

Decision No. 18414

18414

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of
 ED FLETCHER, doing business under the
 firm name and style of SHERMAN WATER
 COMPANY, operating as a public utility,
 JAMES K. DIEBOLD, a single man, and CITY
 OF BEVERLY HILLS, a municipal corporation
 of the State of California of the sixth
 class, for permission to make contracts,
 to lease and transfer property, and to
 make and enter into operations for the
 sale of property and for an order approving
 the form of leases, contracts and options.

ORIGINAL

) Application No. 13,659

Ed Fletcher, for Sherman Water Company

Lovett, Hervey & Scott, by W. W. Lovett,
for Beverly Hills.

J. M. McCroskey, for James K. Diebold.

BRUNDIGE, Commissioner:

O P I N I O N

In this proceeding joint application is made by Ed
 Fletcher, doing business under the firm name and style of Sherman
 Water Company operating a public utility, James K. Diebold, a
 single man, and City of Beverly Hills, a municipal corporation,
 for an order of this Commission authorizing the execution of
 certain contracts, leases and options particularly described and
 attached to the Application and marked as Exhibits "1", "2", "3",
 and "4".

A public hearing in this matter was held before Commissioner
 Brundige at Los Angeles, after due notice thereof had been given
 to all interested parties.

The record in this matter shows that Ed Fletcher, and certain associates, are the owners of a certain public utility water distribution system situated in the vicinity of Sherman, Los Angeles County, and that said properties are operated under the fictitious firm name of the Sherman Water Company. It appears that at the present time the Water Company is obtaining its source of supply under a verbal lease from the owners of certain wells known as the Sherman Wells. The Sherman Water Company now proposes to enter into an agreement with James K. Diebold, whereby the latter will supply water for twenty (20) years in sufficient quantities to the former for domestic, agricultural, fire protection, manufacturing, municipal public uses and such other uses for which water is now being supplied by the Company. Under this agreement the water is to be supplied from the so-called Sherman Wells, which properties are to be acquired by James K. Diebold preliminary to the execution of the proposed agreement. This agreement is referred to in the Application as Exhibit No. "1".

It is further proposed that James K. Diebold, after having obtained title to the properties known as the Sherman Wells, will also enter into a so-called "water lease" agreement with the City of Beverly Hills. Under this agreement James K. Diebold will lease to the City the said properties for a period of twenty years under definite terms and conditions, one of which provides that the lessee shall deliver to the Sherman Water Company, the water which Diebold proposes to obligate himself to deliver to that Company under the contract referred to above as Exhibit No. "1". As a consideration for delivery of this water to the Water Company, the lessor will pay to the City a price agreed upon in the water lease.

This proposed water lease is referred to in the application as Exhibit No. "2" and is made a part of the application.

Upon the execution of the two agreements above referred to, it is proposed to execute a so-called "Option agreement". Under this agreement the City of Beverly Hills is to be given an option to purchase, under definite terms and conditions, properties comprising the Sherman Wells, and the properties of the Sherman Water Company. This option is to be given by James K. Diebold and Ed Fletcher. The form of the option agreement proposed to be used by the parties is referred to as Exhibit "3" in the Application.

It is further proposed that an agreement be entered into between the City of Beverly Hills and James K. Diebold whereby the former agrees to purchase certain personal property owned by the latter, which is now located upon the properties known as the Sherman Wells. The agreement which is proposed to be used in this regard is referred to in the Application as Exhibit No. "4".

Subsequent to the execution of the four above referred to agreements, it is contemplated that James K. Diebold will transfer all of the said "Sherman Water properties", subject to the above mentioned contracts, to said Title Insurance and Trust Company to be held by it as trustee for Ed Fletcher, S. H. Woodruff, W. C. Davis and H. E. Downing.

It is the prayer of the Application that an order be issued by this Commission authorizing James K. Diebold to procure title to all of the properties described in said lease referred to in the Application as Exhibit "2", and also all properties described in Exhibit "B" attached to said lease marked Exhibit "2", and authorize the execution of the four agreements above referred to as Exhibits "1", "2", "3", and "4".

No protest was filed to the granting of this application and it appears that the public interest will be served by granting the authority sought herein. The following form of Order is recommended.

O R D E R

ED FLETCHER, doing business under the firm name and style of Sherman Water Company, JAMES K. DIEBOLD, and the CITY OF BEVERLY HILLS having made a joint Application to this Commission for an Order authorizing the execution of certain leases, contracts and options, referred to in the Application as Exhibits "1", "2", "3", and "4", a public hearing having been held thereon, and the Commission being fully informed in the premises,

IT IS HEREBY ORDERED that James K. Diebold is authorized to procure title to all of the properties described in the lease referred to as Exhibit "2" in the Application herein, and also all properties described in Exhibit "3" attached to said Exhibit "2".

IT IS HEREBY FURTHER ORDERED that Ed Fletcher, doing business under the firm name and style of Sherman Water Company, be and is hereby authorized to enter into certain contracts, leases, and options in substantially the same form as proposed by Applicant's Exhibits "1", "2", "3", and "4", which Exhibits are hereby referred to and made a part of this Order.

IT IS HEREBY FURTHER ORDERED that subsequent to the execution of the said contracts, leases and options above referred to as Exhibits "1", "2", "3", and "4", James K. Diebold may transfer all of said Sherman Water properties, subject to said above mentioned contracts, to the Title Insurance and Trust Company to be held by it as trustee for Ed Fletcher, S. H. Woodruff, W. C. Davis and H. E. Downing.

The authority herein granted is subject to the following

conditions:

1. Within ten (10) days after the execution of the agreements herein authorized, Ed Fletcher shall file verified copies of said agreements with this Commission.

2. In the event the City of Beverly Hills exercises the option to be given to it under the option agreement referred to above as Exhibit "3", the formal transfer of the title to the properties of the Sherman Water Company shall not become effective until authorized by order of this Commission.

3. The consideration involved and price paid by Ed Fletcher to James K. Diebold for water delivered by the City of Beverly Hills as provided for in the above referred to agreements, shall not be urged before this Commission or any other public body as a measure of value for rate fixing purposes.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

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 27th day of May, 1927.

Emmanuel
H. B. Rendice
Chesney

Commissioners