

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the
Mokelumne River Power and Water Company } Application No. 828.
for permission to issue promissory notes. }

C. E. Prindle for Applicant.

O P I N I O N

ESELEMAN, COMMISSIONER.

The applicant is a public utility water company doing business in and around Mokelumne Hill, Calaveras County, California, and engaged principally in supplying water to mines. Because of recent drouths and slackness in mining operations, this company, which, with its ~~predecessor~~ ^{predecessor}, has been doing business since 1852 and has been a paying concern, has been unable to make operating expenses; and Mr. I. S. Foorman, president of the company, has been advancing money for current expenses and now holds notes aggregating \$7309.07, with interest due thereon of \$521.21, and in addition has advanced \$1069.58, making a total of \$8899.86, for which sum this company now applies to issue a note to Mr. Foorman payable on September 1, 1914, which is less than one year after its issue.

As far as the \$1069.58 is concerned, this being a note payable in less than one year and not for refunding purposes, no approval of this Commission is necessary. For the other notes, amounting to \$7309.07, this Commission's permission will be necessary if they are refunded.

At the hearing it was testified that this company is a close corporation and the stock is almost all held by the family of Mr. Foorman, and he is perfectly willing to permit the note to run without refunding and to secure its payment either from the funds which it was testified the company will subsequently earn or by assessment of the stockholders or by resort

to the courts to collect.

It is my opinion that a note issued for one year or less may be collected by suit or otherwise any time after the expiration of the time for which the note is made to run within the statute of limitations and that the holder of such note does not require an extension of the same by the company or the consequent approval of such extension by this Commission. In other words, the law permits a public utility corporation to borrow money payable within a year without the permission of this Commission, and it certainly does not deprive the person who loans the money which the corporation is legally entitled to borrow from pursuing his remedy within the time permitted by law.

Inasmuch as Mr. Foorman is willing to hold his old note without refunding, and the additional debt which has now been incurred may be evidenced by note which does not extend for a longer period than a year, action of this Commission is not necessary and it is not necessary to determine whether this application is one of those cases where the Commission shall exercise its discretion in permitting refunding of notes when the proceeds of the original obligation have been used for operating expenses or income..

I therefore recommend the following Order.

O R D E R

Mokelumne River Power and Water Company having applied to this Commission for authority to issue notes, and it appearing that the exercise of any authority which this Commission may have is not necessary or desired by the applicant,

IT IS HEREBY ORDERED that the application be dismissed without prejudice.

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 25th
day of November, 1913.

John M. Eashleman

Max Thelen

Edwin C. Edgerton
Commissioners.