

LEM

Decision No. 28241.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 FAY WATER COMPANY, )  
 a corporation, for an order author- )  
 izing it to issue its two certain )  
 promissory notes in the sums of )  
 \$5,000. and \$3,000. respectively in ) Application No. 15093  
 lieu of two of its outstanding notes )  
 for the same amounts. )

A. E. Campbell, for applicant.

BY THE COMMISSION:

O P I N I O N

In this application Fay Water Company asks the Commission to make an order approving certain construction work done by it, and the cost thereof, and the issue of certain notes, and authorizing it to issue two renewal notes in the aggregate amount of \$8,000.

Fay Water Company is a corporation engaged in the business of supplying water for domestic and other purposes in and about the Town of Avila, San Luis Obispo County. In 1927 the company reported total revenues at \$7,919.90 and operating expenses at \$6,475.88, leaving a balance of \$1,444.02. For the eight months ending August 31, 1928 it reports revenues of \$3,309.72 and operating expenses at \$1,773.41, leaving a balance of \$1,536.31. Its assets and liabilities, as of September 1, 1928, are reported as follows:-

ASSETS:

Fixed capital . . . . .	\$96,027.00	
Cash . . . . .	202.72	
Accounts receivable . . . . .	491.00	
Total assets . . . . .		<u>\$96, 720.72</u>

LIABILITIES:

Capital stock . . . . .	\$72,000.00	
Notes payable . . . . .	8,000.00	
Accounts payable . . . . .	1,250.00	
Reserve for depreciation . . . . .	9,512.50	
Surplus . . . . .	5,958.22	
Total liabilities . . . . .		<u>\$96,720.72</u>

The Commission, heretofore, has had occasion to inquire into the value of applicant's properties and into its operating conditions. By Decision No. 17339, dated September 14, 1926, it found as a reasonable rate base for the operative properties the sum of \$60,000.00, after excluding nonoperative lands amounting to \$40,000.00.

Against the company's properties, both operative and non-operative, are two short term unsecured seven percent notes; one for \$5,000.00 in favor of Luigi Marre Land and Cattle Company, is dated September 1, 1927 and is payable one year after date of issue; and the other, for \$3,000.00 in favor of Los Angeles First National Trust and Savings Bank, at San Luis Obispo, is dated June 12, 1928 and is payable six months after date of issue.

In connection with the issue of these notes it is reported that in the year 1921 the company had an insufficient supply of water, caused by the drying up of its wells, and was compelled to drill five new wells, to erect a new pump house, to buy new pumps and to lay additional pipe, all at a total cost of \$10,632.20, which it financed, in part, through the issue of a \$5,000.00 note to Luigi Marre Land & Cattle Company and a \$3,500.00 note to the Commercial Bank of San Luis Obispo. The latter note was paid but the indebtedness in favor of Luigi Marre Land & Cattle Company has not been discharged.

Thereafter, in 1924, applicant found it necessary, due to a further shortage of water, to drill an additional well, to erect a pump house, to purchase a pump and motor and to lay a pipe line from the well to its tanks, all at a total cost of \$5,010.58, which it financed

in part through the issue of a short term note for \$4,000.00 to Pacific-Southwest Trust & Savings Bank, now the Los Angeles First National Trust & Savings Bank. Of this amount \$1,000.00 has since been paid, leaving \$3,000.00 owing at this time.

The notes originally issued in 1921 and 1924 to pay for this construction work were made payable at periods not exceeding twelve months after date of issue and since have been renewed. While it is true a utility may issue its notes payable not more than twelve months after the dates of issue without obtaining the consent of this Commission, it cannot renew such notes if the combined terms of the original notes and the renewal notes exceed the period of twelve months or if the renewal notes are issued more than twelve months after date of issue of the original notes. Here, applicant reports that it has renewed the two notes from time to time and it appears to us that such renewals should have been first authorized by this Commission. However, it clearly appears that applicant renewed its notes without authority from this Commission, through inadvertence and with no intent to evade the provisions of the Public Utilities Act or the rules of the Commission. When the matter was called to the company's attention it filed this application for approval of the original notes and for authority to issue new ones.

The Commission cannot at this time enter an order approving the issue of the two original notes, as requested, nor does it seem necessary for it to make its order approving the original construction work done by applicant and the cost thereof. The order herein, accordingly, will be limited to authorizing the issue of new notes in lieu of those the company attempted to issue without first obtaining the consent of the Commission, and the renewal of such notes.

#### ORDER

Fay Water Company having applied to the Railroad Commission as indicated in the foregoing opinion, and the Railroad Commission being of the opinion that this is a matter in which a public hearing

is not necessary and that the money, property or labor to be procured or paid for through the issue of \$8,000.00 of notes is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expense or to income.

IT IS HEREBY ORDERED that Fay Water Company be, and it hereby is, authorized to issue to Luigi Marre Land & Cattle Company its unsecured promissory note in the principal amount of not exceeding \$5,000. payable on or before five years after date of issue, with interest at not exceeding seven percent per annum, and to Los Angeles First National Trust & Savings Bank its unsecured promissory note in the principal amount of not exceeding \$3,000.00, payable on or before five years after date of issue, with interest at not exceeding seven percent per annum, in lieu of the two notes of like amounts heretofore issued without permission from the Railroad Commission and referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that Fay Water Company be, and it hereby is, authorized in the event it issues the notes referred to herein or either of them for a term of less than five years, to renew such notes from time to time, provided that the combined terms of the notes originally issued under this authority and of those issued in renewal do not exceed a period of five years from the dates of issue of the original notes.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective when applicant has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

IT IS HEREBY FURTHER ORDERED that applicant shall keep such record of the issue of the notes herein authorized as will enable it to file, within thirty days after such issue, 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.

DATED at San Francisco, California, this 18<sup>th</sup> day of October, 1928.

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*W. A. Seamy*  
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*E. J. ...*  
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*W. J. ...*  
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*W. J. ...*  
Commissioners.

*See # 25 <sup>as</sup> <sub>120</sub>*  
RAILROAD COMMISSION  
STATE OF CALIFORNIA  
OCT 22 1928  
*Ed. ...*  
*Feb ...*