

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

CITY OF BEVERLY HILLS, a Municipal)  
Corporation of the Sixth class, )

Petitioner, )

vs. )

BEVERLY HILLS UTILITIES COMPANY, a )  
Corporation, )

Defendant. )

Application No. 9141

Paul E. Schwab, City Attorney, and  
O'Melveny, Milliken, Tuller and Macneil,  
by Walter K. Tuller, for the City of  
Beverly Hills.

Gibson, Dunn and Crutcher, by S.M. Haskins,  
for Beverly Hills Utilities Company.

BRUNDIGE AND SEAVEY, Commissioners.

OPINION

This is a proceeding brought under the provisions of the Public Utilities Act, in which the City of Beverly Hills, a municipal corporation of the sixth class, (hereinafter referred to as the City), requests the Railroad Commission to fix the just compensation to be paid by the City to the Beverly Hills Utilities Company, a corporation, (hereinafter referred to as the Company), for the public utility property owned, operated and used by said Company for the production and distribution of water for domestic, commercial and municipal purposes in the City of Beverly Hills, in Los Angeles County. .

As defined by Section 47 (b) of the Public Utilities Act, this is a petition of the first class. It was duly authorized on the 11th day of June, 1923, through Resolution No. 80, regularly passed and adopted by the Board of Supervisors of Beverly Hills, and was filed with the Commission June 19, 1923. On the 22nd day of June, 1923, the Commission made its order directing the Company to show cause why the Commission should not proceed to hear the above petition and to fix the just compensation as requested therein. A hearing upon the order to show cause was held in Los Angeles July 26, 1923, at which the Company signified its willingness to sell its public utility properties to the city at a price to be determined and fixed by the Railroad Commission.

A public hearing in this matter was held in Los Angeles on November 15, 1923, at which all interested parties were given an opportunity to appear and be heard. At this time reports and valuations of the water system were submitted by Arthur Taylor, of the firm of Salisbury, Bradshaw and Taylor, Consulting Engineers for the City of Beverly Hills, by Edward R. Bowen, Consulting Engineer for the Beverly Hills Utilities Company, and by W. R. MacKall, one of the Commission's Hydraulic Engineers. These reports were based upon a previously agreed inventory of the physical properties. Adjournment was thereupon taken to a later date, to enable the various parties involved to digest and analyze the reports submitted by the engineers, and to complete the unfinished appraisal of the lands and rights of way.

Subsequently negotiations were entered into between representatives of the City and the Water Company, in which it was definitely settled and agreed that the sum of Two hundred and fifty thousand dollars (\$250,000.00) would be mutually acceptable to both parties as the purchase price to be paid by the City for all properties and rights to be acquired.

Further hearing was held at which a written stipulation between the City and the Company was submitted to the Commission, embodying in detail the various items of physical property, lands, easements, rights of way and other rights and privileges, setting forth the terms and conditions surrounding the transfer thereof, and requesting the Railroad Commission to fix accordingly the just compensation. This stipulation reads in part as follows:

"It is Hereby Stipulated and Agreed by and between the City of Beverly Hills, a municipal corporation of the sixth class, the petitioner in the above entitled application, and Beverly Hills Utilities Company, a California corporation, defendant in the above entitled application, by their respective attorneys, that the petitioner will pay to the defendant for the water system of said defendant, as fully set out and described in the agreed inventory hereto attached, marked 'Exhibit A' and hereby incorporated by reference, the sum of Two hundred and fifty thousand dollars (\$250,000.00), and that the defendant will accept said sum of two hundred and fifty thousand dollars (\$250,000.00) as the just and fair compensation for said system, as set out and described upon said agreed inventory, and will convey all said property so described and set out upon said inventory, to said petitioner, for and upon payment of said consideration; and it is further stipulated and agreed that the Railroad Commission of the State of California may make its findings and order that the just and fair compensation to be paid by said petitioner to said defendant for said system as so set out and described upon said inventory, is the sum of two hundred and fifty thousand dollars (\$250,000.00)."

Inasmuch as this stipulation fully and satisfactorily provides for the transfer of the properties at a price mutually acceptable, it appears unnecessary for the Commission to pursue to finality and reach a conclusion as to the amount to which the Company would be entitled as just compensation. In the absence of a complete and conclusive analysis of the reports presented it would appear that the sum of two hundred and fifty thousand dollars (\$250,000.00) agreed upon by the City and the Company is a reasonable price for the property sought to be acquired herein.

The matter therefore should be dismissed, and the parties to this proceeding may at their convenience petition the Commission to grant the necessary authority for the transfer of this property according to the regular procedure in such matters.

O R D E R

The City of Beverly Hills, a municipal corporation of the sixth class, having filed with the Railroad Commission a petition as entitled above, and the Railroad Commission having proceeded, under section 47 of the Public Utilities Act, to fix and determine the just compensation to be paid by the City of Beverly Hills to the Beverly Hills Utilities Company for the public utility water system supplying consumers in the City of Beverly Hills, public hearings having been held thereon at which was submitted a written stipulation in which the City of Beverly Hills and the Beverly Hills Utilities Company mutually agreed to the transfer of the properties more particularly described therein for a consideration of Two hundred and fifty thousand dollars (\$250,000.00), the matter thereupon having been submitted, and it appearing that the necessity no longer exists for the finding by this Commission of the just compensation to be paid to the Beverly Hills Utilities Company by the City of Beverly Hills for the public utility property sought to be acquired herein,

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

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3<sup>rd</sup>  
day of January 1924.

C. Leary  
H. B. ...  
Egerton Shore  
Commissioners.