fc/nm

ORIGINAL

Decision No. 90835 SEP 25 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Application of East Side Canal & Irrigation Company for an order authorizing an increase in rates for water service.	Application No. 58385 (Filed September 27, 1978)

Reginald H. Knaggs, Albert A. Webb Associates, and Robert D. Kelley, for East Side Canal & Irrigation Company, applicant.
Randolph L. Wu, Attorney at Law, and Rustom S. Dubash, for the Commission staff.

O P I N I O N

East Side Canal & Irrigation Company (applicant)1/ requests authority to increase rates charged for irrigation service by $54,330 (142 percent) based on an estimated 1979 test year.

After due notice hearing was held April 23, 1979, at Newman, California, before Administrative Law Judge Banks at which time the matter was submitted.

Background

Applicant operates and manages a public utility canal and ditch system in an area located at the junction of the Merced

1/ In Decision No. 44446 dated June 27, 1950, in Application No. 30940, we stated:

"The history of this utility and its methods of operation, considered many times by the Commission, will not be detailed here.1/ The former proceedings, so far as pertinent, are incorporated in the present record. It will suffice to say that East Side Canal & Irrigation Company was incorporated in 1887; the Main Canal was completed about 1889 and the Collier Extension later; James J. Stevinson, a corporation, in 1902 subdivided about 11,000 acres, called the Stevinson Colony, and constructed lateral canals; in 1936 Stevinson Water District, which had been organized in 1928, bought the franchises, except the corporate franchise, and appurtenant rights of East Side Canal & Irrigation Company

(Continued)

and San Joaquin Rivers in Merced County pursuant to an agreement entered into on January 1, 1944, with the Stevinson Water District (Stevinson), a public corporation.

The water supply for this system was originally obtained from the San Joaquin River and from numerous creeks, drains, and sloughs intercepted by the main canal. Those sources proved erratic and insufficient. The supply was augmented, about 1930, by waters spilled from the adjacent Merced Irrigation District (MID) through

---

1/ (Continued)

for $20,000 at a sheriff's sale in Merced County; on December 1, 1943, pursuant to decree of the Merced County Superior Court rendered in Stevinson Water District vs. East Side Canal & Irrigation Company, No. 13673, the district was found to be the owner of the franchises and entitled to possession of the canals, ditches, and other property, including water rights, necessary for the exercise of the franchises and their appurtenant rights. On January 1, 1944, the district and the company executed an agreement of lease pursuant to which the canal company has since operated the water system. James J. Stevinson, a corporation, Stevinson Water District, 3 H Securities Company, and East Side Canal & Irrigation Company are controlled by a community of interests represented by members, by birth or marriage, of the family of the late James J. Stevinson.

"1/ Past proceedings are reported in the following volumes:

4 CRC 597	34 CRC 465	10 CRC 73	31 CRC 249
5 CRC 289	34 CRC 896	10 CRC 104	32 CRC 110
5 CRC 387	38 CRC 431	16 CRC 635	32 CRC 939
12 CRC 745		17 CRC 978	38 CRC 544
		17 CRC 218	41 CRC 789"
		25 CRC 626	

various creeks, drains, and sloughs, following settlement of Merced River riparian rights litigation between James J. Stevinson, a corporation, and MID. Pursuant to stipulation of the parties and a consent decree in that case, James J. Stevinson, became entitled to 24,000 acre-feet per annum, plus an additional amount to cover evaporation and seepage losses, for use on its own lands. On August 26, 1932, James J. Stevinson conveyed its rights to this water, except the right to 7-1/2 c.f.s. continuous flow delivered in Section 12, T. 7 S., R. 10 E., to Stevinson. Both Stevinson and applicant claim certain appropriative and permitted water rights to the natural flow on the various creeks and channels conveying drainage and released waters. Water is conveyed and distributed through 22 miles of main canal, 36 miles of lateral canals, and 1-1/2 miles of 36-inch concrete pipe. Storage of 2,400 acre-feet is provided at Bloss Lake. Water is delivered to customers by gravity flow.

Rates

The proposed rates for applicant's irrigation service are based on the acre-feet per year of water required to raise a particular crop. The rate will vary with the crop irrigated. This form of rate structure has historically existed for this utility.

Applicant's present rates were established by Decision No. 44693 dated January 15, 1963, in Application No. 44446.[2] Applicant's present and proposed rates are as follows:

2/ On January 29, 1975, by Resolution No. W-1683, applicant was authorized to increase rates on estimated $8,500.

	Per Acre Per Season	
	Present Rates	Proposed Rates
1. For alfalfa, orchards, double crops, and permanent pasture.	$11.10	$26.80
2. For corn, milo maize, and vines.	8.15	19.70
3. For grain, including flax, from September 15 to April 30, payable on execution of contract.	5.25	12.70
4. For each irrigation of pasture land or preparation to plowing from September 15 to April 30, payable in advance.	2.90	7.00
	Per Acre Foot	
5. For excess water outside of service area when available after meeting customer requirements.	1.75	4.20

Results of Operations

Following is a summary of earnings estimates of applicant and the staff for estimated test year 1979 at present and proposed rates, together with applicant's 1978 recorded summary of earnings at present rates and the adopted summary of earnings for test year 1979.

Item	1978 Recorded at Present Rates	Test Year 1979 Applicant Estimated Present Rates	Test Year 1979 Applicant Estimated Proposed Rates	Test Year 1979 Staff Estimated Present Rates	Test Year 1979 Staff Estimated Proposed Rates	Adopted Rates
Operating Revenue	$ 47,320	$ 38,370	$ 92,700	$ 51,120	$123,450	$ 76,200
Deductions						
Operating Exp.	66,982	60,500	60,500	49,000	49,000	49,000
Taxes Other than Income	1,892	1,850	1,850	1,850	1,850	1,850
Depreciation	4,686	4,320	4,320	4,250	4,250	4,250
Tax on Income	200	200	6,130	200	14,230	1,910
Total Oper. Expense	73,760	66,870	72,800	55,300	69,330	57,010
Net Operating Income	(26,440)	(28,500)	19,900	(4,180)	54,120	19,190
Depreciated Rate Base	209,686	216,260	216,260	208,410	208,410	208,410
Rate of Return	Loss	Loss	9.2%	Loss	26%	9.2%
No. of Irrigated Acreage	6,329	4,536	4,536	6,040	6,040	6,040

(Red Figure)

Operating Revenues

Applicant provides irrigation service to its customers by granting delivery on a flat rate annual basis per acre for the type of crop irrigated. Thus, operating revenues will vary with the type of crop and the total acreage irrigated. The total acreage irrigated for the years 1970-1978 are as follows:

Acreage Irrigated

Item	1970	1971	1972	1973	1974	1975	1976	1977	1978
	Year								
Acreage	4,994	4,733	4,886	4,991	5,256	5,312	5,478	1,643	6,329

For test year 1979, applicant determined that 4,536 acres would be irrigated while the staff determined the acreage irrigated to be 6,040. In making its determination, applicant used a five-year (1973-1977) average while the staff used a trend line analysis using nine years (1970-1978) of recorded data. In its five-year average, applicant included 1977 data, a drought year, whereas the staff excluded it stating it would have created a downward trend line while the acreage irrigated has actually been increasing.

Both the staff and applicant used applicant's 1978 crop distribution data in making their operating revenue estimate.

Because of the difference in estimating the total acreage irrigated, the staff's total operating revenue estimate at present and proposed rates exceeded applicant's by $30,750. Except for the unusual drought year 1977, the total acreage irrigated has increased each year. From the information available, there is no indication that the total irrigated acreage will decline as applicant has estimated. Therefore, we believe the 1977 data was properly excluded and will adopt the staff estimate.

Operating Expenses

The application recorded the following expenses: labor, materials and contract work, vehicle expense, and employee benefits under (a) Operations Labor and Expenses and (b) Maintenance of Transmission & Distributing Systems and included regulatory expense in the Administrative and General Expense account. Staff Exhibit 1 states that these expense items were redistributed in accordance with the Commission's Uniform System of Accounts keeping applicant's total expenses the same as reported in the application. Following is a summary of operating expenses as contained in Exhibit 1.

Operating Expenses

Line No.	Item	1979 Estimated Applicant (A)	1979 Estimated Staff (B)	Applicant Exceeds Staff (C)
1	Purchased Power	$ 1,600	$ 1,600	$ -
2	Oper. & Maint. Employee Labor	22,400*	22,400	-
3	Oper. & Maint. Materials & Contract	6,315*	6,300	15
4	Administrative & General Services			
5	& Office Supplies	7,200*	5,800	1,400
6	Insurance	3,600	3,600	-
7	Accounting, Legal, Other	1,000*	750	250
8	Vehicle Expense	5,985	6,150	(165)
9	Rent	10,000	-	10,000
10	Employee Benefits	2,400*	2,400	-
11	Total Operating Expenses	60,500	49,000	11,500

(Red Figure)

*Expenses spread to facilitate comparison with staff's estimate.

The administrative and general expense estimates differ by only $1,400, primarily because of the amount determined as reasonable that applicant pays the James J. Stevinson Corporation for administrative and office salaries, office rent, telephone, communication, and office supplies expenses. The staff witness explained that he reduced the applicant's estimates for administrative and general expenses because applicant's operation is only a sideline of the James J. Stevinson Corporation and that with only 160 customers to serve, these expenses should be nominal. We will accept the staff estimate as reasonable because we believe it recognizes the close relationship between applicant and the James J. Stevinson Corporation and the amount staff estimated adequately provides for a return of these costs.

The staff accepted applicant's estimate for legal and accounting expense, including the cost of this proceeding, but spread the cost over a four-year period rather than three years as did applicant because the policy of granting offset rate relief by advice letter has effectively reduced the number and frequency of formal applications for rate relief. We agree with the staff that with the reduction in frequency in formal rate relief filings, it is more reasonable that this expense be amortized and recovered over a longer period of time.

The major item of difference in operating expenses between staff and applicant was rental expense. Applicant argues that it is required to pay the James J. Stevinson Corporation $10,000 per year as rent for the use of the main canal and lateral ditches pursuant to a 1944 agreement.[3/] The staff argues that this is not an allowable expense because it is in reality the capital cost of the main canal and ditches which applicant includes in rate base. The staff also points out that this item has been disallowed in prior rate proceedings

3/ See Footnote 1, supra.

and advice letter rate increase requests. We agree with the staff. The applicant will be compensated by the depreciation expense and earnings on the undepreciated value of plant at the authorized rate of return.

Depreciation Expense

Applicant computes its book depreciation by the straight-line-remaining-life method. The staff in Exhibit 1 states that it reviewed the depreciation rates used by applicant and found them to be reasonable.

The slight difference in depreciation between the applicant and staff is because the applicant estimated 1978 plant additions of $5,355, whereas the staff took into account the fact that the value of utility plant was unchanged for 1978. Because the staff estimate reflects actual conditions, we will accept the staff estimate.

Rate Base

The staff's average depreciated rate base estimate for test year 1979 was $7,850 less than applicant due primarily to the availability of 1978 recorded data. In computing weighted average plant in service, the staff accepted applicant's recorded plant in service as of December 31, 1977, but excluded applicant's estimated 1978 plant additions and retirements because there were no plant additions or retirements in 1978. The staff estimate of the average contribution in aid of construction differed slightly from applicant because applicant considered estimated 1979 contributions rather than the average of 1978 and 1979.

We will accept as reasonable the staff rate base estimates for test year 1979 because it takes into account 1978 recorded data and is therefore more reflective of actual conditions.

Rate of Return

Staff Exhibit 1 states that the Finance Division reviewed the application and applicant's capital structure as of December 31, 1977, and concluded that the 9.20 percent rate of return requested by applicant is reasonable based on applicant's financial needs, current interest rates, and the general economic conditions.

We believe that the 9.20 percent rate of return recommended by the staff is reasonable and will provide applicant with a reasonable return on its investment.

Service

Exhibit 1 states that the staff interviewed 10 customers of applicant on February 15, 1979. Fifty percent of those interviewed stated that while satisfied with service in general, they, nevertheless, had some complaints. The complaints, enumerated in order of magnitude, were as follows:

1. Customers cannot get water for irrigation when required.
2. Customers require six irrigations in a season, whereas they get only two to three irrigations. Therefore, they have to pump extra water from their well and spend extra money on top of the rates they pay to applicant.
3. Proposed 142 percent increase in rates will drive them out of business, because of their low income.
4. Customers would prefer the rates on the measured water (per acre-foot) basis rather than seasonal rates.
5. The ditches are not well maintained by the applicant.

The staff states that it investigated some of the complaints and determined that the average amount of water delivered by MID to applicant over the last nine years was 63,600 acre-feet. Assuming losses due to transpiration, evaporation, and seepage to be 50 percent, the actual water delivered to customers would be about 31,800 acre-feet or enough to irrigate 6,040 acres with 5.26-acre feet/year. Based on the customers' claim that they are only receiving 1 to 2 acre-feet/year, which is an insufficient quantity for irrigation, the staff concluded that applicant is not effectively utilizing its water supply.

Rate Design

The adopted rates based on the revenue requirement found necessary in this opinion are contained in Appendix A.

The staff also determined that neither the physical plant nor applicant's methods of operations are geared to provide measured water deliveries to customers. Finally, the staff stated that the canals and ditches are not well maintained by applicant and that water grass and tules create clogged conditions in the canal, reduces capacity, and increases transpiration losses.

Based on the staff report, which was not rebutted by applicant, we conclude that applicant has an adequate supply of water but that the canals and ditches are not maintained properly, and that service is in need of improvement.

Accordingly, we will order applicant to undertake the preparation of a plan to improve canal and ditch maintenance. We expect applicant to thereafter take appropriate measures to follow through with its plan.

Wage and Price Guidelines

At the time this application was filed, the council on Wage and Price Stability had not yet adopted its general guidelines. Since the water utility industry is so fundamentally different from manufacturing or service industries, any attempt to apply the guidelines directly involves more art than science. Under these circumstances, we believe that the increase authorized herein, being the minimum which could be justified under California law, complies at least with the spirit of the guidelines.

Findings of Fact

1. Applicant's present rates were established by Decision No. 44693 dated January 15, 1963, and adjusted by Resolution No. W-1683 dated January 29, 1975.

2. Applicant's low estimate of acreage irrigated results in a low estimate of operating revenue at present and proposed rates and is not reasonable.

3. The estimates previously adopted herein in the discussion of operating revenues, expenses, and rate base for test year 1979 reasonably indicate the results of applicant's operation for the near future.

4. Applicant's water supply is adequate but it is not being effectively distributed in sufficient quantities.

5. Based on applicant's financial needs, current interest rates, and the general economic condtions, a rate of return of 9.20 percent on adopted rate base is reasonable.

6. The increase in rates and charges of approximately $25,080 authorized by this decision are justified and reasonable; and the present charges, insofar as they differ from those prescribed by this decision, are for the future unjust and unreasonable.

Conclusions of Law

1. Applicant should not provide water service outside its presently certificated area until it can assure that it is providing adequate service and quantities of water to customers within its presently certificated area during the irrigation season.

2. Within 90 days from the effective date of this order, applicant should file a plan for cleaning and maintaining canals and ditches.

3. 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, applicant East Side Canal & Irrigation Company 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 five days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date of the revised schedules.

2. Within forty-five days after the effective date of this order, applicant shall file a revised tariff service area map, appropriate general rules, and sample copies of 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 five days after the date of filing.

3. Applicant shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103-Series. Within ninety days after the effective date of this order, applicant shall file with the Commission two copies of this map.

4. Applicant shall not provide water service outside its presently certificated service territory unless it has Commission authorization, after demonstrating it is providing adequate service and water deliveries to existing customers.

5. Within ninety days from the effective date of this order, applicant shall file a plan to clean and effectively maintain its canals and ditches.

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

Dated SEP 25 1979, at San Francisco, California.

John E. Bryson
President

Vernon L. Sturgeon

Richard D. Gravelle

Claire T. Dedrick

Leonard M. Grimes
Commissioners

APPENDIX A

Schedule No. 3F

FLAT RATE IRRIGATION SERVICE

APPLICABILITY

Applicable to all flat rate irrigation service.

TERRITORY

The area known as Stevinson Colony, Merced County.

RATES

	Per Acre Per Season
1. For alfalfa, orchards, double crops and permanent pasture	$16.55 (I)
2. For corn, milo maize and vines.	12.15 (I)
3. For grain, including flax, from September 15 to April 30, payable on execution of the contract. .	7.82 (I)
4. For each irrigation of pasture land or preparatory to plowing from September 15 to April 30, payable in advance.	4.32 (I)
	Per Acre Foot
5. For excess water outside of service area when available after meeting customer requirements . .	2.60 (I)

SPECIAL CONDITIONS

1. The seasonal flat rate charge is payable in two equal installments On February 1 and July 1 except as otherwise provided above.

2. A customer, who has executed a grain contract and after December 31, the crop is changed to one requiring irrigation after April 30 and a contract so executed, shall be entitled to cancellation of such grain contract and rebate of $1.60 per acre.