

ORIGINAL

Decision No. 2958

Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of Mountain Light and Water Company, a corporation, and Brookdale Land Company, a corporation, to transfer certain property.

} Application No. 1940.

J. C. Hughes and H. L. Breed, for Mountain Light and Water Company,  
J. H. Logan, for Brookdale Land Company.

BY THE COMMISSION.

O P I N I O N

In this application Brookdale Land Company asks authority to sell its electric light and water plant at Brookdale, Santa Cruz County, to Mountain Light and Water Company. The latter company asks authority to issue for purposes hereinafter indicated \$25,000 par. value of its capital stock; to issue \$23,500 face value of its bonds; to execute a mortgage securing the payment of said bonds, and to convey certain real estate, consisting of residence lots which are not necessary to or constitute a portion of the public utility water plant operated by it at Ben Lomond, in settlement of certain claims against the company.

By Decision No. 2328, dated April 24, 1915, Mountain Light and Water Company was authorized to acquire from F. A. Cody the water utility operated under the name of Ben Lomond Water Works.

Mountain Light and Water Company reports that it has cancelled 247 shares of its capital stock, as required by said Decision No. 2328, and has issued in lieu thereof ten shares of stock, the issuance of which has been authorized by this Commission.

Mountain Light and Water Company has requested that the Commission consider the application herein, and the various exhibits attached thereto, as complying with all the conditions imposed upon applicant in said Decision No. 2328. This applies in particular to the issuance of notes to H. Currie in the sum of \$5,000 and the execution of a mortgage or deed of trust securing the payment of the same. Additional evidence submitted shows that the notes to H. Currie, aggregating \$5,000, were issued for a period of one year, said notes being secured by a mortgage covering all of the property. Inasmuch as the mortgage was executed without the consent of the Commission, it is void and the notes stand as an unsecured obligation of the company.

Mountain Light and Water Company asks that it be permitted to use part of the proceeds to be obtained from the sale of its stock and bonds to pay the \$5,000 due on notes executed to H. Currie and indorsed by him to E. W. Knapp.

In Decision No. 1559, dated June 2, 1914, this Commission found the value of the water system owned by F. A. Cody for rate-fixing purposes to be \$8,022. In Decision No. 2606, dated June 16, 1915, this Commission found the value of the water plant owned by Brookdale Land Company for rate-fixing purposes to be \$18,997.

According to the Railroad Commission's Exhibit No. 1, filed in connection with this application, and which contains an appraisal of the electric light plant of Brookdale Land

Company, the present value of said plant amounts to \$25,541. The value of the electric light plant, as reported, includes properties valued at \$3,042, which sum was included in the appraisal of the water plant of Brookdale Land Company by this Commission in its former decision. To summarize: The value of the property of Mountain Light and Water Company, as found by and reported to this Commission, assuming this application be granted, amounts to \$49,518. In addition to this, the company proposes to make improvements estimated to cost \$2,500.

As stated heretofore, Mountain Light and Water Company asks authority to issue \$25,000 par value of stock and \$23,500 face value of bonds. The stock is to be issued for purposes as follows:

Cash, . . . . .	\$9,100
As part payment for the property to be acquired from Brookdale Land Company, . . . . .	14,300
To J.F. Hughes for property con- veyed by her in settlement of claims against Mountain Light and Water Company, . . .	<u>1,600</u>
Total, . . . . .	\$25,000

The ten shares of stock now outstanding are to be cancelled.

To satisfy any equities or claims which the present stockholders or A.F. Hewlitt and G.L. Stillwell may have in or against Mountain Light and Water Company, it is proposed to transfer to the parties in interest certain resident lots located at Ben Lomond, valued at \$2,500, which are not necessary to or constitute any portion of the public utility water plant operated by the company at Ben Lomond. The company has also made arrangements to cause to be transferred to H.L. Breed in payment for any claims which he may have against the company a

lot located in Berkeley, Alameda County, valued at \$1,600. This lot is now owned by J. F. Hughes and upon its transfer to said E. L. Breed, stock in the amount of \$1,600. is to be issued to the transferrer. Inasmuch as neither of these properties are necessary or useful in the performance of the utilities' duties to the public the permission of the Commission is unnecessary to the transfer.

The bonds of the Mountain Light and Water Company are to be issued for the following purposes:

For Cash .....	\$3,000.
For part payment of property to be acquired from Brookdale Land Company .....	<u>20,500.</u>
Total .....	\$23,500.

Payment of the bonds is to be secured by a deed of trust executed to T. J. McCreary and A. F. Foster, trustees. A copy of the proposed deed of trust is attached to this application and marked Exhibit "G". Bonds shall be of the denomination of \$500. each. Six of the bonds, numbered 1 to 6 inclusive, (\$3,000.) shall mature January 2, 1917, and the remainder of the bonds, numbered 7 to 47, inclusive, (\$20,500.) shall mature January 2, 1925, unless sooner called for redemption. Bonds are to bear interest at the rate of six per cent. payable quarterly.

The company agrees that on January 2, 1921, and annually thereafter until the bonds are redeemed, it will deposit with the trustee \$500. for the purpose of creating a sinking fund, said payments to be used for the redemption of bonds of this issue.

As stated above, \$3,000. face value of bonds mature January 2, 1917. Mr. J. C. Hughes testified that if the

earnings of the company will not be sufficient to pay these bonds, an assessment will be levied upon the stockholders to make up any deficiency. He also stated that under no circumstances would the company permit a default in the payment of the bonds maturing January 2, 1917.

Mountain Light and Water Company proposes to sell its stock and bonds at par. From the sale thereof, it will acquire the electric light and water plant of Brookdale Land Company, and cash in the sum of \$12,100. Of the cash thus obtained, \$2,500. is to be used to pay the cost of extensions, improvements to its plant, and \$9,600. to pay all of its outstanding notes. The notes are held by the following persons:

E. W. Knapp .....	\$7,900.
J. F. Hughes .....	<u>1,700.</u>
Total ....	\$9,600.

The notes held by E. W. Knapp include notes in the sum of \$5,000. originally issued to H. Currie and referred to in this Commission's Decision No. 2328, dated April 24, 1915.

In this Commission's Exhibit No. 1, the operating revenues and expenses for the year 1914 are reported as follows:

	<u>Gross Revenues</u>	<u>Expenses</u>	<u>Net Revenue</u>
Mountain Light & Water Co.	\$1,003.13	\$ 783.41	\$219.72
Brookdale Land Co.	<u>2,297.76</u>	<u>1,405.80</u>	<u>819.96</u>
Total .....	\$3,300.89	\$2,189.21	\$1,111.68

These figures represent the actual earnings and expenses as near as the same can be ascertained. No allowance is made for the increase in earnings supposed to fol-

low the rate adjustment by this Commission in Decision No. 2609, dated July 16, 1915.

Applicant estimates that its earnings for 1915, basing its figures on the rates established by this Commission will amount to \$5,500. The interest on its bonds will amount to \$1,400, leaving a sum of \$4,100. to be applied to operating expenses, extensions, additions and betterments. The testimony shows that by the consolidation of the utilities heretofore mentioned, economies can be introduced in the matter of the operation of the plants and greater efficiency obtained. Representatives of the applicants are convinced that the earnings for 1915 will be more than adequate to pay the operating expenses and the interest on the proposed bond issue.

### O R D E R

Mountain Light and Water Company and Brookdale Land Company having applied to this Commission for an order authorizing Brookdale Land Company to sell its water and electric plant to Mountain Light and Water Company; also for an order authorizing Mountain Light and Water Company to transfer and sell certain property not necessary to or useful in the operation of its public utility business; to issue stocks and bonds, and to execute a mortgage or deed of trust as stated in the foregoing opinion,

And a public hearing having been held and the Commission finding that public convenience and necessity

will be served by granting the application herein, and that the purposes for which said company desires to issue its stock and bonds are not in whole or in part reasonably chargeable to operating expenses or to income, and it appearing to the Commission that the application should be granted,

IT IS HEREBY ORDERED that Brookdale Land Company be given, and it is hereby given, authority to transfer and sell its water and electric light plant, more particularly described in Exhibits "B" and "F" attached to this application, to Mountain Light and Water Company.

IT IS HEREBY FURTHER ORDERED that Brookdale Land Company be given, and it is hereby given, authority to transfer and sell its water and electric light plant situated in the County of Santa Cruz, State of California, and particularly described as follows, to wit:

FIRST: (a) All property of whatsoever kind or character, wheresoever situate, in any manner used by, connected with, or belonging (either directly, indirectly or incidentally) to the water plant situated at and near the Town of Brookdale, Santa Cruz County, California, and which includes among other things, all springs and waters, including all underground waters, flowing or otherwise, on, over or under any lands situate in Sections 31 and 32 in Township 9, South, Range 2 West M. D. B. & M.; also all water rights or privileges in or to Clear Creek and the San Lorenzo River, or the waters therein or in any of the branches or tributaries of said Clear Creek or said River, or in or to the waters therein, where said Creek or River or branches are located in said Sections 31 or 32 aforesaid, except the rights in said San Lorenzo River heretofore conveyed by said first party or its predecessors in interest, to A. E. Breed.

(b) Also, all rights of way and easements belonging to first party or utilized by it for flumes, flume-lines, pipes, pipe-lines, reservoirs, spillways for reservoirs and overflows of waters therefrom, and other spillways for other

flows from any portion of said water system, also for roads, trails, streets, alleys and for all purposes in any manner necessary, required or convenient for the reasonable maintenance, operation, extension, improvement or repair of the water or light plants herein agreed to be conveyed, also all necessary rights of ingress and egress to, from or over private properties in which said first party may now own, or may hereafter acquire any right, title or interest, or otherwise.

(c) Also, all reservoirs, flumes, dams, flume-lines, intakes, pipes, pipelines, mains, laterals, service-pipes, spillways, drains, tools, implements, meters, machinery or every kind and characters water-wheels, lumber and other materials of every kind and character owned by said first party, and now or heretofore used, or intended for the use, of said water plant, or connected therewith.

SECOND: All property of whatsoever kind or character wheresoever situate in any manner used by, connected with or belonging (either directly, indirectly or incidentally) to the Electric Light Plant situate at and near the Town of Brockdale, aforesaid, and which property includes among other things, all waters, water-rights or privileges, or other rights and privileges, in and to the said Clear Creek and the San Lorenzo River, and the branches and tributaries thereof, and the waters therein, as set forth and described in subdivision a of paragraph marked "FIRST" herein;

Also, all rights of way and easements as set forth and described in subdivision b of the paragraph marked "FIRST" herein, and in addition thereto the same rights of way and easements for the wires, poles, pole-lines, and for all other purposes in any manner connected with the maintenance, operation, extension, improvement and repair of said electric light plant, or any portion thereof, so far as can be done.

Also, all reservoirs, etc., as set forth in subdivision c of said paragraph marked "FIRST" herein, in any manner connected with said electric light plant, or the operation thereof, and in addition thereto, all generators, dynamos, motors, exciters, switches, switchboards, meters, wires, poles, pole-lines, insulators, and all other machinery, tools, implements and materials in any manner connected with said electric light plant, wheresoever situate.

THIRD: A perpetual right of way to lay pipes on, over or under the surface, or to construct or erect poles and pole-lines, transformers, wires and any other equipment, over and across, any and all streets, roads, walks, trails, or alleys



of said Town of Brookdale, or on, over or across or under any property owned or possessed by said first party, or which it may hereafter acquire, in or near said town of Brookdale, and which may be deemed necessary, economical or convenient for the maintenance, operation, extension, improvement or repair of said water or light plants, or any portion thereof.

FOURTH: All of Lot 11, Block F, as the same is so marked and designated on the Map of Brookdale, Santa Cruz County, California, printed by the Union Lithograph Company of San Francisco, California, together with all improvements thereon; including also the mill-plant thereon, with all machinery and every other machinery of whatsoever kind or character, whether connected with said water and electric light plants or not; including all saws, tools, implements, belting, shafting, pulleys, iron, lumber, and all other equipment and materials of every kind and character on said premises or belonging thereto or connected therewith wheresoever situate.

FIFTH: The following described tract of land; Commencing at the point of intersection of the Easterly line of Reed Street in said Town of Brookdale, with the Southerly line of the Southern Pacific Railroad right-of-way, which said-Reed Street shall be extended to said right of way by said first party, and running thence Southerly along said Easterly line of said Reed Street a distance of eighty (80) feet; thence running Easterly along a line parallel with said line of said right of way a distance of one hundred and fifty (150) feet; thence running Northerly along a line parallel with said Easterly line of said Reed Street a distance of eighty (80) feet to said line of said right of way; thence running Westerly along said line of said right of way a distance of one hundred and fifty (150) feet to the point of commencement.

SIXTH: A tract of land along the bed and banks of said San Lorenzo River as said river is described in said paragraph marked "FIRST" herein, including all of said bed and banks not heretofore conveyed by said first party, including the right to erect and construct a dam or dams across said river at one or more points for manufacturing, power, commercial, or pleasure purposes, and to thereby raise the waters flowing in said river to such height as shall be necessary for all of said bed and banks not heretofore conveyed by said first party, including the right to erect and construct a dam or dams across said river at one or more points for manufacturing, power, commercial or pleasure purposes, and to thereby

raise the water flowing in said river to such height as shall be necessary for either or all of such purposes; together with an additional tract of land adjoining said river and lying between the point where said Clear Creek empties into said river and the railroad bridge which crosses said river a short distance Westerly from said Clear Creek, as said second party may require for the use and occupation of suitable and proper bath-houses, boat-houses, power-houses, or other necessary buildings; also a proper and suitable right of way to said houses; said tract of land to be selected by said second party within one year after the date of the filing of the decision of the said Railroad Commission approving this agreement and the sale herein agreed to be made; but nothing in this agreement shall be construed to grant any such property, rights or privileges which said first party shall have no right to grant. The additional tract shall include all land owned by first party on North side of San Lorenzo River lying West of a line drawn due North from the North West corner of lot marked Mrs. Emma Jenkins, now owned by Mrs. Judkins.

SEVENTH: Two tracts of land consisting of one half acre each adjoining the present sites of the two reservoirs now being used by said electric light plant and connected with the two power mains of said plant; said two tracts of one half acre each to be selected by said second party within one year after the delivery of the conveyance by first party to second party of the plants of first party.

EIGHTH: Two rights of way each ten feet in width along the two power mains of said electric light plant running from said plant on said Lot 11, Block E, above described in paragraph marked "FOURTH" herein, to the two reservoirs described in paragraph marked "SEVENTH" herein, being five feet on each side of the center line of each of said power mains; also, two rights of way each thirty feet in width running from said reservoirs described in said paragraph marked "SEVENTH" herein, along the flume lines connected with each of said reservoirs, respectively, to the respective intakes connected with said flume lines; also any additional land on either side of said rights of way, or any other rights of way granted in this instrument, necessary or proper to be used at any time to maintain proper and convenient slopes to any road, work, improvement or development or use of any or either of said rights of way. The first party reserves the right to construct roads across said rights of way in such manner as not to interfere with said pipes and flumes.

NINTH: All that certain tract of land known and designated as JOHN DUBUIS SUBDIVISION NO. 1, consisting of six hundred fifty one and nine hundred fifteen thousandths acres (651.915), situated in Section 36, Township 9 South, Range 3 West and in Section 31, Township 9 South, Range 2 West, M. D. B. & M., transferred to T. G. McCreary as Trustee for said John Dubuis by said first party, excepting from said 651.915 acres those portions lying West and North of lands of J. W. Walter and the John Dubuis Subdivision No. 2, consisting of 29.491 acres, and a line drawn parallel with and forty feet Southeasterly from the Southeasterly bank of the Sweet Water Branch of Clear Creek, and South of the South side of the Wagon Road running along the South side of said Clear Creek; which tract of land consists of six hundred acres, or thereabouts, being a portion of the Bloom Tract.

IT IS HEREBY FURTHER ORDERED that Mountain Light and Water Company be given, and it is hereby given, authority to issue \$25,000. par value of stock.

IT IS HEREBY FURTHER ORDERED that Mountain Light and Water Company be given, and it is hereby given, authority to issue \$25,500. face value of bonds.

IT IS HEREBY FURTHER ORDERED that Mountain Light and Water Company be given authority and it is hereby given authority, to execute a mortgage or deed of trust in substantially the same form and tenor as the mortgage or deed of trust marked Exhibit "G" and attached to this application.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued for not less than the par value thereof and for the following purposes:

- (a) To Brookdale Land Company for part payment of property to be acquired from said Brookdale Land Company ..... \$14,500.
- (b) To J. F. Hughes for property which she has agreed to convey

to creditors of Mountain Light and  
Water Company ..... \$1,600.

(c) To be sold for cash ..... 9,100.

(2) The bonds herein authorized to be issued shall be issued so as to net applicant not less than the face value thereof, and for the following purposes:

(a) To Brookdale Land Company for part payment of property to be acquired from said Brookdale Land Company ..... \$20,500.

(b) To be issued for cash ..... 3,000.

Total ..... \$23,500.

(3) The cash to be obtained from the sale of stock and bonds authorized to be issued shall be used for the following purposes:

(a) To pay notes held by E. W. Knapp ..... \$ 7,900.

(b) To pay note held by J. F. Hughes ..... 1,700.

(c) To pay for extensions, additions and betterments, estimated to cost ..... 2,500.

Total ..... \$12,100.

(4) The purchase price herein authorized to be paid for property to be acquired from Brookdale Land Company shall not be binding upon this Commission or any other rate-fixing body for rate-fixing purposes, or otherwise.

(5) Within thirty days from and after the date of this order, Mountain Light and Water Company shall file with this Commission a stipulation signed by E. L. Breed as trustee for A. F. Hewlett and G. L. Stillwell and stock-

holders of Mountain Light and Water Company, who do not hold notes against the company, that they will cancel all their claims against the company upon the transfer of the property herein authorized to be transferred to said H. L. Breed as trustee for A. F. Hewlett and G. L. Stillwell and stockholders of Mountain Light and Water Company.

(6). The approval herein given of said mortgage is for the purpose of this proceeding only, and as an approval 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 any other legal requirements to which said mortgage may be subject.

(7) Mountain Light and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

(8) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act, as amended.

(9) The authority herein granted for the transfer of property, issue of stock, bonds and notes, and execution of mortgages shall apply only to such transfer of property, issue of stock, bonds and notes, and execution of mortgages as shall have taken place on or before the first day of May, 1916.

Dated at San Francisco, California, this 4th day of December, 1915.

Max Thelen  
H. B. Rowland  
Alex Gordon  
Frank R. Debra  
Commissioners.

Railroad Commission, State of California

REC-75-00  
APR 3 1916

BY

H. C. Mathewson  
Assistant Secretary