

Decision No. 13534.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the joint Application )  
of the CITIZENS LAND AND WATER COMPANY, )  
a corporation, and the CITY OF UPLAND )  
for an order authorizing the sale and )  
purchase of a water works system. )

Application No. 9928.

Chas. P. Fuller for Citizens Land and Water Company.

Swing & Wilson by Fred A. Wilson for City of Upland.

BY THE COMMISSION:

O P I N I O N

In the above entitled proceeding the Citizens Land and Water Company, a corporation, asks authority to sell its public utility water system to the City of Upland, which joins in the application.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that the residents of the City of Upland at a special election voted bonds and authorized the sale of the same for the purpose of purchasing the water systems which now supply consumers in and in the vicinity of the City of Upland. In accordance with this action an agreement was entered into by which the City agrees to take over the entire water system of the Citizens Land and Water Company and assume its public utility

obligations, both within and outside the corporate limits of the City. It developed however that the actual transfer of operations of the water system took place on January 1st, 1924, without the authorization of this Commission and since that date the City of Upland has demanded of thirty-one consumers outside the city limits a rate of approximately \$1.00 per month in excess of the authorized rate of the utility accepted for filing by the Railroad Commission.

Section 51 (a) of the Public Utilities Act provides, among other things, that no water corporation "shall henceforth sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its . . . mains, plant or system necessary or useful in the performance of its duties to the public . . . without first having secured from the Commission an order authorizing it to do so." Sections 15, 19 and 63 (a) of the Public Utilities Act specifically forbid any change in rates without the proper sanction of this Commission. By giving possession and control of its property to the City of Upland the Citizens Land and Water Company permitted certain of its consumers to be placed at a disadvantage as to rates and permitted increased charges, contrary to law. It is therefore evident that any charges for water service other than those accepted for filing with this Commission were contrary to the plain provisions of the law. It is however recognized that it will be to the best interests of a majority of the consumers if this application is granted and those consumers residing outside of the city limits may enjoy the rates and privileges of municipal operation and ownership through annexation to the City.

No one appeared to protest the granting of this application nor has there been any protest made by those consumers who

have paid an unauthorized rate since January 1st, 1924. It is however one of the duties of this Commission to protect consumers against discriminatory rates and the granting of this application will be authorized only upon proper showing by the Citizens Land and Water Company that all charges, over and above the rate authorized and accepted for filing by this Commission, have been refunded.

The consideration of this transfer is \$75,683.00, which includes all public utility property of the Citizens Land and Water Company except one parcel of non-operative property.

### O R D E R

Citizens Land and Water Company, a corporation, having made application for authority to transfer to the City of Upland its water system supplying consumers in and in the vicinity of Upland, San Bernardino County, and the City of Upland having joined in the application, a public hearing having been held thereon and the matter having been submitted,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby granted upon the following conditions and not otherwise:

1. The consideration given for the transfer of this public utility water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.
2. The authority herein granted shall apply to that public utility property particularly described in the application in this proceeding.
3. The within authority to transfer said property shall apply only to such transfer as shall have been made on or before August 31, 1924, and a certified copy of

the instrument of conveyance shall be filed with this Commission by the Citizens Land and Water Company, a corporation, within thirty (30) days from the date on which it is executed.

4. Within thirty (30) days from the date of this order Citizens Land and Water Company, a corporation, shall file with this Commission a certified statement indicating the date on which control and possession of the property herein authorized to be transferred, was relinquished.
5. The Citizens Land and Water Company, a corporation, shall within twenty (20) days from the date of this order, refund to all consumers any money collected for water service, for which a charge has been made other than the authorized rate filed with the Railroad Commission, and shall file with the Commission a verified statement showing the name and address of each consumer, the amount charged and collected, the corrected charge, and the amount refunded.

Dated at San Francisco, California, this 8<sup>th</sup>  
day of May, 1924.

C. J. Seawey

H. B. Burdick

Dwight Masters

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Commissioners.