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

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of JESSE S. HARKER and EDNA M. )  
HARKER for an order authorizing )  
the mortgage of MELVIN PLACE WATER ) Application No. 3426.  
plant in the County of Los Angeles, )  
to B. L. PAYTON. )

Charles L. Evans, for applicant.

BY THE COMMISSION.

O P I N I O N

This is an application of Jesse S. Harker and Edna M. Harker, his wife, for authority to mortgage an unincorporated water plant and system located in Los Angeles County and to issue a two year promissory note in the principal sum of \$2,000.00, bearing interest at 7 per cent per annum for the purposes hereinafter set forth.

A public hearing in this matter was held before Examiner Encell in Los Angeles on January 5, 1918.

The property which applicants propose to mortgage is commonly known as the Melvin Place Water plant and is located just outside the city limits of Los Angeles. This property has been the subject of a number of previous orders by this Commission. (Decision Number 272, Vol. 1, Opinions and Orders

Decision No. 5111

of the Railroad Commission of California, page 727:-  
Decision Number 1447, Vol. 4, Opinions and Orders of the  
Railroad Commission of California, page 798:-Decision  
Number 4037, and Decision Number 4236).

In Decision Number 4037, dated January 20, 1917,  
applicants were authorized to transfer Melvin Place Water  
plant to Jean H. Bakeman in exchange for 520 acres of land  
in Juab County, Utah. The testimony in the present  
application shows that this deal has not been completed and  
that although the deeds are still in escrow there is little  
likelihood of any action being taken under the authority  
heretofore granted by the Commission. Attorney for ap-  
plicants insists that there is nothing in the present  
status of the negotiations which would prevent his clients  
from mortgaging the property as herein proposed.

It is our opinion that applicant herein should  
not be permitted to encumber the property which is the  
subject matter of this application until the proposed  
conveyances have been withdrawn from escrow and a re-  
quest filed with this Commission by the parties to the  
former application under the Commission's Decision Number  
4037, that the order made therein be vacated and set aside.

In Decision Number 4236, dated April 7, 1917, this  
Commission authorized Mrs. Jean Bakeman to transfer the  
Melvin Place Water plant to a corporation to be known as  
Melvin Place Water Company in exchange for stock and notes,  
it being represented to the Commission that the property in  
question had already been acquired by Mrs. Bakeman. No  
action had been taken under this order and none should  
have been taken as according to the testimony now before <sup>the Commission.</sup>

Mrs. Bakeman has to date not acquired title to the property in question.

Applicants in the present proceeding represent that the income from this system during the year 1917 was approximately \$2,400.00 and that the operating and maintenance expenses during the same period amounted to approximately \$480.00

The petition fixes the estimated value of the property at \$22,500.00 which is slightly in excess of an estimate of the original cost of the property made by the Commission's engineers in the proceedings covered by Decision Number 4236.

Subsequent to the hearing in this matter applicants filed, at the request of the Commission a copy of the proposed mortgage and note. From these instruments it appears that they were formally executed on December 12, 1917 or prior to the receipt of an order from this Commission. They are accordingly void and the order entered in this proceeding should not be taken as ratifying them.

It is the purpose of applicants if this petition is granted to use the proceeds from the issue of the note for purposes not connected with the operations of the public utility. As there is no encumbrance upon the utility property and as the same has been acquired and constructed by applicants out of their personal resources, there appears to be no reason why they may not be permitted to reimburse themselves in part for such expenditures.

#### O R D E R

JESSE S. HARKER and EDNA M. HARKER, his wife, having applied to the Railroad Commission for authority to mortgage the public utility property known as the Melvin Place Water plant located in the County of Los Angeles and for authority to issue a two year promissory note in the sum of \$2,000.00 bearing interest at 7 per cent per annum, said note to be secured by the above mentioned mortgage:

And a public hearing having been held, and it appearing

to this Commission that the money, property or labor to be procured or paid for by the issue of said note is properly required for the purposes set forth in the order;

IT IS HEREBY ORDERED that Jesse S. Harker and Edna M. Harker, his wife, be and they are hereby authorized to execute a mortgage upon the public utility water plant and system located in Los Angeles County, commonly known as Melvin Place Water plant, said mortgage to be substantially in the form of a mortgage filed with this Commission on January 7, 1918 and marked Exhibit "A".

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and is an approval only 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.

IT IS HEREBY FURTHER ORDERED that Jesse S. Harker and Edna M. Harker, his wife, be and they are hereby authorized to execute a promissory note payable not to exceed two years after date to B. L. Payton in the principal sum of \$2,000.00 bearing interest at not to exceed 7 per cent per annum, for the purpose of reimbursing themselves in part for moneys invested in Melvin Place Water plant.

The authority herein granted is granted upon the following conditions:-

1.- Within thirty days after the execution of the note and mortgage herein authorized, applicants shall report such fact to the Commission.

2.- The authority herein granted applicants to issue a promissory note is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

3.- The authority herein granted applicants to execute a mortgage and issue a note shall apply only to

such mortgage as shall have been executed and such note as shall have been issued on or before July 1, 1918.

4.-- The authority herein granted applicant to execute a mortgage and issue a note shall not become effective until such time as this Commission shall by a supplemental order vacate and set aside its Decision Number 4037, which said Decision was dated January 20, 1917.

DATED at San Francisco, California, this 6th day of February, 1918.



Max Shelton  
H. H. Leonard  
W. G. Gordon  
Franz R. Dehn  
Commissioners.