

ORIGINAL

Decision No. 41753

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

ENES WATER COMPANY

and

ORBISONIA WATER COMPANY

for an order (a) authorizing Orbisonia Water Company to merge with and into Enes Water Company under and pursuant to the proposed agreement of merger herein referred to; (b) authorizing Enes Water Company to assume the obligations of Orbisonia Water Company pursuant to said proposed agreement of merger; and (c) approving, pursuant to Section 52 of the Public Utilities Act, the fairness of the terms and conditions of the said proposed agreement of merger.

Application  
No. 29388

O P I N I O N

This is an application for an order of the Public Utilities Commission authorizing Orbisonia Water Company, hereinafter referred to as "Orbisonia", to merge with and into Enes Water Company, hereinafter referred to as "Enes", and authorizing Enes to assume the obligations of Orbisonia.

Applicants are California corporations engaged in the distribution of water in Contra Costa County. Orbisonia was organized on or about January 20, 1942, and under authority granted by Decision No. 35559, dated July 7, 1942, acquired a certificate of public convenience and necessity to operate a public utility water system in Orbisonia Heights Tract and certain

adjacent lands, and in the Bel-Air Tract and blocks 1, 2, 3 and 4 of the Joseph Sino Subdivision near Pittsburg. Enes was organized on or about March 29, 1933, and under authority granted by Decision No. 27194, dated July 9, 1934, acquired a certificate to operate a public utility water system in the Enes-Ambrose Tract, and by Decision No. 40579, dated July 29, 1947, a certificate to operate in the territory served by Orbisonia.

It appears that since the date of the last decision, Enes has entered into the territory served by Orbisonia and now is supplying customers formerly connected with Orbisonia's lines. Under date of October 31, 1947, certain of its stockholders entered into an agreement to purchase, for \$13,000, the outstanding stock of Orbisonia and did purchase and acquire such stock. At the present time the stock of the two corporations, consisting of shares without par value, is reported held as follows:

	<u>Enes Shares</u>	<u>Orbisonia Shares</u>
Bernard E. Enes	319	60
Chris J. Enes	318	60
Albert A. Enes	1	-
Leonard A. Enes	1	-
Charles Meister	<u>1</u>	<u>-</u>
Total	<u>640</u>	<u>120</u>

The application shows that it has been concluded greater efficiency and economy in management could be effected by the consolidation of the two corporations and that accordingly an agreement of merger, dated May 24, 1948, has been entered into, with Enes being designated as the surviving corporation. A balance sheet showing the assets and liabilities of the two as of December 31, 1947, and giving effect to the merger is as follows:

<u>Assets</u>	<u>Enes</u>	<u>Orbisonia</u>	<u>Consolidated</u>
Fixed capital	\$127,898.87	\$26,285.38	\$154,184.25
Less: reserve for depreciation	<u>13,628.24</u>	<u>3,487.49</u>	<u>17,115.73</u>
	114,270.63	22,797.89	137,068.52
Cash	136.40	290.51	426.91
Accounts receivable	983.16	2,540.54	3,523.70
Materials and supplies	196.44	664.75	861.19
Advances to Orbisonia	13,000.00	-	-
Deferred charges	-	<u>3,203.13</u>	<u>3,203.13</u>
<b>Total</b>	<u>\$128,586.63</u>	<u>\$29,496.82</u>	<u>\$145,083.45</u>
<u>Liabilities</u>			
Capital stock	\$ 16,000.00	\$ 4,107.80	\$ 20,107.80
Notes payable	67,700.00	-	67,700.00
Accounts payable	31,983.48	2,121.07	34,104.55
Consumers' deposits	75.75	297.59	373.34
Taxes payable	120.66	949.43	1,070.09
Advances from Enes	-	13,000.00	-
Capital surplus	27,924.37	10,152.98	38,077.35
Deficit	<u>(15,217.63)</u>	<u>(1,132.05)</u>	<u>(16,349.68)</u>
<b>Total</b>	<u>\$128,586.63</u>	<u>\$29,496.82</u>	<u>\$145,083.45</u>

Under the agreement of merger, Enes, as the surviving corporation will succeed, without other transfer, to the rights and properties of Orbisonia and will be subject to all its debts and obligations. Each of the 120 shares of Orbisonia will be canceled and the amount of \$4,107.80, being the assigned value of such shares on the books of Orbisonia, will be added to the stated capital of Enes, which shall be increased by that amount.

The matter of rates is not an issue in this proceeding. Enes should continue to supply water under its schedule of rates now on file with the Commission unless such rates hereafter are changed by the Commission. In Application No. 29204 the Commission is considering a request by Enes for revision of the rates applicable in the territory served by Orbisonia.

The order herein will authorize the merger. The certificates of public convenience and necessity, involved herein,

are subject to the provisions of law that the Commission shall have no power to authorize the capitalization of the certificates or the right to own, operate or enjoy such certificates in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificates of public convenience and necessity or rights.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be merged.

#### O R D E R

The Public Utilities Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary, that the merger of the properties and business of Enes Water Company and Orbisonia Water Company is in the public interest and that the application should be granted, as herein provided,

IT IS HEREBY ORDERED as follows:

1. Orbisonia Water Company is authorized, after the effective date hereof and on or before September 30, 1948, to merge with and into Enes Water Company, under and pursuant to the agreement of merger, dated May 24, 1948, filed in this proceeding as Exhibit "B", which agreement is hereby approved.

2. Enes Water Company is authorized to assume all the obligations of Orbisonia Water Company pursuant to the terms of said agreement of merger.

3. Enes Water Company shall advise the Commission in writing of the effective date of said merger.

4. The authority herein granted will become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 22nd day of June, 1948.

R. F. Anderson  
Justice J. C. Casper  
Carl D. Duce  
Harold K. Felt  
South Potter  
Commissioners