

Decision No. 23847**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HAROLD G. LAUB)
 for an order authorizing the sale of)
 public utility property and for)
 authority to sell and/or a certificate)
 of public convenience and necessity to)
 buy.)

Application No. 17224

Charles F. Stern and Louis R. Lackey,
 for applicants.

BY THE COMMISSION:

OPINION

In this proceeding the Commission is asked to enter its order authorizing Harold G. Laub to sell to the Southwest Gas Corporation, Ltd. his gas plants and systems which he has constructed or which he is constructing at Barstow and at Victorville, San Bernardino County. The Commission is further asked to authorize the Southwest Gas Corporation, Ltd. to issue one share of stock to each of its four incorporators and to issue to Charles F. Stern 3,396 shares (\$84,900.00 par value) of stock. Southwest Gas Corporation, Ltd. also asks that the Commission issue to it a certificate of public convenience and necessity for the operation of the aforesaid gas plants and systems.

The Commission by Decision No. 23181, dated December 15, 1930, as amended, in Application No. 16749, and by Decision No. 23182, dated December 15, 1930, as amended, in Application No. 16892, granted to Harold G. Laub a preliminary certificate of public convenience and

necessity authorizing him to proceed with the construction and operation of butane gas plants and systems at Barstow and Victorville. The authority was granted subject, among others, to the condition that there were to be filed in satisfactory form copies of all contract-agreements under which Harold G. Laub was to receive funds from Charles F. Stern for the construction of said gas plants, copies of all contract-agreements under which applicant will receive or purchase the liquid gas that he proposes to distribute and a stipulation by the applicant to the effect that he, his successors or assigns will never claim before the Railroad Commission or any other body or court a value for such franchises in excess of the actual cost thereof, which cost was to be set forth in the stipulation. The franchise stipulation and the financing agreement between Charles F. Stern and Harold G. Laub have been filed. The Commission, however, has not yet received copies of all contract-agreements under which Harold G. Laub will receive or purchase the gas that he uses in the operation of his plants. In view of these not having been received, the Commission has not yet entered its order finding that Harold G. Laub has complied with the conditions of the orders in Decision No. 23181 and Decision No. 23182, as amended. As a result of the Commission not entering a final order in the aforementioned matters, Harold G. Laub has at this time only a preliminary certificate for the construction and operation of the gas plants and systems at Barstow and Victorville. The authority herein granted to transfer properties and issue stock will become effective when this Commission enters its order declaring or finding that Harold G. Laub has complied with the conditions in the orders in Decisions No. 23181 and No. 23182, as amended.

In Application No. 16749 Harold G. Laub estimated the cost of the Barstow gas plant at \$35,924.50; in Application No. 16892 the cost of the Victorville gas plant was estimated at \$40,619.00.

The estimated cost of the two plants aggregates \$76,543.50.

It is of record in this proceeding that the Barstow plant has been completed and is in operation and that the Victorville plant is practically completed and will be placed in operation on or before May 1st. While not all of the services originally estimated have been installed, it is believed that the actual direct cost of completing the two plants, including the installation of all services originally planned, will be about \$48,000.00. This does not include certain preliminary expenses nor any compensation to any one instrumental in the construction of the two plants. The preliminary expenses, including interest during construction at \$1,391.70, are reported at \$6,258.23, which, added to the \$48,000.00, makes a total of \$54,258.23. To this we are asked to add the following compensation to be represented by common stock:

Harold G. Laub.....	\$ 6,000.00
L. R. Lackey.....	5,000.00
Charles F. Stern.....	25,000.00
Sub-total.....	<u>36,000.00</u>
Add.....	<u>54,258.23</u>
Grand Total.....	<u><u>\$90,258.23</u></u>

The evidence in this proceeding is based on a different theory than that followed in Applications No. 16749 and No. 16892. It is suggested that the Commission should recognize as a basis for the issue of securities the estimated cost of the two plants. In support of this suggestion, it is stated that the cost of the plants could have been multiplied, perfectly properly, by organizing a series of corporations, each of which would function in a given capacity and at a fixed overhead. We are fully cognizant of the fact that this practice is being resorted to by others, but we do not approve of the

practice where it results in multiplying costs beyond what they should be. The parties before us have not resorted to the pyramiding of their direct construction costs. They believe, however, that in view of the fact that others are indulging in this practice, the Commission should assume a somewhat liberal attitude in authorizing the issue of stock of Southwest Gas Corporation, Ltd. in payment for the gas properties at Barstow and Victorville. Whatever stock the Commission may authorize the company to issue, it appears will be acquired by a holding company and will not be distributed directly to the public.

While the Commission has at times authorized the issue of stock against estimates, such orders were predicated upon the assumption that the utility would not issue more stock than necessary and that the costs incurred would be reasonable costs. At no time has the Commission, where actual costs were available, based a stock issue on an estimated cost. It will not deviate from this policy in this instance.

We have considered the evidence submitted in this proceeding and in Applications No. 16749 and No. 16892 and have concluded that the Southwest Gas Corporation, Ltd. should be permitted to issue 2,667 shares (\$66,675.00 par value) of its stock in payment for the properties to which reference has been made, and that the company's application for permission to issue 729 shares should be dismissed without prejudice. The amount of stock which the order herein authorizes the company to issue is based upon a plant cost of \$60,000.00 and the issue of the stock on a basis of ninety.

O R D E R

The Commission having been asked to enter its order authorizing Harold G. Laub to transfer certain gas plants and systems

to the Southwest Gas Corporation, Ltd. and that corporation having asked permission to issue 3,400 shares of stock and be granted a certificate of public convenience and necessity for the operation of the aforesaid gas plants and systems, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the Southwest Gas Corporation, Ltd. should be permitted to issue not exceeding 2,671 shares of stock in payment for the properties which Harold G. Laub is hereby authorized to sell to it and to qualify its directors; that the money property or labor to be procured or paid for by such issue is reasonably required for the purpose herein stated and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; that this application insofar as it involves the issue of 729 shares of stock should be dismissed without prejudice; and likewise that the request of Southwest Gas Corporation, Ltd. for a certificate of public convenience and necessity for the operation of said plants and systems should be dismissed without prejudice for the reason that preliminary certificates have been granted to Harold G. Laub, which he is herein authorized to transfer to said Southwest Gas Corporation, Ltd. upon compliance with the orders of the Commission granting such certificates, therefore,

IT IS HEREBY ORDERED as follows:

1. Harold G. Laub be, and he is hereby, authorized to transfer, on and after the effective date hereof and prior to August 1, 1931, to Southwest Gas Corporation, Ltd. the gas plants and systems constructed under the authority granted by Decision No. 23181, dated December 15, 1930, as amended, and under Decision No. 23182, as amended, together with the certificates of public convenience and necessity granted by said decisions as amended.

2. Southwest Gas Corporation, Ltd. is hereby authorized to acquire, on and after the effective date hereof and prior to August 1, 1931, the aforesaid properties and to issue in payment for said properties 2,667 shares of its common capital stock, provided said properties be acquired free and clear of all indebtedness.

3. Southwest Gas Corporation, Ltd. is hereby authorized to issue and sell to its incorporators at \$25.00 per share, four shares of its common capital stock and use the proceeds for working capital.

4. Applicant, Southwest Gas Corporation, Ltd., shall keep such record of the issue and sale of the stock herein authorized 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.

5. The authority herein granted will become effective when the Commission has granted to said Harold G. Lamb a final certificate of public convenience and necessity granting him permission to construct, maintain and operate the aforesaid gas plants and distribution systems at Barstow and Victorville and vicinities.

DATED at San Francisco, California, this 4th day of May, 1931.

C. C. Seaver
Leon White
M. A. Lee
M. B. Harris
Fred G. Stewart
Commissioners.