

ORIGINALDecision No. 23242.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of
 AMERICAN STATES WATER SERVICE COM-
 PANY OF CALIFORNIA, a corporation,
 to buy, and F.T. COOK to sell, the
 public utility property known as
 Westmorland Water Company; and for
 American States Water Service Com-
 pany of California to issue a promis-
 sory note secured by a mortgage in
 part payment therefor.

Application No. 15775

Paul Overton and W. C. Kennedy, for American
 States Water Service Company of California.

Hickcox and Trude, and Ray D. Johnson,
 by F. J. Trude, for F. T. Cook.

Fred Thompson, for J. B. Miller, et al.

BY THE COMMISSION:OPINION

In the above entitled proceeding F. T. Cook seeks authority to sell his public utility water properties, described in this application and operated under the name of Westmorland Water Company, to American States Water Service Company of California, hereinafter called Water Service Company, which in turn requests permission to purchase the same upon condition that it be authorized to purchase said system for the total price of \$17,500.00 and that it be authorized to issue its promissory note in the amount of \$15,000.00, secured by real property and chattel mortgage upon the property agreed to be transferred.

A public hearing in the above entitled matter was held at Westmorland on October 23, 1930, before Examiner Cannon.

The evidence shows that on March 22, 1929, F. T. Cook entered into an agreement with the Imperial Utilities Corporation to sell to it his water system known as the Westmorland Water Company. On or about the fifth day of May, 1930, a supplemental agreement was entered into by and between F. T. Cook and Water Service Company, a corporation, successors in interest to the Imperial Utilities Corporation, modifying in certain particulars the terms of the original agreement above referred to. The supplemental agreement provides for the sale of a portion of the water system now used by F. T. Cook for the sum of \$17,500.00, of which \$2,500.00 is to be paid in cash and \$15,000.00 to be evidenced by an eight percent five year promissory note secured by a first lien real property and chattel mortgage.

The vendor has agreed to sell to the purchaser all of his public utility water properties except the land, pump buildings and other buildings, settling ponds, pumping equipment, storage tanks and towers and shop equipment now being used in the operation of said system. In addition, vendor has agreed to sell to the purchaser about five acres of land on which the purchaser would locate new settling ponds and pumps and other necessary operating equipment and buildings. The purchaser states that it will be necessary to expend approximately \$20,000.00 to place the water system in a satisfactory operating condition.

At the hearing, reports and appraisals of the property to be transferred were submitted by C. P. Harnish, engineer for Water Service Company; Philip W. Knight, City Engineer of El Centro, for F. T. Cook; and F. H. Van Hoesen, one of the Commission's hydraulic engineers. In the following tabulation

is set out a summary of the above appraisements:

	:Harnish	:Knight	:Van Hoesen
Estimated original cost	: -	: -	: \$16,802.75
Estimated reproduction cost	: \$14,489.00	: -	: 13,883.20
Estimated reproduction cost depreciated.....	: 9,303.00	: \$11,679.73	: 10,441.40

The operating revenue of the water system for 1928 is reported at \$5,280.03, and for 1929 at \$6,305.14.

No one protested the granting of the application. The transfer of the properties should result in an improved service. Whether or not the properties will be transferred depends upon applicants, inasmuch as the Commission's order in this matter is permissive only. The supplemental agreement of May 5th, 1930, provides, among other things, as follows:-

"and it is mutually agreed that the approval and consent of the Railroad Commission shall be required specifically to the following conditions of this sale and transfer;

(a) The sale and transfer of that property of the Westmorland Water Company to be transferred, at and for the total price of \$17,500.00.

(b) The issuance of the aforesaid promissory note in the amount of \$15,000.00, and of the mortgage to secure such note, as provided above."

Only by completely ignoring the policy to which the Commission has adhered in matters of this kind could it approve the conditions of the agreement. It is not ready to do so even though applicants have inserted conditions in their agreement which enable one or the other to withdraw from the transaction. The Commission has heretofore held that it is not concerned, because of want of jurisdiction, with what a purchaser might agree to pay or actually did pay for public utility properties. It is concerned with the amount that is charged to fixed capital accounts and the amount capitalized through the issue of stock, bonds, notes or other evidences of indebtedness.

The Commission usually has held that the amount of securities which the purchaser might issue should not exceed the actual or estimated historical cost of the properties, including present value of land, less accrued depreciation. In this case, the record contains no such figure. The record does, however, disclose the condition percent of the properties on a reproduction cost new basis. For the purpose of this proceeding we will assume that the properties are in a seventy percent condition. We believe that if Water Service Company acquires the aforementioned properties, it should not charge to fixed capital accounts more than \$16,802.75, offset by accrued depreciation of \$5,040.83, leaving the amount which may be capitalized through the issue of stocks, bonds or other evidences of indebtedness at \$11,761.92.

It is of record that Water Service Company has agreed to pay for the properties \$17,500.00, of which \$2,500.00 is to be paid in cash and the remaining \$15,000.00 to be represented by a five year eight percent note secured by a real estate and chattel mortgage. The Commission will not authorize Water Service Company, if it acquires the aforesaid properties, to issue a note in excess of \$7,057.15 and believes that if such a note is issued, it should be in non-negotiable form. The order herein will authorize the transfer of the properties subject to the condition that the authority so granted will not become effective until the Commission, by supplemental order, has authorized the purchaser to issue a note and execute a real estate and chattel mortgage to secure the payment of the note, or until it has been informed that the purchaser will acquire said properties and pay cash therefor. If the purchaser desires to issue a note it should submit

a copy of the proposed note and a copy of the proposed real estate and chattel mortgage.

ORDER

F. T. Cook, having applied to the Railroad Commission to sell public utility water properties which he operates under the name of Westmorland Water Company to American States Water Service Company of California, and American States Water Service Company of California having requested permission to acquire such properties at a cost of \$17,500.00 and to issue in part payment therefor a \$15,000.00 five year eight percent note, secured by a real estate and chattel mortgage, a public hearing having been held and the Commission having considered the evidence submitted, and being of the opinion that the transfer of the properties should be authorized subject to the provisions of this order, that the money, property or labor to be procured or paid for by the issue of a note not in excess of \$7,057.15 is reasonably required by applicant American States Water Service Company of California, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED that F. T. Cook be, and he is hereby, authorized to sell, after the effective date of this order and prior to February 1, 1931, to American States Water Service Company of California, that certain real property and water works described in this application, and American States Water Service Company of California be, and it is hereby, authorized to acquire such properties, after the effective date of this order and prior to said date of February 1, 1931, provided that the authority herein granted shall not become effective until the Commission has entered its order authorizing American

States Water Service Company of California to issue a non-negotiable note for the face amount of not exceeding \$7,057.15 in payment for such properties, and to execute a real estate and chattel mortgage to secure the payment of such note, or until it has been advised by said American States Water Service Company of California that it will pay cash for said properties.

IT IS HEREBY FURTHER ORDERED, that if the authority herein granted becomes effective, it is subject to the following conditions:

1. American States Water Service Company of California may not charge to fixed capital account more than \$16,802.75 which shall be offset by accrued depreciation of \$5,040.83, or such other amount as may be hereafter determined, and by securities and/or cash representing the difference between said \$16,802.75 and said accrued depreciation of \$5,040.83, or such other amount as may be hereafter determined.
2. American States Water Service Company of California shall file with the Commission within thirty days after it acquires the properties, a copy of the deed under which it acquires and holds title to said properties, and a statement showing the date on which it took possession of the properties.
3. If American States Water Service Company of California is authorized to issue a note, it shall pay the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 31st day of December, 1930.

CC Seaver
Emmett
Leon C. White
Thos. D. Linton

Commissioners.