

ORIGINAL

Decision No. 24122

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF

ERNEST McCULLOUGH and ELEANOR  
McCULLOUGH to sell to CLYDE W.  
HENRY that certain public util-  
ity operated in the County of  
Del Norte, State of California,  
known as and conducted under  
the name and style of KLAMATH  
WATER LIGHT & POWER COMPANY

Application No. 24122

BY THE COMMISSION:

OPINION AND ORDER

This application sets forth that Ernest McCullough and Eleanor McCullough, his wife, hereinafter referred to as the Sellers, at the present time own and operate a water, light and power business, in the County of Del Norte, known as the Klamath Water, Light & Power Company, and that they now desire to sell to Clyde W. Henry all of their right, title and interest and equity, in and to the properties, including the operative rights, the accounts receivable and assets of every kind and character belonging to and used in the business of the company, more specifically described as follows:

All that certain real property in the Town of Klamath, County of Del Norte, State of California, described as follows:

Beginning at the point bearing north 24 degrees 34' west 20 feet from the most northerly corner of Lot 9 in Block 2 of the Town of Klamath, according to the map thereof on file in the office of the County Recorder of Del Norte County, California, on July 19, 1926 in Book 2 of Maps, page 42, and running thence north 65 degrees 26' east 50 feet; thence north 24 degrees 34' west 100 feet;

thence south 65 degrees 26' west 182 feet; thence south 24 degrees 34' east 100 feet; thence north 65 degrees 26' east 132 feet to the place of beginning;

together with all buildings, appurtenances, easements, water rights, pumping stations, engines, machinery, transformers, pipes, ditches, gas, electric and pumping fixtures and equipment, contracts, accounts receivable and sums due and to become due in connection with said public utility.

Exhibit "A" filed in this proceeding contains a balance sheet showing the assets and liabilities of Klamath Water, Light & Power Company, as of December 31, 1940, as follows:

<u>Assets</u>		
Current assets -		
Cash	\$ 38.28	
Accounts receivable	<u>811.40</u>	\$ 849.68
Fixed assets -		
Land	871.00	
Plant and equipment	16,951.18	
Less - Allowance for depreciation	<u>(1,614.69)</u>	16,207.49
Franchise		<u>600.00</u>
	Total assets	<u>\$17,657.17</u>
 <u>Liabilities</u>		
Current liabilities		\$ 2,211.67
Long-term debt		
Mortgages payable -		
To Bank of America	\$ 4,372.60	
To Stewart & Rose Day	<u>6,000.00</u>	<u>10,372.60</u>
	Total liabilities	\$12,584.27
Net worth		<u>5,072.90</u>
	Total	<u>\$17,657.17</u>

The application shows that the real property hereinabove described is subject to a deed of trust between the Sellers and Corporation of America, as trustee, and Bank of America National Trust & Savings Association, as beneficiary, as security for the payment of an indebtedness in the sum of \$6,000 upon which there remains an unpaid balance, as shown in the foregoing balance sheet, of \$4,372.60, and that it is subject to a second deed of trust in favor of Rose M. Day and Isaac S. Day (reported on the balance

sheet as Stewart & Rose Day) to secure the payment of the sum of \$6,000, all of which is outstanding.

In addition to the mortgage debt, there is a judgment lien in the case of Varnum Paul, plaintiff, vs. Klamath Water, Light & Power Company, Ernest McCullough and Eleanor McCullough, defendants, No. 144786, in the Municipal Court of the City and County of San Francisco in the amount of \$633.88, including principal, interest and costs, entered on November 22, 1940, and a further judgment lien against the Sellers in the case of Clyde W. Henry vs. Ernest McCullough and Eleanor McCullough, No. 3152, in the Superior Court of the State of California, in and for the County of Del Norte, in the amount of \$6,300, together with interest, entered on January 28, 1941. It is reported that on April 6, 1941, an execution against the property of the Sellers was issued by the Clerk of the Superior Court of Del Norte County, in the action of Clyde W. Henry vs. Ernest McCullough and Eleanor McCullough, requiring the sheriff to satisfy the judgment out of the real and personal property of the Sellers, and more specifically, out of the sale of Klamath Water, Light & Power Company.

It appears that arrangements accordingly have been made whereby the McCulloughs will transfer their interest in the Klamath Water, Light & Power Company to Clyde W. Henry in consideration for the sum of \$400 and the assumption by Clyde W. Henry of the debts and obligations of the business which are secured by the aforesaid deeds of trust and the judgment lien in favor of Varnum Paul.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the transfer of the properties to Clyde W. Henry should be authorized,

provided said Clyde W. Henry assumes the payment of the outstanding indebtedness, including current liabilities, of the Klamath Water, Light & Power Company, therefore

IT IS HEREBY ORDERED that Ernest McCullough and Eleanor McCullough be, and they hereby are, authorized to sell and transfer to Clyde W. Henry, on or before July 31, 1941, all their right, title, interest and equity in and to the properties they own and operate under the name of Klamath Water, Light & Power Company as set forth herein.

IT IS HEREBY FURTHER ORDERED that Clyde W. Henry be, and he hereby is, authorized to assume the payment of the indebtedness which is secured by a lien on said properties, and any other indebtedness that constitutes a valid claim against said properties.

IT IS HEREBY FURTHER ORDERED that Clyde W. Henry shall file with the Commission, within thirty (30) days after the execution thereof, a certified copy of each deed or other instrument by which he receives title to the properties comprising the Klamath Water, Light & Power Company, and a statement showing the exact date upon which he acquired such properties and began to operate the same.

IT IS HEREBY FURTHER ORDERED that the consideration paid by said Clyde W. Henry for said properties shall not, before this Commission, be urged as fixing the value of said properties for any purpose other than the transfer herein authorized.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective twenty (20) days from the date hereof.

A.24122-5  
AML

Dated at San Francisco, California, this 29<sup>th</sup> day  
of April, 1941.

W. H. [Signature]  
Bay & [Signature]  
\_\_\_\_\_

Francis K. Havenner  
Commissioners