

ferred stock into a second preferred stock and provided for the issue of a first preferred stock. The company on November 30, 1928 reported outstanding \$3,663,700.00 of six percent cumulative first preferred and \$83,060.00 par value of such stock, subscribed for but not issued on that date. The issue of all of the first preferred stock was authorized by the Commission.

The company's Articles of Incorporation, as they now read, provide that the amount of capital stock of the corporation shall be \$7,000,000.00 and the number of shares into which said capital stock is and shall be divided is seventy thousand (70,000) shares of the par value of one hundred (\$100.) dollars each. Fifty thousand (50,000) of such shares are and shall be first preferred stock; ten thousand (10,000) of said shares are and shall be second preferred stock, formerly known and designated as original preferred stock; and the remaining ten thousand (10,000) shares are and shall be common stock. It is now proposed to amend the company's Articles of Incorporation so as to provide for an authorized stock issue of \$7,000,000.00, divided into seventy thousand (70,000) shares of the par value of \$100.00 each, of which fifty thousand (50,000) shares are and shall be first preferred stock, and ten thousand (10,000) shares are and shall be six percent convertible preferred stock and ten thousand (10,000) shares are and shall be common stock. It is further proposed to amend the company's Articles of Incorporation so as to provide for the conversion of the six percent convertible preferred stock at the option of the holder into Class "A" common stock of the Pacific Public Service Company, a Delaware corporation, upon presentation and surrender, accompanied by duly executed instruments of assignment and transfer in forms satisfactory to the corporation, at the corporation's office in San Francisco, California, of the certificates of stock to be converted, at any time prior to ten days before any redemption date which may be fixed by the

Board of Directors, at the rate of one share of said six percent convertible preferred stock of the Coast Counties Gas and Electric Company for four shares of the Class "A" common stock of the Pacific Public Service Company.

It is further proposed to amend the Articles of Incorporation of the Coast Counties Gas and Electric Company so as to provide for the redemption of all of the six percent convertible preferred stock at the option of the company on any dividend date upon not less than thirty days notice published in San Francisco, upon the payment to the owner or holder thereof the sum of \$102.50 per share, plus any accrued dividends.

In this connection it might be said that the company's first preferred stock may be called for payment and redemption by the corporation at its option at any time on the payment to the owner and holder thereof of the par value thereof, plus accrued dividends. The Articles of Incorporation of the company, as they now read, make no provision for the redemption of the company's second preferred stock.

Since the rendering of Decision No. 1124, dated December 13, 1913, the Commission has from time to time been called upon to review the rates of the Coast Counties Gas and Electric Company, and in so doing, made valuations of the company's properties and established rate bases (Decision No. 12762, Vol. 24, Opinions and Orders of the Railroad Commission of California, page 69; and Decision No. 9840, Vol. 20, Opinions and Orders of the Railroad Commission of California, page 952.) If to the rate bases heretofore fixed by the Commission, one adds the net cost of additions and betterments, as shown by the company's reports filed with the Commission and its current and other assets as of November 30, 1928, one obtains a total of about \$7,118,517.00. Against this there is outstanding in the hands of

the public \$1,266,900.00 of bonds, \$607,000.00 of current and other liabilities, and a depreciation reserve of \$1,152,945.00. Deducting the liabilities and the reserve from the \$7,118,517.00, leaves an equity of \$4,091,672.00 for applicant's outstanding stock. Deducting the outstanding first preferred stock, \$3,663,700.00, from the \$4,091,672.00 leaves an equity of \$427,972.00 for the holders of the outstanding \$1,000,000.00 of second preferred stock.

It appears that during 1928 A. E. Fitkin and Company, Dean Witter and Company and associates, acquired the outstanding common stock, the outstanding second preferred stock and 8,133 shares of the outstanding first preferred stock of the Coast Counties Gas and Electric Company. The stock they now own represents approximately fifty per cent. of the outstanding stock of Coast Counties Gas and Electric Company.

It is of record that while the company asks permission to substitute its six percent. convertible preferred stock, callable at \$102.50 per share for its outstanding second preferred stock, that there is no present intent to call the six percent. convertible preferred stock. The arguments made in favor of the granting of the application rest upon the assumption that the distribution of the \$1,000,000.00 of stock in question amongst the company's consumers will improve the market value of the company's first preferred stock, and that a higher price can be obtained for a second preferred stock, if convertible into another stock and callable at \$102.50 per share, than if the Articles of Incorporation do not so provide. It is clear, however, that the distribution of the \$1,000,000.00 of stock will not bring any moneys into the treasury of the company, for the reason that such stock is now outstanding and that if it is sold and distributed, the moneys realized from the sale will go to the present owners of the stock. As to improving the market value of the first

preferred stock, the record shows that such stock is now selling at around \$98.00 per share. The stock is callable at the option of the company at \$100.00 per share. In view of this provision one cannot expect the market value of the company's first preferred stock to greatly exceed the call price. The company during the past few years has encountered no difficulty in selling its first preferred stock.

Protestants urge that applicant should not be permitted to issue a six percent convertible stock, callable at \$102.50 per share, for the reason that such issue jeopardizes the investment in the company's first preferred stock; that the corporation has not received in money or money's worth, full value for its outstanding second preferred stock, and that to call it at \$102.50 per share would deplete the assets of the corporation; that the first preferred stock was sold on representations that the second preferred stock of the company is non-callable, and that the proposed amendment to the company's Articles of Incorporation would in effect permit a reduction in the capital stock of the corporation in a manner not permitted by the laws of this state. Applicant's officers reply that there is no present intent to call the six percent convertible preferred stock if this application is granted. Subsequent to the hearing, counsel for applicant informed us that applicant was willing to stipulate or agree with the Commission, that before calling the stock in question, the matter would be submitted to the Commission for its approval. It is admitted, however, that if the stock is eventually called through borrowed funds, that the payment of interest on the loan ranks ahead of the payment of dividends on the first preferred stock and that in case of liquidation the payment of the loan would take precedence over the distribution of any assets to the holders of the company's first preferred stock.

We have considered the testimony submitted in this proceeding and have reviewed our decisions affecting Coast Counties Gas and Electric Company. We do not believe that the granting of this application is in the public interest or is equitable to the holders of the company's first preferred stock.

It is only by giving undue weight to the reproduction cost new less depreciation of applicant's properties that full equity can be shown behind the company's second preferred stock. In no instance has the Commission permitted a public utility to refinance its properties because the reproduction cost new might exceed the original cost which the Commission theretofore permitted to be capitalized through the issue of stock and bonds. While the original cost of some of applicant's properties is not available, we believe that the rate bases heretofore established by the Commission for applicant, plus the net cost of additions and betterments and net current assets, represents the maximum figure which should be recognized for capitalization purposes. On this basis the equity for the second preferred stock is such that we cannot authorize its refunding, through a new class of stock which does not increase the equity behind such stock and which might prove prejudicial to holders of the company's first preferred stock.

O R D E R

Coast Counties Gas and Electric Company, having applied to the Railroad Commission for permission to issue \$1,000,000.00 of its six percent convertible preferred stock, callable at \$102.50 per share, in exchange for its \$1,000,000.00 of second preferred non-callable stock, a public hearing having been held before Examiner Fankhauser, and the Commission having considered the record in this proceeding, and its decisions affecting Coast Counties Gas and Elec-

tric Company, and being of the opinion that this application should be denied without prejudice,

IT IS HEREBY ORDERED, that this application of Coast Counties Gas and Electric Company for permission to issue \$1,000,000.00 of its six percent convertible cumulative preferred stock, callable at \$102.50 per share, in exchange for its non-callable \$1,000,000.00 of six percent cumulative second preferred stock, be, and the same is hereby, denied without prejudice.

DATED at San Francisco, California, this 27th day of February, 1929.

David L. Smith

Al Lanning

Ernest A. C. C.

Leon Whitcomb

M. J. C.

Commissioners.