

Decision No.        ✓

ORIGINAL

Decision No. 1745

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SONOMA VALLEY WATER, LIGHT and POWER )  
CO. to issue bonds of the face ) Application No. 755.  
value of \$30,000.00. )

M. R. Carey for Sonoma Valley Water, Light and Power  
Co.  
Mason and Locke for Sonoma City Water Works Company  
Otto von Geldern for individual protestants

THELEN, Commissioner.

SUPPLEMENTAL OPINION

On September 30, 1913, this Commission, after a public hearing, made its order in the above-entitled proceeding authorizing applicant to issue its bonds of the face value of \$50,000.00 for the purpose of discharging and refunding the company's obligations in the total amount of \$9,297.00 and of making improvements as specified in the order, not to exceed the sum of \$18,000.00. The order provided that it should not become effective until Sonoma Valley Water, Light and Power Co. should have filed with this Commission a form of trust deed or mortgage, satisfactory to the Commission, to secure the issue of the bonds authorized. A form of trust deed or mortgage to comply with the order was filed on August 10, 1914. I have examined the same and it meets the Commission's requirements.

In the meantime, Luisa V. Emperan and Maria V. Cutter, doing business as copartners under the name of Sonoma City Water

Works Company, filed a protest against the issue of said bonds. Another protest was filed by a number of citizens of Sonoma, including Otto von Geldern, who appeared in behalf of these protestants. A public hearing on these protests was held in San Francisco on August 18, 1914.

It appears that protestant Sonoma City Water Works Company has for many years been engaged in the business of supplying water to the City of Sonoma and that Sonoma Valley Water, Light and Power Co. the present applicant, has also been engaged in the business of supplying water to consumers in Sonoma City for a number of years antedating the effective date of the Public Utilities Act. The Sonoma City Water Works Company, hereinafter referred to as the Vallejo Company, secures its water from the Vallejo place and has over three times as many customers as the applicant.

Although various other grounds were urged by protestants, the chief ground of protest arises from the fact that the Vallejo Company does not desire the applicant to further extend its system in the City of Sonoma in competition with it. The Vallejo Company accordingly urged certain matters which it claimed impaired the effectiveness and desirability of applicant's water system and applicant's witnesses presented similar testimony with reference to the Vallejo Company's water system. This Commission is not concerned in this proceeding with these contentions between these rival water companies, except in so far as they bear on the question whether applicant should be authorized to issue its bonds for the purposes specified in said order of September 30, 1913.

This is not a case in which a utility, after the effective date of the Public Utilities Act, for the first time asks authority to enter a city. Both companies were

within the City of Sonoma and were doing business in competition prior to March 23, 1912. We are asked by one of these companies to deny to the other the means of securing the funds with which to make further extensions. The situation would be similar if the case were reversed and if the Vallejo Company should seek funds with which to extend its system and should be met by a protest on the part of the present applicant which might not desire to have the Vallejo Company extend its system in Sonoma.

As both companies were doing business in Sonoma prior to March 23, 1912, and as each company is in a position to supply water of good quality, I see no valid reason for denying to either the right to make extensions within the city limits.

It is not necessary in this proceeding to express an opinion as to the wisdom of having these two companies compete with one another in the City of Sonoma. The competition existed before this Commission secured its powers and is not the result of any act of the Commission.

While I naturally sympathize with a water company which has been in business many years and has had considerable difficulty and now faces competition in its field, this Commission can not decide its cases on sympathy but must be governed by established principles applicable thereto.

Applicant having submitted to the Commission a satisfactory deed of trust and there being no substantial merit in the protest, applicant should receive an order authorizing the issue of bonds in accordance with the Commission's order of September 30, 1913.

It appeared at the hearing that possibly it might be advisable to send one of the Commission's hydraulic engineers

to Sonoma to examine the situation. On reflection, however, I have concluded that it is not necessary to do so. No report rendered by such engineer could change the essential facts which are shown by the evidence in this proceeding and on which the Commission must render its decision.

I submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER

Sonoma Valley Water, Light and Power Co.

having submitted to the Commission a form of trust deed or mortgage to First Federal Trust Company to secure its proposed bonded indebtedness of the face value of \$30,000.00, which form of trust deed or mortgage has been filed herein and marked "Exhibit B," and the Railroad Commission finding that said form of trust deed or mortgage is satisfactory,

IT IS HEREBY ORDERED that Sonoma Valley Water, Light and Power Co. be and the same is hereby authorized to issue the bonds referred to in said order of September 30, 1913, for the purposes therein specified, to be secured by said trust deed or mortgage, on the following conditions and not otherwise, to-wit:

1. Sonoma Valley Water, Light and Power Co. shall account to the Railroad Commission for the issue of said bonds and the use of the proceeds thereof as specified in said order.

2. The authority hereby given to issue bonds shall apply only to such bonds as may be issued prior to January 1, 1915.

3. In all other respects said order of September 30, 1913, shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22<sup>nd</sup> day of August, 1914.

H. J. Ireland  
Chas. Gordon  
Max Shelton

Commissioners.