

Decision No. 19540

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 CALIFORNIA WATER SERVICE COMPANY, )  
 a corporation, for (1) order )  
 authorizing the issue of stocks and )  
 bonds; (2) order authorizing )  
 mortgage of certain public utility )  
 properties and (3) jointly with )  
 C. B. Jackson, Chico Water Supply )  
 Company, a corporation, Port Costa )  
 Water Company, a corporation, )  
 Fresno City Water Corporation, a )  
 corporation, Visalia City Water )  
 Company, a corporation, Electric )  
 Water Company, a corporation, )  
 Bakersfield Water Works, a corpora- )  
 tion, and Hermosa-Redondo Water )  
 Company, a corporation, respective- )  
 ly, for order authorizing the pur- )  
 chase and sale of certain public )  
 utility securities and properties, )  
 and jointly with Petaluma Power and )  
 Water Company, a corporation, )  
 Belvedere Water Corporation, a )  
 corporation, and C. B. Jackson, for )  
 order authorizing the purchase and )  
 sale of certain public utility )  
 securities and properties, )  
 additional petitioners. )

ORIGINAL

Application No. 13514.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

California Water Service Company on March 24th filed a petition in the above entitled matter wherein it asks the Commission to modify Decision No. 19467, dated March 12, 1928, so as to permit the California Water Service Company to issue and sell at par to

Federal Water Service Corporation \$1,000,000.00 face value of its six percent unsecured notes, payable not later than February 1, 1933; to modify Paragraph Seven of said order so that any sum which must be charged to a suspense account be held by said applicant in such account subject to the further order of the Commission and to execute a mortgage and/or deed of trust substantially in the same form as that filed in this proceeding except that there be eliminated from such mortgage and/or deed of trust the provision which gives certain immunity to incorporators, stockholders and directors of California Water Service Company.

By Decision No. 19467 the Commission, among other things, authorized the California Water Service Company to issue and sell at not less than ninety percent of its par value \$2,130,700.00 of common and \$2,130,600.00 of six percent preferred stock and at not less than ninety-two percent of their face value and accrued interest \$6,254,000.00 of first mortgage twenty-five year bonds subject to the provisions and conditions in said decision. In that decision the Commission recites that if the California Water Service Company desires to pay more, or does in fact pay more, than the amount realized from the sale of the securities authorized by said decision for the properties or the stock of the several companies in question, the difference between said amount and such price as the vendee may actually pay must therefore be obtained in some manner other than through the issuance of such authorized securities. The Commission in its decision further recites that in as much as the California Water Service Company possesses no surplus, it will provide in its order that any such over-cost shall be charged to a suspense account from which account all such charges shall be amortized by deductions from gross corporate income as that term is

used in our annual report forms, or by charges to surplus.

In connection with the supplemental petition now before the Commission, California Water Service Company reports that the cost of all properties involved in this proceeding, without including any allowance for organization expense, was \$10,914,856.00. The Commission in Decision No. 14967 authorized the issue of securities which at the minimum prices fixed by the Commission in that decision will net \$9,588,811.53 or \$1,326,045.00 less than the aforementioned cost of the properties as reported by the California Water Service Company. The \$9,588,811.53 includes an allowance for organization expenses. The company <sup>now</sup> reports that the Federal Water Service Corporation will purchase the common stock authorized by the Commission's decision at par instead of at ninety, and further, believes that it will be able to sell its bonds at ninety-four percent of their face value and its preferred stock for ninety-three percent of its par value. If these amounts are realized the company will net from the sale of the securities authorized by the Commission \$9,990,918.00 or \$923,938.00 less than the above mentioned cost. The company proposes to issue its notes in denominations of not less than \$100,000.00 and in the aggregate amount of the difference between what it will realize from the sale of its securities and the \$10,914,856.00 mentioned above. It reports that these notes will be issued to the Federal Water Service Corporation upon a basis whereby said Federal Water Service Corporation will not sell, pledge, hypothecate or otherwise dispose of the same unless concurrently therewith it shall endorse the same and/or guarantee payment thereof. We will authorize the California Water Service Company to issue such notes but only on condition that the notes issued be issued as non-negotiable notes and that they contain a

provision obligating the California Water Service Company to pay both principal and interest of such notes only out of surplus available for distribution as dividends to its holders of common stock or from contributions by or assessments on such common stockholders and that none of said payments will be made from cash realized from the sale of assets or from borrowed money or offset by its reserve for accrued depreciation and that payments when and as made will be charged to surplus. It should be definitely understood that so far as the California Water Service Company is concerned, it expects that company to pay such notes only out of moneys available to pay dividends on common stock. If no such moneys are available the notes must be paid by contributions from Federal Water Service Corporation, the owner of all the common stock of California Water Service Company or its successor or successors in interest.

In regard to the modification of Paragraph Seven of the order in Decision No. 19467, we believe that the company should be permitted to use any moneys which it may obtain from the sale of securities in excess of the minimum prices fixed by the Commission in such decision to reduce the face amount of the notes which would otherwise be issued and that an amount equivalent to the face value of notes issued be charged to the suspense account and written off as payments are made on the notes.

In regard to the execution of the proposed mortgage and/or deed of trust referred to herein, we feel that there should be eliminated from such proposed mortgage and/or deed of trust and from the bonds issued by the company, the provision which gives certain immunity to incorporators, stockholders, officers and directors of California Water Service Company. Further, we believe that there should be eliminated from the proposed mortgage and/or deed of trust

Section Eight of Article III and that Subdivision One of Paragraph b under Section Three of Article II be modified accordingly.

In lieu of Section Eight of Article III the company should covenant and agree to maintain its properties in good operating condition and make adequate provision for the replacement thereof by proper and reasonable credits to its reserve for accrued depreciation. The proposed mortgage and/or deed of trust should contain provisions which will prohibit the trustee from certifying bonds in excess of seventy-five percent of the cost or reasonable value, whichever is less, of assets acquired. It should, however, be understood that by authorizing the execution of such mortgage and/or deed of trust the Commission will be under no obligation to authorize the issue of bonds up to seventy-five percent of said cost or reasonable value of assets acquired, it being the policy of the Commission, except under extraordinary condition, to authorize the issue of bonds in amounts not exceeding sixty percent of such cost or reasonable value.

The Commission has considered the requests of applicant and believes that its Decision No. 19467, dated March 12, 1928, should be modified as indicated in this order, therefore

IT IS HEREBY ORDERED as follows:

1. The California Water Service Company may issue and sell at par to Federal Water Service Corporation not exceeding \$923,938.00 face value of its six percent unsecured notes payable not later than February 1, 1933, and in denominations of not less than \$100,000.00, provided that said note or notes contain a provision which obligates the California Water Service Company to pay both the principal

of the notes and the interest thereon only out of its earnings available for the declaration and payments of dividends on common stock, or from contributions by assessments on the holder or holders of the company's common stock and that none of said payments will be made from the sale of assets, from money borrowed or moneys offset by the reserve for accrued depreciation.

2. Paragraph Seven of the order in Decision No. 19467, dated March 12, 1928, is modified and amended so as to read:-

"California Water Service Company shall keep its accounts and records in accordance with the Uniform Classification of Accounts prescribed by this Commission, provided that not more than \$10,447,127.53 may be charged to fixed capital accounts. Any sum which may be paid for the properties here in question in excess of \$9,588,811.53 and represented by the note or notes issued under the authority herein granted shall be charged to a suspense account and written off as payments are made on said note or notes, but in no event later than February 1, 1933."

3. California Water Service Company is hereby authorized to execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust filed in this proceeding, provided that said mortgage and/or deed of trust <sup>shall</sup> ~~be~~ modified as indicated in this supplemental order and, provided further, that the authority herein granted to execute such mortgage and/or deed of trust is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities

Act and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

4. The authority herein granted to issue notes will become effective when the California Water Service Company has paid the fee prescribed by the Public Utilities Act, which fee is Four Hundred and Forty-eight (448.00) Dollars, such fee being in addition to the \$3,641.00 fee paid to the Commission on December 27, 1927.
5. California Water Service Company shall file reports as required by the Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.
6. California Water Service Company shall file with the Railroad Commission within thirty (30) days after the execution of the mortgage and/or deed of trust herein authorized, two certified copies of such instrument.

DATED at San Francisco, California, this 31<sup>st</sup> day of March, 1928.

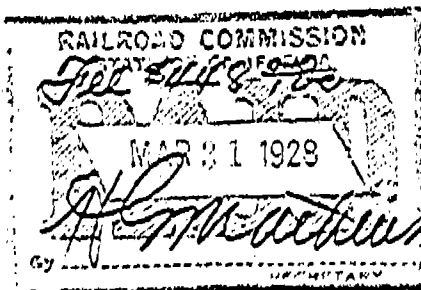
Leon W. Hall

Chas. H. ...

Thos. D. ...

W. A. ...

Commissioners.



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