

Decision No. 18498.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of the)

TRACY GAS COMPANY,

a corporation, for a certificate of)
public convenience and necessity to)
furnish gas to the City of Tracy,)
San Joaquin County, and for an order)
authorizing the issue and sale of)
\$100,000.00 of its capital stock and)
\$100,000.00 of its first mortgage)
bonds to finance such contemplated)
improvements.)

Application No. 13295.

BY THE COMMISSION:

SECOND SUPPLEMENTAL ORDER

The Railroad Commission in its order in Decision No. 17769, dated December 20, 1926, as amended, declared that hereafter upon the filing of a certified copy of an ordinance of the City of Tracy granting to John F. Beals, his successors and assigns, a franchise to construct, operate and maintain an artificial gas plant; a properly executed assignment of said franchise to Tracy Gas Company and a stipulation duly authorized by its board of directors declaring that Tracy Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the amount actually paid to the City of Tracy as a consideration for the granting of such franchise, the Railroad

Commission will declare that public convenience and necessity require and will require the exercise by applicant of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Railroad Commission may prescribe.

In the same order the Commission authorized the company to issue and sell on or before October 1, 1927, for cash at not less than par, \$75,000.00 of its common capital stock. Of the proceeds realized from the sale of such stock, an amount not exceeding 17-1/2 percent may be expended by applicant to pay commissions and all other expenses incident to the sale of such stock. All remaining proceeds shall be deposited with a bank or banks and may be expended by applicant only for such purposes as the Commission will authorize by a supplemental order or orders.

The Commission's order further provides that the Tracy Gas Company shall not enter into any contract for material or enter into any contract for the construction of its proposed gas plant until it has sold at least \$50,000.00 of the \$75,000.00 of stock and has on deposit with a bank or banks at least seventyfive percent of the selling price of the stock. The order further provides that the authority granted to construct, maintain and operate a gas plant will become effective when applicant has filed the stipulation referred to above and when applicant has on deposit with a bank or banks at least seventyfive percent of the selling price of the \$50,000.00 of stock.

On April 12th Tracy Gas Company filed an amended petition in the above entitled matter in which it asks the Commission to modify Decision No. 17769 by permitting \$25,100.00 of stock to be sold for cash and the deposit of seventy-five percent of the selling price thereof in a bank; to-wit, the sum of \$18,825.00, instead of

requiring it to sell \$50,000.00 of stock, as provided in the order, upon the express understanding and agreement that an additional \$35,000.00 in stock shall be issued to E. A. MacGillivray as part of his first payment on his contract to construct the gas plant for the sum of \$150,000.00. The company also filed with the Commission a copy of Ordinance No. 112 from the City of Tracy and its assignment to the Tracy Gas Company; a copy of its proposed contract with E. A. MacGillivray and the stipulation to which reference has been made herein.

Ordinance No. 112 of the City of Tracy requires the grantee to use cast iron pipe in constructing a low pressure system. The belt line is to be not less than six (6) inches in diameter with no main less than two (2) inches and with house services not less than one and one fourth (1-1/4) inch carried to the property line. The contract that has been filed does not provide for the construction of a distributing system of cast iron pipe. We will not approve the contract, or authorize the expenditure of any stock or bond proceeds to pay for a plant built of material other than that specified in the franchise. Applicant's request for a modification of the order in Decision No. 17769 so that \$35,000.00 of stock may be delivered to the contractor will not be granted. Neither will we at this time authorize the company to issue \$5,000.00 of stock to Leon Melekov in payment for lands and rights-of-way. We will not modify any provision of the order in Decision No. 17769, as amended, except approve the stipulation filed by applicant, therefore,

IT IS HEREBY DECLARED that Tracy Gas Company has filed the stipulation as provided in the order in Decision No. 17769, dated December 20, 1926, which stipulation states that neither said company, its successors or assigns, will claim before the Railroad Commission or any other public body, a value for the rights and privileges granted by Ordinance No. 112 of the City of Tracy in excess of the actual cost thereof, which cost is stated to be Twenty-five (\$25.00) Dollars and that public convenience and necessity require, and will require, Tracy Gas Company to exercise the rights and privileges granted in said Ordinance No. 112.

IT IS HEREBY ORDERED that the order in Decision No. 17769, dated December 20, 1926, as amended, will remain in full force and effect except as modified by this Second Supplemental Order.

DATED at San Francisco, California, this 10th
day of June, 1927.

Emundson
H. B. Bondage
C. Seaver
Leon White

Commissioners.