous territory in the County of Santa Clara. (T) (T)

RATES

	Per Meter Per Month			
	Before 10/1/71	10/1/71 Through 9/30/72	After 9/30/72	(C) (C)
Service Charge:				
For 5/8 x 3/4-inch meter	$ 2.25	$ 2.30	$ 2.35	(I)
For 3/4-inch meter	2.50	2.55	2.60	
For 1-inch meter	3.35	3.45	3.50	
For 1-1/2-inch meter	4.70	4.80	4.90	
For 2-inch meter	6.10	6.25	6.35	
For 3-inch meter	11.30	11.55	11.75	
For 4-inch meter	15.35	15.70	16.00	
For 6-inch meter	25.50	26.00	26.50	
For 8-inch meter	37.50	38.30	39.00	
For 10-inch meter	46.70	47.60	48.50	
Quantity Rates:				
First 30,000 cu.ft., per 100 cu.ft.	0.325	0.332	0.338	
Over 30,000 cu.ft., per 100 cu.ft.	0.286	0.289	0.297	(I)

The Service Charge is a readiness-to-serve charge, to which is to be added the monthly charged computed at the Quantity Rates.

(Continued)

Schedule No. 1

GENERAL METERED SERVICE

(Continued)

SPECIAL CONDITION

Customers who receive water deliveries for agricultural purposes under this schedule, and who present evidence to the utility that such deliveries qualify for the lower pump tax rates levied by the Santa Clara County Flood Control and Water District for agricultural water, shall receive a credit of 4.8 cents per 100 cubic feet on each water bill for the quantities of water used during the period covered by that bill. (T) (I)

Schedule No. 2LX

LIMITED TEMPORARY FLAT RATE SERVICE

APPLICABILITY

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

TERRITORY

Almaden area, Santa Clara County.

RATE

	Per Month	
For each service connection, including irrigation of not more than 2,500 square feet of garden area	$ 3.10	(I)

SPECIAL CONDITIONS

1. Service under this schedule shall be limited to Account No. 21-505-5330, for which the installation of a meter was not expedient. (T) (T)

2. This schedule will remain in effect only until such time as physical limitations will permit the installation of a meter, and thereafter will be withdrawn. (T) (T)

Schedule No. 3ML

LIMITED IRRIGATION SERVICE

APPLICABILITY

Applicable to all measured irrigation service furnished on a limited basis.

TERRITORY

The 460-acre area adjacent to the City of Campbell, Santa Clara County.

RATE

	Per Hour	
For 650 gallons per minute	$ 5.25	(I)

SPECIAL CONDITIONS

1. Service under this schedule is limited to the area formerly served by the system known as the E. R. Kennedy Pumping Plant System, and as more particularly described and shown on Exhibit B of Application No. 27792 and further referred to in Decision No. 39508 in that application.

2. Rates per hour for other flows will be proportionate to the rate for 650 gallons per minute.

Schedule No. 6

RESALE SERVICE

APPLICABILITY

Applicable to all water service furnished for resale purposes.

TERRITORY

Portions of Campbell, Cupertino, San Jose and Santa Clara, and in Los Gatos, Monte Sereno, and Saratoga and in contiguous territory in the County of Santa Clara.

RATES

Service Charge:	Per Meter Per Month
For 5/8 x 3/4-inch meter	$ 2.00
For 3/4-inch meter	2.20
For 1-inch meter	3.00
For 1-1/2-inch meter	4.20
For 2-inch meter	5.40
For 3-inch meter	10.00
For 4-inch meter	13.50
For 6-inch meter	22.00
For 8-inch meter	33.00
For 10-inch meter	41.00

Quantity Rates:

First 30,000 cu.ft., per 100 cu.ft.	0.291
Over 30,000 cu.ft., per 100 cu.ft.	0.255

The Service Charge is a readiness-to-serve charge, to which is to be added the monthly charge computed at the Quantity Rates.