

LEM

Decision No. 24262.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
C. E. UTT and MARGARET R.UTT)
for order authorizing the sale of)
Tustin Water Works, and for an order)
authorizing the incurring of a mort-)
gage indebtedness on the Tustin Water)
Works.)

Application No. 17686

C. E. Utt, for applicants.

ORIGINAL

WHITSELL, Commissioner:

O P I N I O N

In this proceeding the Railroad Commission is asked to authorize the sale and transfer of the Tustin Water Works, supplying water to the residents of Tustin and surrounding territory, Orange County, from C. E. Utt to Margaret R. Utt, his wife, and further, to authorize applicants to issue a \$10,000.00 three-year seven percent note secured by a mortgage on the Tustin Water Works properties.

The evidence shows that C. E. Utt has entered into an agreement with his wife, Margaret R. Utt, to transfer to her the Tustin Water Works which supplies water to the residents of Tustin and vicinity, Orange County. In return for same, Margaret R. Utt will transfer to C. E. Utt a one-fourth interest in Trust No. 806, San Fernando Valley lands, which one-fourth interest is estimated to have a value approximately equal to the net value (\$63,176.93) of Tustin Water Works. This figure, as of December 31, 1930, is derived as fol-

lows:

A S S E T S

Fixed capital	\$118,817.38
Cash	363.74
Accounts receivable	3,731.73
TOTAL ASSETS	<u>\$122,912.85</u>

L I A B I L I T I E S

Mortgage	\$ 10,000.00
Consumers' deposits	16,765.69
Accounts payable	1,350.00
Reserve for depreciation	31,620.23
TOTAL LIABILITIES	<u>\$ 58,735.92</u>
NET WORTH	<u>63,176.93</u>

Mr. Utt stated that it is his desire to transfer the Tustin Water Works to Margaret R. Utt, his wife, at this time, in order that she may have in her name property of this nature with a monthly income as an investment, in case she might become a widow. The property will be operated as in the past under the direction of Mr. Utt. Margaret R. Utt will assume all obligations against the Tustin Water Works, including the refunding of consumers' deposits, amounting to \$16,765.69, and a three-year seven percent mortgage and note for \$10,000.00 in favor of John Dunstan and Myrtle H. Dunstan, executed on June 1, 1930.

In connection with the \$10,000.00 indebtedness it appears that under authority granted in Decision No. 13865, dated August 4, 1924, C.E. Utt and Margaret R. Utt executed a mortgage of the water works properties and a three-year seven percent note for \$10,000.00 to finance the cost of extensions, additions and betterments. On June 1, 1930, applicants executed a renewal mortgage and note for \$10,000.00.

The execution of the renewal mortgage and note was not authorized by the Commission. It appears, however, that such action was taken through inadvertence and with no intent to evade the provisions

of the Public Utilities Act. When the matter of the necessity of securing the Commission's consent was brought to the attention of applicants, they filed this request for permission to renew the indebtedness as of date, June 1, 1930, for a period of three years.

The mortgage and note now outstanding are void and it will be necessary for new instruments to be executed as we cannot approve the void ones. Copies of the mortgage and note have been submitted to the Commission and appear to be in satisfactory form. It is noted that the mortgage secures the payment not only of the \$10,000.00 note but also of any renewal or renewals thereof, and in this connection we wish to advise applicants that any authority herein given to execute the mortgage and to issue the \$10,000.00 note, does not carry with it permission to renew the note upon maturity. In the event any renewal is desired it will be necessary for a further application to be made to this Commission.

I herewith submit the following form of order:-

O R D E R

Applicants having requested the Commission to enter its order as indicated in the foregoing opinion, a public hearing having been held thereon, the Commission being of the opinion that the transfer of the properties operated under the fictitious name and style of Tustin Water Works from C. E. Utt to Margaret R. Utt, his wife, and the execution of a mortgage and note for \$10,000.00, should be granted; and that the money, property or labor to be procured or paid for through the issue of said note 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 as follows:

1. That C. E. Utt be, and he is hereby, authorized to sell and transfer, on or before February 1, 1932, the public utility properties owned by him and operated under the firm name and style of Tustin Water Works, to his wife, Margaret R. Utt.
2. That Margaret R. Utt, in acquiring said properties, be, and she hereby is, authorized to assume the payment of the indebtedness now outstanding, referred to in the preceding opinion.
3. That within thirty(30) days after the transfer of the aforesaid properties, C. E. Utt shall file with the Commission a certified copy of the deed or other instrument of conveyance under which title to said properties is passed to Margaret R. Utt, and shall also advise the Commission of the date upon which possession of said properties is relinquished.
4. That neither the consideration nor the estimated cost of said properties to be transferred shall be urged before this Commission as determining the value of the properties for the purpose of fixing rates.
5. That C. E. Utt and Margaret R. Utt, his wife, doing business under the firm name and style of Tustin Water Works, are hereby authorized to execute a mortgage to John Dunstan and Myrtle Dunstan, in substantially the same form as that filed in this proceeding, and to issue a promissory note secured by said mortgage in the principal amount of \$10,000.00, payable on or before three years after date of issue with interest

at not exceeding seven percent per annum, for the purpose of renewing outstanding indebtedness of like amount, provided that applicants keep such record of the issue of the note herein authorized as will enable them to file, within thirty (30) days thereafter, a verified report as required by the Railroad Commission's General Order No. 24; and provided further, that the authority to execute a mortgage is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which it may be subject.

6. That the effective date of this order shall be twenty(20) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 30th day of November, 1931.

E. L. Seaver
Iron
W. J. Lee
W. B. Harris
Fred G. Stewart
Commissioners.