

LBM

Decision No. 19660.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GEORGE A. BRAY and H. G. TEALE,)
co-partners, doing business as the)
Mesmer City Water Company, and of)
the Mesmer City Water Company, Inc.,)
a corporation, for permission to) Application No. 14476
sell and acquire public utility pro-)
perty, issue stock, and to execute a)
mortgage on public utility property.)

Loris V. Cady, for applicant.

BY THE COMMISSION:

O P I N I O N

ORIGINAL

In this application, Mesmer City Water Company, a co-partnership, composed of George A. Bray and H. G. Teale, ask permission to sell its public utility water properties to the Mesmer City Water Company, a corporation, and the corporation asks permission to buy such properties, to assume indebtedness and to issue such an amount of stock in payment for the properties as the Commission finds reasonable.

By Decision No. 15603, dated November 7, 1925, in Application No. 11536, (Volume 27, Opinions and Orders of the Railroad Commission of California, page 166,) the Commission declared that public convenience and necessity require and will require that George A. Bray and H. G. Teale, co-partners, operate a public utility for the purpose of supplying water for domestic and irrigation use to consumers within the district covered by Los Angeles County Ordinance No. 1298, new series, a copy of which ordinance was filed in that proceeding.

Under the authority granted they have proceeded with the installation of a water system and, according to the testimony, have expended up to December 31, 1927, \$32,417.80 for that purpose.

The expenditures so incurred are segregated by applicants as follows:-

Land	\$5,100.00
Drilling wells	2,755.90
Pumps (two)	2,490.57
Cementing wells.	150.00
Two redwood tanks.	3,235.00
Painting tanks	568.53
Engineering and supervision.	4,900.00
Lumber	64.17
Water mains and lines.	12,725.33
Meters and meter boxes	<u>428.30</u>
Total	<u>\$32,417.80</u>

The accrued depreciation is reported at \$2,350.40. In

addition to the above expenditures applicants report an expenditure of \$1,045.60 for franchises and \$1,935.94 for organization purposes. It is also alleged that the business has a good will value of \$15,000. Mr. H. G. Teale testified that such amount in reality represented amounts which the co-partnership has had to advance and which will have to be advanced to cover operating losses. In our opinion, we have no authority under the provisions of the Public Utilities Act to authorize the issue of stock against operating losses.

The Mesmer City Water Company, Inc., was organized on or about May 27, 1926, with an authorized capital stock of \$200,000.00 divided into 2000 shares of the par value of \$100. each. The corporation intends to acquire the public utility properties of the co-partnership mentioned. The real property consists of Lot 88 in Tract 6051, and Lot 172 in Tract 8539. The personal property consists of all water lines and mains, pumping equipment, pumps, wells, tanks, meters, meter boxes, accounts, accounts collectible and all other personal property of the Mesmer City Water Company, a co-partnership, composed of George A. Bray and H. G. Teale.

The Mesmer City Water Company, Inc. in its application, as amended at the hearing, asks permission to execute a mortgage

to secure the payment of the sum of \$7,930.00 to refund an indebtedness of a like amount secured by two mortgages executed by the co-partnership. The execution of the mortgages by the co-partnership was not authorized by the Commission, and we therefore conclude that such mortgages are void. The testimony shows that the money obtained through the execution of the mortgages was used to pay part of the cost of installing the water system. The mortgage which the corporation asks permission to execute is to secure the payment of a three year seven percent note in the amount of \$7,930.00. A copy of such mortgage is filed in this proceeding as Exhibit J-2 and is in satisfactory form, except that the interest rate should be changed from eight to seven percent.

Applicant, Mesmer City Water Company, Inc., asked permission to issue stock against the reasonable value of the properties without any deduction being made therefrom for the indebtedness of \$7,930.00. We believe that such indebtedness should be considered as part of the capitalization of the corporation. Upon the payment of the debt, consideration will, upon request of applicant, Mesmer City Water Company, Inc., be given to the issue of additional stock because of such payment.

We have considered the testimony submitted in this proceeding and believe that the Mesmer City Water Company, Inc., should be permitted to issue a note for \$7,930.00 payable on or before three years after date, with interest at the rate of seven percent per annum, and to secure the payment of such note by the execution of a mortgage and to issue not exceeding \$25,000.00 par value of its common capital stock, in payment for the properties which the Mesmer City Water Company, a co-partnership, intends to transfer to the corporation.

ORDER

Mesmer City Water Company, a co-partnership, composed of George A. Bray and H. G. Teale, having asked permission to transfer

public utility water properties to the Mesmer City Water Company, Inc., and said corporation having asked permission to purchase said properties and issue stock and notes and execute a mortgage, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the \$25,000.00 of stock and \$7,930.00 of notes herein authorized, is reasonably required by applicant, Mesmer City Water Company, Inc., and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows;-

1. Mesmer City Water Company, a co-partnership, composed of George A. Bray and H. G. Teale, be, and it is hereby, authorized to sell the properties described in Exhibit J-1 and Exhibit J-2 to the Mesmer City Water Company, Inc., and said Mesmer City Water Company, Inc., is hereby authorized to acquire said properties and operate the same.

2. Mesmer City Water Company, Inc., is hereby authorized to issue a note for the principal sum of \$7,930.00 payable on or before three years after date, with interest at the rate of seven percent and not exceeding \$25,000.00 of its common capital stock in payment for the properties which it is hereby authorized to purchase.

3. Mesmer City Water Company, Inc., is hereby authorized to execute a mortgage substantially in the same form as the mortgage filed in this proceeding as Exhibit J-3, provided that such mortgage be modified so as to obligate the Mesmer City Water Company to pay interest at the rate of seven, instead of eight, percent., on said note; and provided further that the authority herein granted to execute said mortgage 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 as to such other legal requirements to which said mortgage may be subject.

4. The authority herein granted will become effective when Mesmer City Water Company, Inc., has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

5. Mesmer City Water Company, Inc., shall keep such record of the issue, sale and delivery of the notes and stock 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 No. 24, which order insofar as applicable, is made a part of this order.

6. The authority herein granted to transfer properties and issue stock and notes will expire on August 1, 1928.

7. Mesmer City Water Company shall file with the Railroad Commission within thirty days after acquiring the properties herein authorized, a statement showing the date on which it acquired such properties and the date on which it took possession of same.

DATED at San Francisco, California, this 23d day of April, 1928.

Leon Whitely
Chairman
Emmett
Paul
M. J. Lee
Commissioners.

Fee \$ 25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
APR 23 1928
By [Signature]
SECRETARY
Fee # 25350