

LBM

Decision No. 20747.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
OAK PARK WATER COMPANY,)
a corporation, for authority to issue) Application No. 15229
stock.)

In the Matter of the Application of)
OAK PARK WATER COMPANY,)
a corporation, and PETER ZINGG, for)
an order authorizing the said Oak) Application No. 15230
Park Water Company to buy, and Peter)
Zingg to sell, public utility property)

Peter Zingg, in propria persona.

O'Melveny, Tuller and Myers and Wm.W.Clary,
for Oak Park Water Company.

BY THE COMMISSION:

O P I N I O N

In Application No. 15230 Peter Zingg asks permission to sell his public utility water properties being operated under the name of the Elmhurst Water Supply Company to the Oak Park Water Company. In Application No. 15229 Oak Park Water Company asks permission to issue and sell at par \$26,500.00 of common stock and use the proceeds to pay for the water properties of Peter Zingg.

The territory which Peter Zingg serves is situated in the City of Sacramento. It is more particularly described as

follows;-

Starting from R Street and 37th Street to Stockton Boulevard, thence east along V Street to 50th Street, thence south to Second Avenue, thence east to 57th Street, thence north to R Street, thence west to 53rd Street, thence north to M Street, thence west to 47th Street, thence south to R Street, thence west to beginning at R and 37th Street.

His receipts from the sale of water for the year ending Sept. 30, 1927 are reported at \$5,046.75 and for the year ending Sept. 30, 1928 at \$5,483.70. The territory which he serves is adjacent to the territory now being served by the Oak Park Water Company. It is the intention of the purchaser to inter-connect the two systems and to improve the distributing system of the Elmhurst Water Company so that better service may be given to the consumers of that system.

A. Kempkey, consulting engineer and witness for applicants, testified that in his opinion it would cost \$44,200.00 to reproduce new the physical properties of the Elmhurst Water Supply Company and that such properties, if reproduced new, would have a residual value as of December 31, 1928 of \$29,500.00. These figures include an allowance of twenty percent for administration, engineering, legal, interest during construction and miscellaneous expenses. The present value of the properties he reports at \$35,500.00 made up as follows;-

Physical structures, residual value	\$29,500.00
Lands	1,800.00
Organization	1,000.00
Franchises	400.00
Water rights	100.00
Going concern value	<u>2,500.00</u>
Total.....	<u>\$35,300.00</u>

At the hearing Mr. L. E. Torrey, assistant valuation engineer for the Commission, testified that in his opinion the reproduction cost new of the properties of the Elmhurst Water Supply Company was \$39,661.12 and the reproduction cost new less depreciation \$24,233.

He estimated the original cost of the properties at \$27,531.99 and the original cost less depreciation at \$17,547.00. His figures include no allowance for going concern value or water rights. For the items for which Mr. Kempkey has allowed twenty percent, Mr. Torrey allowed thirteen and one half percent. During the hearing applicants were given an opportunity to submit, after the adjournment of the hearing, any criticism they may have of Mr. Torrey's valuation. Such a criticism was received, and after considering the same and the evidence submitted, we believe that Mr. Torrey's valuation figures should be revised, and as revised, show the following:-

Estimated original cost	\$29,055.18
Estimated original cost less depreciation	13,884.00
Reproduction cost new	41,527.89
Reproduction cost new less depreciation	25,861.00

The transfer of the properties of Peter Zingg to the Oak Park Water Company and the record submitted in support thereof, present substantially the same general issues which the Commission considered in Application No. 13514. (Decision No. 19467 dated March 12, 1928, Vol. 31, Opinions and Orders of the Railroad Commission of California, page 327.) Under the principles announced in that decision, the amount of stock which the Oak Park Water Company may issue in payment for the properties of Peter Zingg will be limited to \$18,900.00.

In the past where purchasers of public utility properties have agreed to pay more for such properties than we have found to be reasonable or proper to allow in the form of securities, we have required the purchasing companies to charge such excess cost to surplus or amortize it by charges to surplus. We believe that the same policy should be pursued in this case. If the Oak Park Water Company pays for the water properties of Peter Zingg more than \$18,900.00, such payment to be made in cash obtained from the sale of a like amount of stock, the difference between the amount actually paid and said

\$18,900.00 should be charged to the company's surplus. The order herein will contain a provision to that effect.

O R D E R

Peter Zingg, operating a public utility water property under the name of Elmhurst Water Supply Company, having asked permission to sell his public utility water properties to the Oak Park Water Company, and the Oak Park Water Company having asked permission to purchase the same and to issue \$26,500.00 of stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the Oak Park Water Company should be permitted to issue not exceeding \$18,900.00 of stock and that the issue of such stock is reasonably required and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income, therefore,

IT IS HEREBY ORDERED as follows;-

1. Peter Zingg, doing business under the firm name and style of Elmhurst Water Supply Company, may sell, on or before June 30, 1929, the water properties described in Application No. 15230, to the Oak Park Water Company.

2. Oak Park Water Company may issue at not less than par, on or before June 30, 1929, for the purpose of obtaining cash to pay for the aforesaid properties, \$18,900.00 par value of its common capital stock.

3. Application No. 15229 insofar as it involves the issue of \$7,600.00 of stock, is hereby denied without prejudice.

4. If Oak Park Water Company acquires the aforesaid properties, it may charge to its fixed capital accounts not exceeding \$29,055.18. If the company pays for the properties more than the \$18,900.00, the difference between the amount so paid and said \$18,900.00 must be charged to the company's surplus account.

5. Within thirty days after acquiring the aforesaid properties, Oak Park Water Company shall file with the Railroad Commission a certified copy of the deed or instrument under which it acquires and holds title to said properties, and also shall notify the Commission of the exact date on which it took possession of the properties.

6. Oak Park Water Company shall keep such record of the issue, sale and delivery of the 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.

7. The authority herein granted will become effective ten days after the date hereof.

DATED at San Francisco, California, this 14th day of February, 1929.

Paul D. Lewis
C. S. Smith
Leon Whitell
W. J. Carr
Commissioners.