

Decision No. 35559

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of Orbisonia Water Company, a corporation, and Elmer L. Cupp, for an order authorizing the issuance of 120 shares of the stock of said corporation to Elmer L. Cupp, and the transfer to said corporation of the property and franchises of the Elmer L. Cupp Water Company.

Application
No. 25068

BY THE COMMISSION:

OPINION

Elmer L. Cupp and Naomi L. Cupp, owners of the properties operated under the name of Elmer L. Cupp Water Company, are engaged in the distribution of water for domestic use in subdivisions near Pittsburg, California. They ask permission to transfer their public utility water properties to the Orbisonia Water Company in exchange for 120 shares of no par value common stock.

For 1940 applicant, Elmer L. Cupp Water Company, reports operating revenues of \$1,697.10, and for 1941 \$3,022.17. The number of consumers increased from 99 at the end of 1940 to 146 at the end of 1941.

As of April 30, 1942, assets and liabilities are reported as follows:

<u>Asset Accounts</u>	
Fixed Capital	\$7,173.06
Cash and deposits	150.00
Due from consumers	685.97
Materials and supplies	350.00
Total Assets	<u>\$8,359.03</u>

<u>Liability Accounts</u>	
Notes Payable	\$4,126.14
Accounts Payable	432.60
Surplus	3,820.29
Total Liabilities	<u>\$8,359.03</u>

By Decision No. 32032, dated May 31, 1939, in Application No. 22591, the Commission granted to Elmer L. Cupp a certificate of public convenience and necessity to operate a public utility water system in the Orbisonia Heights Tract, and in certain additional and adjacent land situated southerly thereof, in Contra Costa County.

By Decision No. 33243, dated June 25, 1940, as amended by Decision No. 33537, dated September 24, 1940, in Application No. 23369, the Commission granted him a certificate of public convenience and necessity to operate a public utility water system in the Bel-Air Tract, and blocks 1, 2, 3 and 4 of the Joseph Siino Subdivision.

The order herein will authorize the transfer of said certificates of public convenience and necessity to Orbisonia Water Company. The areas covered by said certificates are more particularly described in said decisions.

Elmer L. Cupp and Naomi L. Cupp will, if authorized by the Commission, transfer to Orbisonia Water Company the following described real property, situated in Contra Costa County, California:

- (a) "Commencing at the Northwest corner of the Southeast quarter of Section 14, Township 2 North, Range 1 West, Mount Diablo Base and Meridian; thence along the Westerly line of said Southeast quarter of said Section 14, South $00^{\circ} 45'$ East, 1018 feet; thence North $89^{\circ} 46'$ East, 275 feet to a point on the Southerly side of May Street in Orbisonia Heights, filed April 22, 1930 in Volume 21 of Maps, pages 593 and 594; thence leaving May Street, South $00^{\circ} 45'$ East, 100.40 feet to the point of beginning; thence continuing along the same line 50 feet; thence North $89^{\circ} 46'$ East, 195 feet; thence North $00^{\circ} 45'$ West 50 feet, thence South $89^{\circ} 46'$ West, 195 feet to the point of beginning and being a portion of the Southeast quarter of Section 14, Township 2 North, Range 1 West, Mount Diablo Base and Meridian.
- (b) "Also portion of lots 16 and 17 of Orbisonia Heights around and including the wells, tanks, pumps and appurtenant equipment and easements for pipe lines thereon."

They will also transfer to Orbisonia Water Company all wells, pumping equipment and water distributing system appurtenant to said land, all franchises, easements and rights of way thereto appertaining, and their interest in that certain lease, dated December 15, 1939, by and between Lydia Hollander as lessor, and Elmer L. Cupp and Naomi L. Cupp, husband and wife, as lessees. A copy of the lease is filed in this proceeding as Exhibit D. Under the terms of the lease the lessees are given an option to acquire the properties described in the lease. The record in Application No. 25103 indicates that Orbisonia Water Company will exercise the option and pay for said properties the amount now due, to-wit: \$1,963.22, together with interest at the rate of 6% per annum from March 16, 1942.

Because of the necessity of extending and enlarging his water system, Elmer L. Cupp is of the opinion that funds can be more readily obtained if his public utility properties are owned, and his public utility business conducted, under a corporate form of organization. It is for this reason and for the further reason of segregating his utility and nonutility properties and business that he asks permission to transfer said water properties to the Orbisonia Water Company. The Orbisonia Water Company will assume all of the obligations incurred by Elmer L. Cupp in connection with his public utility operations.

O R D E R

The Commission having considered applicants' requests and it being of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for by the issue of 120 shares of common stock of no

par value by Orbisonia Water Company is reasonably required for the purpose herein stated; that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED as follows:

1. Elmer L. Cupp and Naomi L. Cupp, husband and wife, may, on or before September 1, 1942, transfer to Orbisonia Water Company the properties, including the certificates of public convenience and necessity referred to in the foregoing opinion, said properties being more particularly described in Exhibit C, as amended, and Exhibit D on file in this proceeding.

2. Orbisonia Water Company may, on or before September 1, 1942, issue to Elmer L. Cupp and Naomi L. Cupp, husband and wife, not exceeding 120 shares of no par value common capital stock in payment for the properties referred to in the foregoing paragraph, and assume the payment of all obligations incurred by said Elmer L. Cupp and Naomi L. Cupp, husband and wife, in connection with said public utility properties.

3. The consideration paid for said properties by Orbisonia Water Company shall not be construed as a finding of the value of said properties for any purpose other than the transfer and stock issue herein authorized.

4. Within thirty (30) days after the acquisition of said properties, Orbisonia Water Company shall file with the Railroad Commission a copy of the deed, or other instrument of conveyance, by which it holds title to said properties.

5. Orbisonia Water Company shall file, in quadruplicate, with the Railroad Commission, within twenty (20) days after it acquires said properties, rates for water service furnished Orbisonia Heights Tract, Bel-Air Tract and Blocks 1, 2, 3 and 4 of Joseph Sino Sub-division, Contra Costa County, which rates shall not be higher in any particular, than those now charged by Elmer L. and Naomi L. Cupp, and shall also file with the Railroad Commission four sets of rules and regulations in conformity with the Commission's requirements.

6. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 7th day of July, 1942.

Ray L. Riley
Francis D. Havens
Thomas L. Kuchse
Commissioners.