

**ORIGINAL**  
BEFORE THE RAILROAD COMMISSION OF THE  
STATE OF CALIFORNIA.

Decision No. 1548

In the Matter of the Application )  
of Mountain Light and Water Com- )  
pany and F. A. Cody, for an or- ) Application No. 1582.  
der authorizing the sale of Ben )  
Lomond Water Works. )

H. L. Breed, representing the applicant,

J. C. Hughes, representing Jessie F. Hughes,  
Mortgagee.

LOVELAND, Commissioner.

O P I N I O N

In this application the Commission is asked to authorize the sale and transfer of the Ben Lomond Water Works at Ben Lomond, Santa Cruz County, from F. A. Cody to Mountain Light and Water Company. The transfer of this property was originally made on August 15, 1914, but as it was undertaken without securing the Commission's authorization, as provided in Section 51(a) of the Public Utilities Act, the present application becomes necessary.

From the evidence and testimony of the witnesses at the hearing it appears that the transfer of the property was made in good faith and not from any desire to evade the provisions of the Public Utilities Act.

Ben Lomond Water Works is located in the summer resort colony at Ben Lomond, Santa Cruz County, and water

is served for domestic purposes only, including household use and the sprinkling of lawns, private gardens and roads. In a decision rendered June 2, 1914, in Application No. 1098 the Commission found the present value of the water system to be the sum of \$8022. The property to be transferred consists of about sixty acres of water-shed land; four small pieces of town property in Ben Lomond; water-rights on the San Lorenzo River and Dean and Marshall Creeks; and the pipe-system, flumes intake and other facilities used in collecting and distributing water in Ben Lomond and vicinity; all of which is more particularly described in Exhibit "B", attached to the original application.

The application states that the property is now subject to the following mortgages in the form of deeds of trust:

- (a) F. A. Cody and wife to F. D. Baldwin and Frank Z. Roberts, Trustees for City Savings Bank of Santa Cruz, dated October 26, 1910, securing the payment of \$2,900.
- (b) F. A. Cody, a widower, to F. D. Baldwin and T. J. McCreary, Trustees for E. Currie, dated June 28, 1913, securing the payment of \$5,000.
- (c) Mountain Light and Water Company to John C. Hughes and E. H. Russell, in trust for Jessie F. Hughes, dated August 17, 1914, securing the payment of \$1,700.

At the hearing Mountain Light and Water Company presented an amended application, requesting the Commission's approval of the mortgage and note in favor of Jessie F. Hughes, mentioned in paragraph (c) above; the approval of an unsecured short term note in favor of F. A. Cody in the sum of \$241.90; and the issue of 247 shares of stock (out of the 250/authorized by the Company's Articles of Incorporation) to A. F. Hewlett and G. L. Stillwell in consideration of the transfer of the water utility property above mentioned from F. A. Cody to Mountain Light and Water Company.

The terms upon which it is proposed that Mountain Light and Water Company shall acquire the property are the issuance of 247 shares of stock to A. F. Hewlett and G. L. Stillwell, the issuance of the above mentioned note to Jessie F. Hughes in the sum of \$1,700; the issuance of the note to F. A. Cody in the sum of \$241.90; and the assumption by the Mountain Light and Water Company of the present indebtedness upon the water utility property. For his share in the transaction Cody is to receive the promissory note from Mountain Light and Water Company, amounting to \$241.90, together with \$4,000. equity in a lot and \$1,500. in cash, to be transferred to him by A. F. Hewlett and G. L. Stillwell. It also appears that a portion of the proceeds of the \$1,700. note in favor of Jessie F. Hughes is to be paid to Mr. Cody.

After a consideration of the evidence presented I am of the opinion that F. A. Cody should be permitted to transfer the water utility system at Ben Lomond, Santa Cruz County (more fully described in Exhibit "B" attached to the original application) to Mountain Light and Water Company, upon the terms heretofore mentioned.

I am further of the opinion that Mountain Light and Water Company should be permitted to secure the note to Jessie F. Hughes in the sum of \$1,700. by a mortgage and deed of trust upon its property.

I am further of the opinion that the granting of the Mountain Light and Water Company's application to issue 247 shares of stock is not warranted at the present time, but I am of the opinion that the company should be permitt-

ed to issue a nominal number of shares of stock, such shares to serve merely as certificates of ownership and not to be predicated upon property values.

I shall accordingly recommend that the company be allowed to issue ten shares of stock of the par value of \$100. per share.

As regards the Company's application to issue an unsecured promissory note to F. A. Cody in the sum of \$241.90, and to issue a promissory note to Jessie F. Hughes in the sum of \$1700, I am of the opinion that the Commission's authorization is not necessary as the term of these notes does not exceed one year.

I desire to call the applicant's attention to the fact that the notes issued by F. A. Cody to E. Currie, totalling \$5,000, and the mortgage and deed of trust securing the same, have never been approved by this Commission. I shall accordingly recommend that the transfer of the property be made dependent upon the issuance of a supplemental order approving new notes and mortgage in lieu of those executed without the approval of this Commission.

I recommend the following form of order.

#### O R D E R

F. A. Cody and Mountain Light and Water Company having applied to this Commission for an order authorizing the sale and transfer of the water utility system at Ben Lomond, Santa Cruz County, from F. A. Cody to Mountain Light and Water Company, and Mountain Light and Water Company in an amended application, filed March 17, 1915, having applied for authority to issue certain notes and stock and to execute a mortgage and deed of trust as hereinbefore set forth:

IT IS HEREBY ORDERED that F. A. Cody be, and he is hereby, authorized to transfer the said water utility system, more fully described in Exhibit "B" attached to the original application, to Mountain Light and Water Company, upon the terms set forth in the opinion that precedes this order; provided, however, that the purchase price of the property shall not be binding before this Commission, or any other public body, as a basis for rate-making or other purposes.

IT IS FURTHER ORDERED that Mountain Light and Water Company be, and it is hereby, authorized to secure a promissory note to John C. Hughes and E. H. Russell, in trust for Jessie F. Hughes, in the sum of \$1,700. by the execution of a mortgage and deed of trust upon its property, substantially of the form submitted by applicant in connection with its amended application herein and marked Exhibit "D".

IT IS FURTHER ORDERED that Mountain Light and Water Company be, and it is hereby, authorized to issue ten shares of its capital stock at the par value of \$100. per share to A. F. Hewlett and G. L. Stillwell in lieu of 247 shares of stock heretofore illegally issued; provided, however, that said capital stock shall only be issued after the 247 shares of stock illegally issued have been returned to the Company's treasury and cancelled, and provided, further, that such issue of stock shall not be taken as representing the value of the Company's property for rate-making or other purposes.

IT IS FURTHER ORDERED that before any of the acts herein authorized shall have taken place the appli-

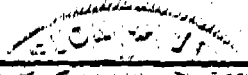
cants herein shall make application for, and secure from the Commission, a supplemental order approving the issue of notes to H. Carrie in the sum of \$5,000. and the mortgage and deed of trust securing the same.

The authority herein granted to transfer property, and to issue notes and stock, shall only apply to such transfer of property and issuance of notes and stock as shall have been made on or before May 1, 1916.

The deed conveying the property herein authorized to be transferred should contain a description of the property set forth in Exhibit "B" in this proceeding. Applicants may obtain from the Commission a certification that the description of the property in said deed conforms to that in Exhibit "B" and also that the mortgage executed conforms to the form set forth in Exhibit "D" in this proceeding.

The foregoing opinion and order is 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 24th day of April, 1915.

  
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*W. H. ...*  
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*Edmund W. Edgerton*  
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Commissioners.