

Decision No. 31362

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CALIFORNIA WATER SERVICE COMPANY,  
a corporation, for (1) order authorizing purchase of certain public utility properties, and (2) order authorizing purchase of capital stock of another public utility; and the Application of OAKS WATER COMPANY OF HILLSBOROUGH, a corporation, for (1) order authorizing sale of certain public utility properties, and (2) order authorizing said corporation to discontinue public utility operations.

ORIGINAL

Application No. 22247

McCutchen, Olney, Mannon & Greene, by Henry D. Costigan,  
for applicants.  
H. C. Ross, for Lee T. Ross, City Attorney for the Town of  
Hillsborough.  
Pillsbury, Madison & Sutro, by Hugh Fullerton, for  
Harriet Pullman Schermerhorn.

BY THE COMMISSION:

O P I N I O N

California Water Service Company and Oaks Water Company of Hillsborough, ask the Commission to enter its order authorizing-

1. The sale and conveyance by Oaks Water Company of Hillsborough and the purchase by California Water Service Company of the entire business, properties, assets, franchises and rights of said Oaks Water Company of Hillsborough, except certain properties not pertinent to the water business or not necessary therein.

2. The discontinuance by Oaks Water Company of Hillsborough of its public utility obligations upon conveyance of its properties as aforesaid.

3. The purchase by California Water Service Company of all the issued and outstanding shares of stock of Hillsborough Water Company from the holders of said shares of stock.

The testimony shows that the inhabitants of the Town of Hillsborough are at the present time served with water by seven different systems, operated by four different parties, to-wit: California Water Service Company, Oaks Water Company of Hillsborough, Hillsborough Water Company and the City of Burlingame. The seven systems are not physically connected.

The record shows that since the filing of the above mentioned application the electorate of the Town of Hillsborough at an election held on September 27, 1938 by a vote of 463 to 24 approved the following proposition:-

"Shall the Town of Hillsborough incur a bonded indebtedness in the principal amount of \$350,000. for the object, and purpose of acquiring, constructing and completing the following municipal improvement, to-wit: A water-works system, including lands, water, water rights, rights of way, storage facilities, storage tank and tower, filtration plant, pipe lines, mains, hydrants and other works, properties and appliances necessary or convenient for supplying said Town of Hillsborough and its inhabitants with water?"

The City Council of the Town of Hillsborough at its meeting on October 3rd authorized the City Manager to proceed to acquire and consolidate the various water systems. His testimony shows that both the Oaks Water Company of Hillsborough and the Hillsborough Water Company have offered to sell their properties to the Town of Hillsborough at a price which is less than the price at which they agreed to sell the same to California Water Service Company.

In view of the fact that the Town of Hillsborough is committed to a municipally owned water system, it seems to us that it would be an idle act to grant applicants' requests. We therefore believe that this application should be dismissed without prejudice.

#### O R D E R

A public hearing having been held in the above entitled matter before Examiner Fankhauser and the Commission having considered the

evidence submitted at such hearing and it being of the opinion that this application should be dismissed without prejudice, therefore,

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby, dismissed without prejudice.

DATED at San Francisco, California, this 17<sup>th</sup> day of October, 1938.

Robert W. Anderson  
James A. Dwyer  
Frank C. Dwyer  
Paul L. Riley

Commissioners.