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constructed they have been approved by the Commission. Such final approval will be given only on due petition therefor. In general, such approval will not be given except for a fully completed system, and it never will be given until all provisions affecting quality of the water and safety of the works fully have been complied with.

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 Rensselaer, as thus modified.

In the Matter of Application of CITY OF ROCHESTER, Petitioner, for Approval of Taking of Additional Quantities of Water from Lake Ontario for Water Supply System, and of Plans in Connection Therewith. EIGHTH APPLICATION

Water Supply Application No. 2030

(August 1, 1950)

Application, maps and plans approved as modified.

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 May 16, 1950, 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 sup-

ply for the city and of the construction proposed in connection therewith. This application was filed in the office of the Commission on May 17, 1950.

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 council chamber in the city hall in the city of Rochester on June 9, 1950, 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 Tom Grierson, represented by Earl F. Case, his attorney and by Rochester and Lake Ontario Water Service Corporation, represented by Bernard Sclove, its attorney.

On June 9, 1950, the Commission caused an engineering inspection to be made of the sites of the proposed works and of the proposed additional source of water supply.

Project

The city of Rochester now asks approval from this Commission for the taking of an additional supply of water for the city in an amount of 36,000,000 gallons daily from an existing intake into Lake Ontario owned by Eastman Kodak Company and of the construction of pumping stations, a filtration plant, other treatment facilities and of conduits and mains for the delivery of filtered and treated water from the lake into the city mains. The estimated cost of this project is \$5,100,000.

Objections

Tom Grierson, an objector in these proceedings, is opposed to the location of the proposed supply main to the city in respect to his property which is located on Mount Reid boulevard. Rochester and Lake Ontario Water Service Corporation, a second objector, does not object to the taking of an additional source of water supply by the city but is opposed to the supplying of water by the city to customers now being supplied by that corporation both within and without the city limits.

After due study of the petition and its exhibits 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 in Monroe county on Lake Ontario near the mouth of the Genesee river. It is a residential and industrial community of considerable importance.

2. According to the 1940 census, the city had a population of 324,974 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 approximately \$572,000,000 and the city has outstanding bond and note indebtedness to an extent of about \$26,000,000, of which amount about \$627,000 was issued for water supply purposes. The city has a balance in its waterworks reserve fund of about \$1,580,000.

4. A public water supply system was first installed in Rochester by municipal enterprise about 1876.

5. The main sources of water supply for the city long have been Hemlock and Canadice lakes. To meet deficiencies in its own supply, the city, at times, secures additional water from Rochester and Lake Ontario Water Service Corporation and from Eastman Kodak Company, both of which companies secure their supplies of water by pumping from Lake Ontario. Rochester and Lake Ontario Water Service Corporation itself also distributes water in certain areas within the city.

6. The safe yield of the upland sources, as now developed, is estimated to be about 33,000,000 gallons daily and the city has been authorized to purchase from Eastman Kodak plant not to exceed 10,000,000 gallons daily, under a decision of this Commission on January 16, 1950 (*Water Supply Application No. 1976*; completed works approved January 16, 1950). The maximum amount which the city has been able to secure from this plant averages about 4,000,000 gallons daily. The amount distributed within the city by Rochester and Lake Ontario Water Service Corporation itself is reported as about 5,000,000 gallons daily.

7. Water obtained from all of these sources of supply is, with the treatment now afforded it, of satisfactory quality.

8. The average consumption in the city during the year 1949, was in excess of 39,000,000 gallons of water daily with a peak monthly average in June of about 44,500,000 gallons daily. Generally, the monthly averages in 1949 exceeded similar monthly averages in prior years.

9. The demands in the city have steadily been rising because of increased needs for refrigeration purposes, for industrial and commercial expansion and to meet greater residential use due to increases in population.

10. Rochester, in common with other communities, is faced with a serious shortage in storage in its upland reservoirs due to the severe drought of the past year. It is reported that the water level in its upland storage reservoirs is now well below the level for any similar period in the past years.

11. In order to meet its immediate and expected future demands, the city must have an increase in its water supply resources. The officials of the city, having taken cognizance of their water supply needs, have adopted the present project.

12. On April 25, 1950, the common council of the city adopted an ordinance which authorized the making of this application. The financing of the project is set forth by various ordinances adopted by the common council on December 13, 1949 and March

14, 1950, and as outlined by a capital improvement program presented to that body on January 24, 1950.

13. Eastman Kodak Company presently has two intakes, one 54 and the other 42 inches in diameter. The intakes extend about 8,000 feet into Lake Ontario into water with a depth of about 55 feet. The carrying capacity of the two intakes is approximately 100,000,000 gallons a day, an amount far in excess of that required to meet plant needs.

14. The Eastman Kodak Company has indicated that it is in a position to permit the city to take from its intakes the amount of water desired and that such taking will have no effect, for the present at least, on its plant operations.

15. Water is to be pumped from the Kodak Company's west intake well by low lift pumps, with a combined capacity of 36,000,000 gallons daily, located in the Kodak pumping station, to six mechanical coagulation and sedimentation units and then is to flow through a line of 42-inch pipe to a rapid sand filter plant and to a clear well with a two hour capacity. From the clear well, the water is to be pumped by high lift pumps located in the filter building through a 48-inch supply main to a booster station located near Ridge road and Mount Reid boulevard and to the city distribution system. The high lift pumping units and also those in the booster station are to consist of 4,000,000-12,000,000 gallons daily centrifugal pumps.

16. The water is to be chlorinated prior to its entrance into the coagulation units immediately after it leaves these basins and again in the clear well.

17. The rate of operation of the entire water treatment plant, including filtration, chemical pretreatment and sterilization, is to fluctuate automatically with the demand on the pumping station.

18. The city eventually plans to install an intake of its own with a capacity of 60,000,000 gallons daily, a matter which is not now before the Commission. The presently proposed development is being planned, however, so that future expansion of the entire treatment plant can be made with only minor adjustments. It is expected that the project as now proposed together with continued use of the existing upland sources, will be adequate to provide sufficient water to meet the water supply needs of the city until at least 1974.

19. Lake Ontario now serves as the source of water supply for a large number of areas bordering on and in close proximity to its shores. There is every reason to believe that, with the treatment now proposed to be provided, a safe and satisfactory water supply can be furnished to the consumers in the city from this source. The Commission must, however, reserve the right to require the taking of additional sanitary precautions or the further additional treatment if future analyses and inspections indicate a need for such action.

20. The estimated cost of the work now proposed is \$5,100,000

and such amount should be sufficient to permit the carrying out of the project.

21. No detailed plans or specifications have been submitted with the application. The Commission must require that before any construction work is carried out, such detailed plans and specifications be submitted to it for its approval and that the work thereafter be carried out in strict accordance with such approved plans.

22. Options have been secured on most of the lands required for the carrying out of the project and it is expected that the portions not yet under option will be secured by suitable agreements with the owners thereof or, if necessary, by condemnation proceedings.

23. One of the objectors in these proceedings feels that damage will result to his property on Mount Reid boulevard by the location of the main supply line in this street. This is not a problem within the jurisdiction of this Commission but rather is a matter now adequately provided for by existing law.

24. The objector, Rochester and Lake Ontario Water Service Corporation, is not opposed to the city acquiring an additional source of water supply. It is, however, opposed to the extension of service by the city into areas now being served by the corporation both within and without the city limits. The Commission can assume no jurisdiction over the possible extension of service by the city within its corporate limits in areas now being served by that corporation. This is a matter which must be settled between the city and the company or by a court of competent jurisdiction.

25. With regard to service by the city outside its limits, the present application contains no request for approval of such service and, therefore, is not a matter now before the Commission. Should such service be desired in the future, the city must apply to the Commission for approval of such action before it legally may render such service.

26. The city has given much consideration to increasing its upland supplies by the tapping of additional watershed areas but it has determined that the project now proposed is most suitable and expedient and, in addition, that it will provide a more dependable source that can economically be provided by expansion of the upland supplies.

27. The carrying out of these plans will have no adverse effect on the water supply interests of any other municipality or civil division of the State.

28. The legal damages which may be caused by the execution of the plans of the petitioner are not 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 necessary, in order 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 water-works 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 hereby authorized to take from Lake Ontario an amount of water not in excess of 36,000,000 gallons daily through the existing intake facilities of Eastman Kodak Company. Although the city has indicated that it plans in the future to construct its own intake with a capacity of 60,000,000 gallons daily, no such construction is intended to be authorized by this decision and approval. Whenever the city decides to carry out such an additional project and after it has completely authorized such a project, including the financing of it, the city must apply to this Commission for approval of that project and have secured such approval before it legally may be carried out.

B. Under this decision and approval, the city of Rochester may not, without the further consent and approval of this Commission, extend water service into any areas outside of its corporation limits. This condition shall neither be construed as prohibiting nor permitting extension of service to any areas within the corporation limits of the city now being served by Rochester and Lake Ontario Water Service Corporation, a matter which is subject to adjustment between the city and that corporation or by a court of competent jurisdiction.

C. Nothing in this decision and approval contained shall be held to authorize applicant to supply, sell or distribute water from this course of supply for any purpose unless all such water shall first have been treated and purified by sterilization and filtration in a manner satisfactory to this Commission.

D. The Commission reserves the right to require the taking of further sanitary precautions or the further treatment or purification of the water from this source should future analyses or inspections show a need for so doing.

E. Prior to starting work on any construction authorized by this decision and approval, detailed plans of the structures proposed to be built and specifications for such work must have been submitted to and approved by this Commission. Thereafter, such construction work must be entirely completed in full accordance with the plans and specifications which have been so submitted and approved.

F. Unless the works authorized by this decision shall have been fully completed by August 1, 1955, or within such extended time as may have been applied for and granted by the Commission, then, and on that date, this decision shall be deemed to have lapsed and to be of no further force and effect.

G. Nothing in this decision and approval contained shall be held to abrogate the provisions of section 524 of the Conservation Law,

which forbid the operation of any of these works until, as constructed, they have been approved by the Commission. Such final approval will be given only on due petition therefor. In general, such approval will not be given except for a fully completed system, and it never will be given until all provisions affecting quality of the water and safety of the works fully have been complied with.

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 thus modified.

In the Matter of the Application of CHESTERTOWN WATER DISTRICT, of the TOWN OF CHESTER, COUNTY OF WARREN, for Approval of Acquisition of a Source of Water Supply and of Financial and Engineering Plans for Construction of a Water System

Water Supply Application No. 2032
(August 1, 1950)

Application, maps and plans approved as modified.

Proceedings

BY THE COMMISSION.—Howard Roblee, supervisor of the town of Chester, Warren county, acting in the name of said town and on behalf of Chestertown Water District in that town, on May 15, 1950, made application to the Water Power and Control Commis-