

Decision No. 13690

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of )  
 PORT COSTA WATER COMPANY, a corpora- )  
 tion, for an order authorizing the )  
 execution by it of a mortgage or deed )  
 of trust securing an authorized issue )  
 of \$1,500,000.00 principal amount of )  
 its first mortgage gold bonds, and )  
 the issuance thereunder and sale of )  
 \$450,000.00 principal amount of its )  
 said first mortgage gold bonds. )

Application  
 Number  
 10,126

Goodfellow, Bells, Moore and Orrick,  
 by T. W. Dahlquist, for Applicant.

BY THE COMMISSION :

OPINION

Port Costa Water Company asks permission to execute its first mortgage or deed of trust to be dated June 1, 1924 to secure the payment of a total authorized issue of \$1,500,000.00 principal amount of first mortgage bonds and to issue and sell \$450,000.00 of 6½ per cent 12 year bonds, the payment of which is to be secured by such mortgage or deed of trust. Pending the authorization and issuance of such bonds, applicant asks permission to issue interim certificates. Reference will hereafter be made to the purposes for which applicant asks permission to use the proceeds obtained from the sale of the bonds. Applicant has sold the bonds, subject to their issue being authorized by the Commission, to Pierce, Fair and Company under an agreement dated May 23, 1924, which agreement the Commission is asked to approve.

Port Costa Water Company has outstanding \$500,000.00 of common stock. Its outstanding indebtedness, as of May 1, 1924,

is reported as follows :-

a.	Six per cent mortgage note, payable Oct. 1, 1926 to San Francisco Savings & Loan Society . . . . .	\$300,000.00
b.	Eight per cent bonds	85,000.00
	Due June 1, 1924 . . . . .	\$20,000.00
	Due June 1, 1925 . . . . .	30,000.00
	Due June 1, 1926 . . . . .	35,000.00
c.	Six per cent note payable to Bank of Martinez	3,000.00
d.	Other indebtedness (accounts payable)	<u>17,896.85</u>
	Total Debt May 1, 1924 . . . . .	<u>\$405,896.85</u>

On July 27, 1917 by Decision Number 4484 in Application Number 3039 (Volume 13 Opinions and Orders of the Railroad Commission of California, page 563) the Railroad Commission authorized Port Costa Water Company to join with Port Costa Development Company and Mt. Diablo Development Company in the issue of a \$385,000.00 six per cent 6 year note. On November 24, 1919 by Decision Number 6864 in Application Number 5119 (Volume 17 Opinions and Orders of the Railroad Commission of California, page 577) the Commission authorized Port Costa Water Company to join with the above mentioned companies in the issue of a \$100,000.00 six per cent note payable July 27, 1923. By Decision Number 9134, dated June 22, 1921, in Applications Number 3039 and Number 5145 (Volume 20 Opinions and Orders of the Railroad Commission of California, page 120) the Commission authorized Port Costa Water Company to assume the payment of \$300,000. of the amount due on the above notes and authorized the company to extend the maturity of the debt so assumed to October 1, 1926. On June 8, 1921 by Decision Number 9066, as amended, in Application Number 6862 (Volume 20 Opinions and Orders of the Railroad Commission of California, page 23) the Railroad Commission authorized Port Costa Water Company to issue \$125,000.00 of 8 per cent bonds

due as follows :-

\$15,000.00	on June 1, 1922
20,000.00	on June 1, 1923
25,000.00	on June 1, 1924
30,000.00	on June 1, 1925
35,000.00	on June 1, 1926

The bonds were sold by the company at  $94\frac{1}{2}$  per cent of their face value and accrued interest. Of the bonds sold \$60,000.00 have been paid, leaving outstanding the \$30,000.00 due June 1, 1925 and the \$35,000.00 due June 1, 1926.

Port Costa Water Company now asks permission to issue and sell \$450,000.00 of  $6\frac{1}{2}$  per cent 12 year bonds at 94 per cent of their face value and accrued interest in order to obtain funds to pay the \$300,000.00 of 6 per cent notes due October 1, 1926, to pay the \$65,000.00 of 8 per cent bonds and to reimburse its treasury because of moneys expended to pay \$60,000.00 of 8 per cent bonds which have matured, and to reimburse its treasury because of moneys expended for additions and betterments described in its Exhibit No. 2, the moneys expended for such additions and betterments to May 31, 1924 being reported at \$38,976.38.

The testimony shows that applicant may have to pay a premium of 1 per cent if it redeems the \$300,000.00 note due October 1, 1926. The \$65,000.00 of 8 per cent bonds are non-callable. Pierce, Fair and Company, who have agreed to purchase the company's new bonds, are, under their agreement of May 23, 1924, obligated to use their best efforts to purchase the 8 per cent bonds. The company agrees that it will pay them the par value of bonds purchased together with accrued interest to the date of their delivery to the company and a sufficient premium to enable such purchases to be made on a 6 per cent basis. It is of record that the \$20,000.00 of 8 per cent bonds due June 1, 1924 were paid by the company and that no premium will be paid on such bonds, even though they are referred to in the agreement with Pierce, Fair and Company as bonds outstanding. The company further agrees to deposit sufficient funds with the trustee to provide for the payment of such 8 per cent bonds as cannot now be purchased, in order that the company's properties may be released from the mortgage securing the payment of such bonds.

It is urged that the company should at this time be permitted to issue bonds to refund or pay the \$300,000.00 note due October 1, 1926 for the reason that no one can forecast the financial conditions that may exist when the note is due. The Commission is asked to authorize the issue of bonds on a basis of about 7½ per cent (considering discount only) to refund a note issued on a 6 per cent basis. There was no evidence introduced to show that the note cannot at a later date be refunded on a more favorable basis. It is common knowledge that the general trend of interest rates is downward. Moreover, the earnings of this utility for the past two years have been increasing caused by an increase in business and an increase in rates. If the refunding of applicant's funded debt, note and bonds, is carried out as proposed there will be an increase in the funded debt of applicant because of such refunding of \$28,500.00 and an increase in the annual interest charges including amortization of debt discount of at least \$3,600.00. The Commission will not authorize the issue of bonds in the amount proposed by applicant to pay its funded debt. For the purpose of paying its funded debt applicant will be authorized to issue \$357,000.00 of bonds, the interest on which is approximately equivalent to the interest on the funded debt which applicant intends to pay. If applicant needs any additional moneys to refund or pay its funded debt, such moneys must be taken from funds realized from the sale of bonds authorized to be issued to reimburse its treasury because of earnings expended for additions and betterments, or from funds obtained from sources other than the issue of bonds. To reimburse applicant's treasury the order will authorize the issue of \$34,000.00 of bonds. The order will also authorize applicant to issue \$22,000.00 of bonds to pay current indebtedness and \$37,000.00 of bonds to pay for additions and betterments installed subsequent to June 1, 1924, provided that the proceeds obtained from the sale of the \$37,000.00 of bonds be expended only for such

purposes as the Commission will authorize by supplemental order or orders.

On June 9th. applicant filed with the Commission a copy of the proposed temporary certificates which will be issued pending the delivery of the definitive bonds, and the agreement under which such certificates will be issued. Both are in satisfactory form.

Applicant has not yet filed with the Commission a copy of its proposed first mortgage or deed of trust. The agreement between applicant and Pierce, Fair and Company, dated May 23, 1924, which agreement the Commission is asked to approve, outlines some of the provisions that are to be incorporated in the mortgage or deed of trust. It provides that the mortgage or deed of trust shall provide for a sinking fund into which one half of the annual earnings of the company, after interest charges, shall be paid provided that in no one year shall the company be required to pay into the sinking fund more than 10 per cent of the par value of the outstanding bonds under the mortgage. The money paid into the sinking fund may be used either to redeem bonds issued under such mortgage or for additions and betterments against which no future bonds may be issued. The sinking fund provision should provide for the deduction from the annual earnings of maintenance and operating expenses, taxes and depreciation, as well as interest charges. The first series of bonds are to mature in 12 years and are to bear interest at the rate of  $6\frac{1}{2}$  per cent per annum and be redeemable as a whole at 105, or for sinking fund purposes at 102. The agreement refers to the refunding or payment of the company's indebtedness and to the issue of bonds equal to 60 per cent of the actual cost of additions and betterments when the total interest requirements of the company, together with the interest requirement on the new bonds to be issued, are covered better than  $1\frac{3}{4}$  times for 12 consecutive months of the 15 months immediately preceding the application for the sale of such additional bonds. It occurs to us

that this provision will not permit the company to use any bonds for collateral purposes. The word "authentication" should be substituted for the word "sale". The Commission will not approve the agreement as submitted. It will approve the same only as affirmatively indicated in this opinion and the order following.

### O R D E R

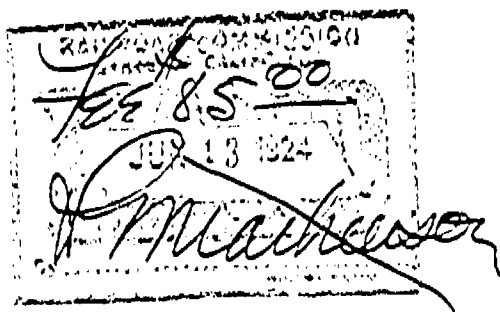
Port Costa Water Company, having applied to the Railroad Commission for permission to execute a mortgage or deed of trust and to issue \$450,000.00 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that applicant should be authorized to issue the \$450,000.00 of bonds for the purposes indicated in this order and none other,

IT IS HEREBY ORDERED, as follows :-

1. Port Costa Water Company may issue and sell on or before October 1, 1924, \$450,000.00 of 6½ per cent first mortgage 12 year bonds and use the proceeds for the following purposes :-
  - a. The proceeds from \$357,000.00 of bonds to pay or refund the \$300,000.00 note and the \$65,000.00 of bonds referred to in the foregoing opinion.
  - b. The proceeds from \$34,000.00 of bonds to reimburse its treasury because of earnings expended for additions and betterments prior to June 1, 1924; such proceeds may thereafter be used for general corporate purposes.
  - c. The proceeds from \$22,000.00 of bonds to pay current indebtedness referred to in the foregoing opinion.
  - d. The proceeds from \$37,000.00 of bonds for such purposes as the Commission will hereafter authorize by a supplemental order or orders, it being understood that said proceeds may be used only to pay for additions and betterments made subsequent to June 1, 1924.

2. Port Costa Water Company may execute and issue temporary certificates similar in form to the certificate filed with the Commission on June 9, 1924, and may execute an agreement similar in form to that filed with the Commission on said date, defining the terms and conditions under which the temporary certificates are issued.
3. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act.
4. No bonds may be delivered until the Commission has authorized applicant to execute a mortgage or deed of trust to secure the payment of the bonds.
5. The agreement between Port Costa Water Company and Pierce, Fair and Company, dated May 23, 1924, a copy of which is on file in this proceeding, is approved to the extent indicated in the opinion which precedes this order and in this order, such approval, however, being limited to the extent that affirmative approval is given.
6. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th. day of each month a verified report, as required by the Railroad Commission's General Order Number 24, which order, in so far as applicable, is made a part of this order.

DATED at San Francisco, California, this 12<sup>th</sup> day of June, 1924.



C. J. Lewis  
H. B. Bunnell  
Wm. M. Martin