

Decision No. 31167

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ROSIE DAY AND STEWART DAY,
transacting business under the firm
name and style of KLAMATH WATER,
LIGHT AND POWER COMPANY, for an order
authorizing the sale of the whole of
their and its assets and property.

Application No. 22130

In the Matter of the Application of
ERNEST McCULLOUGH and ELEANORE
McCULLOUGH for an order authorizing
the purchase of a certain water dis-
tributing system and an electric
generating plant and distribution
system in the town of Klamath, County
of Del Norte, State of California,
commonly known as Klamath Water, Light
and Power Company and for an order
authorizing, making and executing a
Deed of Trust securing promissory
notes for the purchase price thereof.

Application No. 22131

C. A. Degnan, for applicant.

BY THE COMMISSION:

O P I N I O N

In Application No. 22130 the Railroad Commission is asked to make an order authorizing Rosie Day and Stewart Day to sell and transfer to Ernest McCullough and Eleanore McCullough an electric system and a water system located at Klamath, Del Norte County.

In Application No. 22131 the Commission is asked to make an order authorizing Ernest McCullough and Eleanore McCullough to execute deeds of trust and to issue promissory notes in the total amount of \$12,000. to finance the cost of such plants.

Rosie Day and Stewart Day, doing business under the firm name
Water
and style of Klamath Light and Power Company, are engaged in the
business of generating and selling electric energy for domestic, com-

mercial and industrial purposes, and of distributing water for domestic purposes in the town or village of Klamath, Del Norte County. At the close of 1937 they reported seventy-five consumers attached to the electric system and thirty-nine to the water system.

In their annual financial statements filed with the Commission they have reported their operating revenues and expenses for the last three calendar years as follows:-

<u>Item</u>	<u>1935</u>	<u>1936</u>	<u>1937</u>
Operating revenues:			
Electric	\$3,516.86	\$3,713.77	\$4,063.71
Water	864.08	872.90	853.70
Total	<u>\$4,380.94</u>	<u>\$4,586.67</u>	<u>\$4,917.41</u>
Operating expenses:			
Including taxes	2,622.30	3,222.57	2,923.44
Balance	\$2,758.64	\$1,364.10	\$1,993.97
Depreciation	1,069.70	858.02	829.59
Net operating revenues	<u>\$ 688.94</u>	<u>\$ 506.08</u>	<u>\$1,164.38</u>

As of December 31, 1937 the investment in the electric properties is reported at \$27,019.76 and in the water properties at \$3,643.84, a total of \$30,663.60, and the total reserved for depreciation at \$7,751.11.

The applications show that Rosie Day and Stewart Day desire to withdraw from the public utility electric and water business and for that reason have made arrangements to sell to Ernest McCullough and Eleanore McCullough their public utility and certain other properties described as follows:-

"That certain plant now operated by sellers at Klamath for generating electric energy, together with all dynamos, engines, tanks, electric meters, poles, wires, easements, rights-of-way, franchises and in short all equipment, supplies and/or all property and things used in the operation of said plant for the generation and delivery of electric energy; also the business now operated by sellers in generating and selling electric energy and the good will thereof.

Also all real property used by sellers in connection with the said business and the residence of sellers on property purchased from Del Ponte together with the real estate occupied by said residence, said real estate being a lot of land approximately of the dimensions of 100 x 132 feet.

Also the water works or plant now operated by sellers at Klamath, together with mains, pipes, meters, rights-of-way, franchises, tools and all property and things used in connection with the said water works; also the business of supplying to consumers water and the good will of said business.

The agreed purchase price for the properties is \$12,000. payable in cash in the amount of \$6,000. upon delivery of good and sufficient deeds conveying the properties free and clear of encumbrances and in a note, secured by a deed of trust, in the amount of \$6,000. payable in monthly installments of \$100. or more commencing in August 1943 with interest at the rate of six per cent per annum.

A copy of the agreement of sale, dated as of May 17, 1938, has been filed with Application No. 22130.

It is of record that Ernest McCullough is an experienced mechanic and that he has operated the said electric light plant and said water plant for the present owners for several years past.

To obtain the necessary funds to make the initial payment of \$6,000., Ernest McCullough and Eleanore McCullough propose and ask permission to execute to Bank of America National Trust and Savings Association a promissory note in like amount payable in monthly installments of \$100. or more commencing in August 1938 with interest at the rate of six per cent per annum. The note will be secured by a deed of trust which will constitute a lien upon the properties referred to herein prior to the lien of the deed of trust to be executed to secure the note to be issued to Rosie Day and Stewart Day.

Copies of the proposed deeds of trust and notes have been filed with Application No. 22131. They appear to be in satisfactory form.

ORDER

Applications having been filed with the Railroad Commission for permission to sell and transfer public utility properties

and to execute deeds of trust and notes in the principal amount of \$12,000., and the Commission being of the opinion that these are not matters in which public hearings are necessary, that the requests of applicants should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of said notes is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED as follows:-

1. Rosie Day and Stewart Day may sell and transfer to Ernest McCullough and Eleanore McCullough their public utility electric and water systems referred to in these proceedings, such sale and transfer to be made on or before December 31, 1938 in accordance with the terms and conditions of the agreement, dated as of May 17, 1938, filed with the Commission with Application No. 22130.

2. Ernest McCullough and Eleanore McCullough may, on or before December 31, 1938, execute a deed of trust to Corporation of America, as trustee, and may issue a note secured by said deed of trust in the principal amount of \$6,000. payable in monthly installments of \$100. or more, commencing in August, 1938, with interest at the rate of six per cent per annum and may use the proceeds to finance in part the purchase price of the properties herein authorized to be sold and transferred.

3. Ernest McCullough and Eleanore McCullough may, on or before December 31, 1938, execute a deed of trust to Bank of America National Trust & Savings Association, as trustee, and may issue a note secured by said deed of trust in the principal amount of \$6,000., payable in monthly installments of \$100. or more commencing in August, 1943, with interest at the rate of six per cent per annum for the purpose of financing in part the purchase price of said properties.

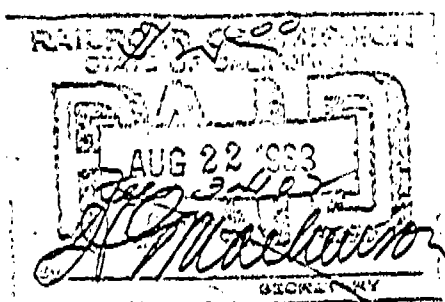
4. The authority herein granted to execute deeds of trust is for the purpose of these proceedings only and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deeds of trust as to such other legal requirements to which they may be subject. Said deeds of trust and notes herein authorized shall be in or substantially in the same form as those filed with the Commission with Application No. 22131.

5. Within thirty(30) days after the transfer of the properties herein authorized Ernest McCullough shall file with this Commission (a) a copy of each deed or other instrument of conveyance by which he received title to such properties; (b) a statement showing the exact date upon which he commenced operating such properties; and (c) a copy of each note executed under the authority herein granted.

6. The authority herein granted shall not be construed as a finding of value of the properties herein authorized to be transferred.

7. The authority herein granted will become effective when Ernest McCullough and Eleanore McCullough have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five(\$25.) Dollars.

DATED at San Francisco, California, this 22nd day of August, 1938.



Ray J. Waberski
Leon A. Whittell
James P. Whelan
Ray & Rice

Commissioners.