

Decision No. 11414

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of the FAIRMOUNT WATER COMPANY, a corporation, ED. FLETCHER, and the CITY OF EAST SAN DIEGO, California, a municipal corporation, for an order authorizing the sale by said FAIRMOUNT WATER COMPANY to said ED. FLETCHER of the plant, water distributing system and real and personal property incident thereto, in the City of East San Diego and territory adjacent to said city, and for an order authorizing the sale by said ED. FLETCHER to the said CITY OF EAST SAN DIEGO of those portions of said system lying within the limits of said city.

ORIGINAL

APPLICATION NO. 8462.

Sweet, Stearns and Forward, by A. H. Sweet,
for Fairmount Water Company.
Crouch and Sanders, by C. C. Crouch,
for Ed. Fletcher.
Arthur T. French, City Attorney,
for City of East San Diego.

BY THE COMMISSION.

O P I N I O N

In this proceeding the Fairmount Water Company, a public utility corporation, which owns and operates the pipe distribution system supplying water in the city of East San Diego and in certain adjacent territory, makes joint application with Ed. Fletcher for authority to transfer the portion of its system lying within the boundaries of the city and north thereof to said Ed. Fletcher. In addition, application is made herein jointly by Ed. Fletcher and the City of East San Diego for an order authorizing the transfer by Ed. Fletcher to the city of all of that portion of above mentioned water distribution system lying within the corporate limits of the

city.

A public hearing was held in this matter at San Diego on December 20, 1922, before Examiner Williams, of which all interested parties were duly notified and given an opportunity to appear and be heard.

The description of the system which Fairmount Water Company proposes to transfer to Ed. Fletcher and also the terms and conditions of sale and purchase are set out in a certain agreement of sale, copy of which is attached to the application and marked Exhibit "A".

Copy of a similar agreement of sale between Ed. Fletcher and the City of East San Diego is also attached to the application and marked Exhibit "E", giving a description of the portion of the system which it is proposed is to be transferred to the city, and the terms and conditions of such proposed sale. The consideration agreed upon in both contracts is the same in amount, namely \$31,000.00.

The evidence shows that, upon the consummation of the two transfers proposed herein, Ed. Fletcher will retain all that portion of the system of Fairmount Water Company lying north of the north boundary of the City of East San Diego, at present serving some 20 consumers; he expressly agrees to assume all the public utility obligations of the company in that area relative both to present and prospective users of water.

Evidence also shows that the City of East San Diego assumes all present obligations of the Fairmount Water Company as to that portion of the property which it proposes to acquire relative to present and prospective consumers.

It appears that the Fairmount Water Company is also the owner of the public utility distribution system supplying some 60 consumers in what is known as the Sierra Vista tract, located some five miles easterly from the city limits of East San Diego, no portion of which is included in the system it proposes to transfer under this appli-

cation.

Following the granting by this Commission of authority to make the transfers proposed herein, it is the intention of the Board of Trustees of the City of East San Diego to immediately proceed with the necessary steps to exercise its option to purchase said distributing system from Ed. Fletcher according to the terms and conditions as set out in above mentioned contract agreement, Exhibit "E".

No protest was filed to the granting of this petition and the Commission is of the opinion that public convenience and necessity will be best served by an authorization of the transfers as requested.

O R D E R

Joint application having been made by the Fairmount Water Company, a public utility corporation, for authority to sell, and Ed. Fletcher to purchase the certain water distribution system now serving consumers in the City of East San Diego and in adjacent territory northerly thereof, and by Ed. Fletcher to sell and the City of East San Diego, a municipal corporation, to purchase that portion of said distributing system of Fairmount Water Company lying within the city limits of East San Diego, and these matters having been heard and submitted for decision,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby granted, subject to the following conditions:

1. That the authority herein granted the Fairmount Water Company to transfer public utility property to Ed. Fletcher shall apply only to that particular property described in that certain agreement of sale attached to the application and marked Exhibit "A", and shall apply only to such sale as may be made in accordance with the terms and conditions as set out therein.
The authority herein granted Ed. Fletcher to transfer public utility

property to the City of East San Diego shall apply only to that particular property described in that certain agreement of sale attached to the application and marked Exhibit "E", and shall apply only to such sale as may be made in accordance with the terms and conditions as set out therein.

2. The considerations given for the transfers herein authorized shall not be urged before this Commission or any other public body as findings of value for any purpose other than the transfers herein authorized.
3. That the authority herein granted shall not in any way apply to properties of Fairmount Water Company located in what is known as the Sierra Vista Tract, or any portion thereof.
4. The authority herein granted shall apply only to such transfers as may have been made on or before June 30, 1923.
5. A certified copy of the instrument of conveyance for each transfer authorized herein shall be filed with this Commission by the Fairmount Water Company and by Ed. Fletcher, respectively, within thirty (30) days from the date on which they are executed.
6. Within ten days from the date on which Fairmount Water Company and Ed. Fletcher, respectively, actually relinquish control and possession of the respective properties herein authorized to be transferred, they shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

Dated at San Francisco, California, this 29th
day of December, 1922.

H. B. Brundage
Dr. W. H. Martin
J. H. Brundage

Commissioners.