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

ORIGINAL

Decision No. 2963

BEFORE THE RAILROAD COMMISSION OF  
THE STATE OF CALIFORNIA.

In the Matter of the Application	)	
of MODESTO GAS, LIGHT, COAL AND	)	
COKE COMPANY, a corporation, for	)	<u>Application</u>
an order authorizing the issue	)	
of bonds and the execution of a	)	<u>No. 1918.</u>
mortgage of its property.	)	

L. J. Maddux for applicant.

BY THE COMMISSION.

O P I N I O N

This is an application of MODESTO GAS, LIGHT, COAL AND COKE COMPANY, hereinafter referred to as the "Gas Company" for authority to create a bonded indebtedness of \$200,000.00 of first mortgage six per cent. thirty-year sinking fund gold bonds, and to issue and sell \$65,000.00 of said bonds at not less than ninety per cent. of their face value; the proceeds of such sale to be used in refunding notes and other debts of said company, in acquiring a parcel of land consisting of two

city lots and in extending the gas company's mains and services, as hereinafter more particularly set forth.

Applicant was incorporated April 21, 1884, under the laws of the State of California, for the purpose of supplying gas, coal and coke to the citizens of Modesto, Stanislaus County. Practically all of its stock was held by L. C. Branch, now deceased. In 1891 the Modesto Bank acquired all of Mr. Branch's stock. In May, 1912, the present owners acquired the property from the Modesto Bank.

The gas company has an authorized issue of 1,000 shares of common stock of the par value of \$100.00 per share. All of said stock is now issued and outstanding and is held as follows:

Frank A. Cressey (the company's president)	163 shares,
Frank A. Cressey, Jr. (the company's vice-president and General Manager)	252 shares,
Josephine Cressey (the company's secretary)	251 shares,
Mary E. McCarthy	299 shares,
Thomas G. McCarthy	32 shares,
J. W. Murphy	1 share,
Romola Cressey	1 share,
Charles F. McCarthy	1 share.

The company has no preferred stock and has paid only one dividend since 1894. At the present time applicant has no bonded indebtedness and no mortgages upon its property. Its total indebtedness is as follows:

Balance due on one year note bearing interest at 8%, dated Jan. 2, 1912, in favor of Frank A. Cressey .....	\$27,663.65
Balance due on one year note bearing interest at 8%, dated Feb. 14, 1914, in favor of Frank A. Cressey .....	15,114.35
Cash advanced by Frank A. Cressey, bearing interest at 8% .....	3,000.00
Interest due on same .....	499.20
Due Farmers and Merchants Bank, open account as of October 1, 1915.....	<u>3,013.05</u>
Total Indebtedness .....	\$49,290.25

An abstract of the company's earning statement for the past three years, as shown by its annual reports to the Commission, is as follows:

INCOME ACCOUNT.

	<u>1912</u>	<u>1913</u>	<u>1914</u>
Operating Revenues	\$58,138.20	\$41,122.93	\$40,775.05
Operating expenses	<u>26,399.85</u>	<u>30,672.76</u>	<u>28,956.15</u>
Net operating revenues	\$11,738.35	\$10,450.17	\$11,818.90
<u>Deduct:</u>			
Interest charges	3,500.00	5,278.30	3,381.53
Uncollectible bills	<u>          </u>	<u>          </u>	<u>647.15</u>
Net corporate income	8,238.35	5,171.87	7,790.22
Balance to Profit and Loss	8,238.35	5,171.87	7,790.22

The bonds which applicant proposes to issue are to be secured by a trust indenture to Union Trust Company of San Francisco. This indenture provides for a total issue of \$200,000.00 of first mortgage six per cent. thirty-year gold bonds secured by a pledge of all the property which the company

now owns or may hereafter acquire. These bonds are callable at 105 and accrued interest. A sinking fund is provided as follows:

1921 to 1925, inclusive, 1% of outstanding bonds,  
1926 to 1930, inclusive, 2% of outstanding bonds,  
1931 to 1935, inclusive, 3% of outstanding bonds,  
1936 to 1940, inclusive, 4% of outstanding bonds,  
1941 to 1945, inclusive, 5% of outstanding bonds.

In its application the gas company asks for authority to issue and sell \$65,000.00 of these bonds at not less than 90 for the following purposes:

1. \$49,290.25 for the retirement of the company's notes and other indebtedness hereinbefore set forth.
2. \$ 800.00 for the purchase of two lots adjoining the gas company's property in the City of Modesto.
3. \$ 8,409.75 for the extension of the gas company's mains and services in the Maze Addition to the City of Modesto.

The two lots of land above referred to are immediately adjacent to the gas company's property and will piece out said property so as to form a rectangular parcel of land. At present this portion of the gas company's property is not being used, but as the City of Modesto has been growing rapidly it is very possible that if the company did not buy these lots at this time it might not be able to buy them later, except at a far higher figure.

As to the proposed extension of the gas company's mains and service throughout the Maze Ad-

dition we find that such an extension is proper and desirable. This addition is well built up, containing approximately two hundred houses, and its growth, according to the evidence introduced, will apparently continue. Mr. Frank A. Cressey, Jr. testified that he had had a number of requests for service from the inhabitants of this district, and apparently the proposed extension will be not only of service to the residents of this district but will be a profitable investment for the gas company.

It also appears that the gas company's plant is well built and is well maintained, that its distribution mains are in good condition and there is an ample margin between the value of the company's property and the face value of the bonds which it proposes to issue at this time.

As to the remaining \$135,000.00 of bonds, the gas company intends to issue the same from time to time for the purpose of financing eighty-five per cent. of the cost of additions and betterments.

From the evidence it appears that all of said indebtedness of \$49,290.25, excepting the sum of \$499.20, due from the company as interest to Frank A. Cressey upon cash advanced as above set forth, was incurred by the company for the purpose of the acquisition of property or the construction, extension and improvement of its facilities and services, and that all of such expenditures, except said sum of \$499.20, are properly chargeable to capital account.

The company has no franchise in the City of Modesto, having operated there for approximately twenty years before the city was incorporated.

O R D E R

MODESTO GAS, LIGHT, COAL AND COKE COMPANY having applied to this Commission for authority to create a bonded indebtedness of \$200,000.00 of first mortgage six per cent. thirty-year gold bonds, and to issue and sell \$65,000.00 of said bonds at not less than 90 per cent. of their face value;

And a public hearing having been held upon said application and the Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that MODESTO GAS, LIGHT, COAL AND COKE COMPANY be, and it is hereby, authorized to execute a mortgage or trust indenture to the Union Trust Company of San Francisco substantially in the form of the proposed indenture filed with this Commission on ~~November~~ <sup>December 7</sup> 1915, and marked "Exhibit D", to secure the proposed bond issue of \$200,000.00 of bonds, as therein set forth.

IT IS HEREBY FURTHER ORDERED that Modesto Gas, Light, Coal and Coke Company be, and it is hereby, authorized to issue and sell under said trust indenture bonds to the par value of \$65,000.00 on the following conditions, and not otherwise, to wit:

1. Modesto Gas, Light, Coal and Coke Company shall sell said \$65,000.00 of bonds so as to net said company not less than ninety per cent. of the par value of the principal thereof, in addition to the accrued interest.

2. The proceeds from the sale of the said bonds shall be applied only as follows, and not otherwise:

Refunding the promissory note dated January 2, 1912, in favor of Frank A. Cressey, .....	\$27,663.65
Refunding the promissory note dated February 14, 1914, in favor of Frank A. Cressey .....	15,114.35
Refunding the indebtedness for cash advanced to the gas company by Frank A. Cressey .....	3,000.00
Refunding the gas company's indebtedness to the Farmers and Merchants Bank of Modesto upon its open account .....	3,013.05
For the purchase of two lots adjacent to the gas company's property in the City of Modesto .....	800.00
For the extension of the gas company's mains and service in the Maze Addition to the City of Modesto .....	8,998.95
Total .....	\$58,590.00

3. Modesto Gas, Light, Coal and Coke Company shall keep separate, true and accurate accounts showing the receipt and application in de-

tail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month, the company shall make verified reports to the Commission stating the sale or sales of said 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, in so far as applicable, is made a part of this order.

4. The approval herein given of the mortgage or indenture for the proposed bond issue is for the purpose of this proceeding only, and an approval in so far 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 said mortgage may be subject.

5. The authority hereby given to issue and sell bonds shall apply only to bonds so issued and sold by the gas company on or before the 31st day of October, 1916.



6. This order shall not become effective until the fee prescribed by Section 57, as amended, of the Public Utilities Act has been paid.

Dated at San Francisco, California, this 9<sup>th</sup>  
December  
day of ~~November~~ 1915.

Max Thelen

W. D. K. [unclear]

[unclear]

Edwin D. Edgerton

Frank R. [unclear]

Commissioners.