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palities and civil divisions of the State affected thereby, and to the inhabitants thereof, particular consideration being given to their present and future necessities for sources of water supply.

Sixth. That said plans make fair and equitable provisions for the determination and payment of any and all legal damages to persons and property, both direct and indirect, which will result from the execution of said plans or the acquiring of said lands.

Decision

Wherefore, the Water Power and Control Commission does hereby approve the said application, maps and plans of the town of Geddes on behalf of Terry Road Water District, as thus modified.

In the Matter of Application for Approval of Increased Purchases of Water from EASTMAN KODAK COMPANY and of Maps and Plans for Increasing Water Delivery Facilities Incidental Thereto. SEVENTH APPLICATION

Water Supply Application No. 1976

(January 16, 1950)

Application, maps and plans approved as modified; water works system approved as constructed; operation thereof authorized.

Proceedings

BY THE COMMISSION.—Louis B. Cartwright, city manager of the city of Rochester in Monroe county, acting on behalf and in the name of said city, on November 12, 1949, made application to the Water Power and Control Commission for approval of the plans of said city for the acquisition or taking of an additional water supply for the city. This application was filed in the office of the Commission on November 14, 1949.

After due notice, published in the *Rochester Times-Union* and in the *Rochester Democrat and Chronicle*, the hearing on this application was held before Henry M. Schiller, associate engineer of the Commission, in the zoning board of appeals hearing room, 60 South Fitzhugh street in the city of Rochester, on December 14, 1949, at ten o'clock in the forenoon. At this hearing, the Commission considered the petition, maps and plans submitted, examined witnesses and heard arguments for and against the project as shown by the minutes. The petitioner was represented by Honorable William H. Emerson, corporation counsel, (Honorable Frederick J. Wilkens, deputy corporation counsel). Objections were filed by Rochester and Lake Ontario Water Service Corporation, represented at the hearing by Bernard Sclove, of its legal department.

On December 14, 1949, the Commission caused an engineering inspection to be made of the site of the proposed works and of the proposed source of water supply.

Project

The city of Rochester now asks approval of this Commission for an increase in its purchase of water for use in the city from East-

man Kodak Company from a maximum limiting amount of 4,000,000 gallons a day to 10,000,000 gallons a day and of the construction of additional facilities for pumping, treatment and delivery of such a supply into the city mains. The estimated cost of this project is \$41,500.

Objections

Rochester and Lake Ontario Water Service Corporation, the objector in these proceedings, is not opposed to the increased taking asked for by the city to meet its own needs, but it objects to the city supplying water to customers now being supplied by that corporation, both within and without the city limits.

After due study of the petition and its exhibits, the objections, and the evidence and arguments given at the hearing, the Commission finds as follows:

Findings of Fact

1. Rochester was incorporated as a city in 1834, and is located on Lake Ontario near the mouth of Genesee river in Monroe county. It is a residential and industrial community of considerable importance.
2. According to the 1940 census, Rochester had a population of 324,975, and its present population is estimated to be about 355,000.
3. The assessed valuation of all taxable real property within the city limits is in excess of \$570,000,000, and the city has outstanding net bond and note indebtedness to an extent of about \$26,000,000.
4. A public water supply system was first installed in Rochester by municipal enterprise about 1876.
5. The main source of water supply for this system has always been Hemlock and Canadice lakes. Additional supplies of water, to meet deficiencies in the city's supply, have been obtained by purchase from Rochester and Lake Ontario Water Company and from Eastman Kodak Company, both of which companies obtain their supplies of water by pumping from Lake Ontario. In addition, the water company itself, also distributes water in certain areas within the city.
6. Water obtained from all of these sources of supply is, with the treatment now afforded it, of satisfactory quality.
7. The city has, for several years, experienced the possibility of a water shortage and its water supply matters have been before this Commission from time to time. The most recent action, taken by the city to meet its deficiencies, involved proceedings for the making of certain improvements to and enlargements of Hemlock and Canadice lakes in order to increase the dependable yield from such sources. Under authority of a decision by this Commission of October 2, 1945 (*Water Supply Application No. 1609*; 66 State Dept. Rep. 159) such work is now in progress.
8. It is reported that, by the completion of the last mentioned project, the maximum dependable supply which can be made available to the city from its lake sources will be reached and no further development of these sources would be justified without diversion

into the watershed of these lakes of water from other watersheds.

9. The average consumption in the city, during the year 1949 to December 1, is reported as being 39,800,000 gallons of water daily with a peak monthly average in June running to 44,500,000 gallons daily. Each monthly average in the year 1949 has exceeded any similar monthly average in prior years.

10. Demands in the city steadily have been rising, primarily because of the increased use of water for refrigeration and industrial and commercial use as well as for greater residential use.

11. Due to the recent unprecedented drought, the city of Rochester, in common with many other communities, now is faced with a considerable shortage of storage in its reservoirs.

12. In order to meet its present and expected future demands, the city must have an increase in its water supply resources. It is essential that the city take the necessary steps as now proposed to supplement immediately its supply and that it give serious consideration to the development of an additional permanent source of water supply.

13. On July 26, 1949 and November 9, 1949, the city council adopted ordinances authorizing the purchase of additional water from Eastman Kodak Company and for financing the construction in connection therewith.

14. Arrangements already have been made for the taking of this additional water and an agreement with regard to this matter has been negotiated and signed by the officials of the city and of Eastman Kodak Company.

15. The city now asks approval by this commission for such an increase from its present authorized maximum amount of 4,000,000 gallons daily as provided in a decision of the Commission of March 31, 1942 (*Water Supply Application No. 1525*; 64 State Dept. Rep. 883; completed works approved March 31, 1942) to a proposed maximum of 10,000,000 gallons daily and of the increase in its facilities for taking such additional water.

16. Eastman Kodak Company secures its water supply by pumping through two intakes extending into Lake Ontario, a distance of about 8,000 feet. The greater portion of the water taken through the intakes is purified by passage through a slow sand filter plant and the remaining portion through a rapid sand filter. No chemical treatment is provided, since the company is concerned primarily only with removal of turbidity.

17. It is not expected that the full amount of water now desired by the city will be available to it at all times, but the company can supply such an amount after the factory work week and during holiday periods.

18. The quality of the water, after the treatment provided by the company and with subsequent sterilization as proposed by the city before delivery into the distribution system, will be satisfactory. The Commission must, however, reserve the right to require the taking of additional sanitary precautions or the further treat-

ment or purification of water from this source should future analyses or inspections indicate a need for such action.

19. All of the construction in connection with this immediate project already has been completed and the Commission can at this time give its final approval of this work and authorize its operation by the officials of the city of Rochester, all as required by section 524 of the Conservation Law.

20. No land has been taken or acquired in connection with this project since the work was carried out on property of the Eastman Kodak Company under an agreement with the city.

21. The objector in these proceedings, Rochester and Lake Ontario Water Service Corporation, is not opposed to the city acquiring an additional source of supply, but it is opposed to the possible extension of service by the city into areas not now being served by the city, both within the city and beyond its limits.

22. A representative of the city stated at the hearing that no such extension of service is planned at this time. The Commission will not now permit any such extensions by the city either to any areas within the city now being served by the privately owned water supply system or to any area outside the city limits.

23. The carrying out of these plans has had no adverse effect on the water supply interests of any other municipality or civil division of the State.

24. The legal damages, which may have been caused by the execution of the plans of the petitioner, have not been such as to require any special consideration or legislative enactment in order that they equitably may be determined and paid.

Conditions

The Commission finds it to be necessary to protect the water supply and the interests of the applicant and of the inhabitants of the territory supplied by it with water, to protect the water supply and interests of any other municipal corporation or other civil division of the State and the inhabitants thereof, and to protect the water supply and interests of any other person or waterworks corporation engaged in supplying water to any other municipal corporation or other civil division of the State and the inhabitants thereof, that the application, maps and plans submitted should be modified to conform to the following:

A. Under this decision and approval, the city of Rochester is authorized to take an amount of filtered water from Eastman Kodak Company plant not in excess of 10,000,000 gallons a day for use in the city, but before any of this water shall be distributed in the city for any purpose, it must have been treated further by chlorination. The city may not, without the further consent and approval of this Commission, extend water service into any areas which are now being supplied by any other public water supply system.

B. The Commission reserves the right to require the taking of further sanitary precautions or the further treatment or purifica-

tion of the water from this source should future analyses or inspections indicate a need for such action.

Statutory Determinations

The Water Power and Control Commission, having given due consideration to the said petition and its exhibits and the proofs and arguments submitted at the hearing, determines and decides as follows:

First. That the application, maps and plans submitted are modified as set forth above and, as so modified, are the plans hereinafter mentioned.

Second. That the plans proposed are justified by public necessity.

Third. That said plans provide for the proper and safe construction of all work connected therewith.

Fourth. That said plans provide for the proper protection of the supply and the watershed from contamination and for the proper filtration of such supply.

Fifth. That said plans are just and equitable to the other municipalities and civil divisions of the State affected thereby, and to the inhabitants thereof, particular consideration being given to their present and future necessities for sources of water supply.

Sixth. That said plans make fair and equitable provisions for the determination and payment of any and all legal damages to persons and property, both direct and indirect, which will result from the execution of said plans or the acquiring of said lands.

Decision

Wherefore, the Water Power and Control Commission does hereby approve the said application, maps and plans of the city of Rochester as modified and does also approve of the waterworks system as constructed and authorizes the operation thereof, by the officials of the city of Rochester.

In the Matter of the Application of HENRY W. BENEDICT for Approval of His Financial and Engineering Plan for Construction of a Water Supply System

Water Supply Application No. 1979

(January 16, 1950)

Application, maps and plans approved as modified.

Proceedings

BY THE COMMISSION.—Henry W. Benedict, developer of a real estate subdivision known as Hillcrest Park (section Nos. 1 and 2) in the town of Chili, Monroe county, on November 15, 1949, made application to the Water Power and Control Commission for approval of his plans for the acquisition or taking of a water supply for the subdivision and for the construction of a waterworks distribution system therein. This application was filed in the offices of the Commission November 17, 1949.