

ORIGINAL

Decision No. 934

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application :
of the PENINSULA WATER COMPANY :
for permission to sell a portion : Application No. 726.
of its water system to the City :
of Burlingame. :

Ross & Ross, for Applicant.

LOVELAND, Commissioner.

O P I N I O N

This application came on regularly for hearing August 5, 1913, at 9 o'clock A. M.

Applicant is a corporation with its principal place of business in the City of San Mateo, San Mateo county, California.

The business of applicant is to supply water for domestic and other purposes to the cities of San Jose and Burlingame and some outlying territory contiguous thereto.

Copies of the Articles of Incorporation of applicant were filed in the pleadings and are hereby referred to as Exhibit "A". Financial statement of applicant was also filed and is hereby referred to as Exhibit "B".

Applicant prays in its petition for permission to sell a portion of its water system, to-wit: that portion known as the Burlingame Water System, particular description of which is found in copy of deed on file with application herein and marked Exhibit "C", to the City of Burlingame for the sum of \$48,375.00.

Applicant gives as the reason for desiring to sell this portion of its plant or system the fact that the City of Burlingame has arranged to install its own water system and has authorized and sold bonds in the sum of \$175,000.00 for that purpose.

At the time that applicant purchased that portion of its system known as the Burlingame Water System, which it now desires to sell, it created a bonded indebtedness in the sum of \$100,000.00 secured by a deed of trust which is a first lien upon the Burlingame Water Works, and a second lien upon the San Mateo Water Company, and applicant testifies that if this sale of the Burlingame Water System to the City of Burlingame should not be consummated it fears that it would be unable to compete with the municipal system which the City of Burlingame is installing and that, in consequence of that, it would be unable to pay its bond interest, with the possible result that such legal steps would be taken as would result in the sale of the Burlingame Water System at a price insufficient to discharge the bonded indebtedness, and a consequent further action against the San Mateo Water Company for the deficiency.

The value of the Burlingame Water System, which applicant now desires to sell to the City of Burlingame, was arrived at by arbitration and applicant testified that it believed the valuation arrived at, to-wit: \$48,375.00, is the fair value of the property.

Mr. G. J. McGregor, President of the Board of Trustees of the City of Burlingame, was present at the hearing of this application and stated that a resolution had been regularly passed by his Board of Trustees creating the Committee of Arbitration and that, upon report of said Committee, the Trustees had regularly passed a resolution to purchase the Burlingame Water System from applicant at the price of \$48,375.00; That he regarded such price as the fair value of the property; and that the City of Burlingame joined in the application, such jointure being necessary on account of there being some consumers outside of the city limits of Burlingame.

I find as a fact that the interests of the residents and water users of Burlingame will best be served by permitting the transfer, and I recommend the following Order:-

O R D E R

WHEREAS, the Peninsula Water Company has applied for permission to sell a portion of its water system, known as the Burlingame Water System, to the City of Burlingame, for the sum of \$48,375.00; and,

WHEREAS, the City of Burlingame has decided to install, and is installing, a municipal water plant; and,

WHEREAS, the Commission has found that the interests of the residents and water users of Burlingame will best be served by permitting the transfer;

IT IS HEREBY ORDERED: That the Peninsula Water Company be and it is hereby granted permission to sell for \$48,375.00 that portion of its water system or plant, known as the Burlingame Water System, described in the deed by which it is proposed to convey said property, said description being as follows:-

FIRST: Lots numbers fifteen (15), sixteen (16), seventeen (17), eighteen (18) and nineteen (19) in Block number forty-six (46), according to, and as the same are shown, designated and delineated on that certain map entitled, "Lyon & Hoag Subdivision of the Town of Burlingame", recorded in the office of the County Recorder of said County of San Mateo on the 16th day of July, 1906, in Book 4 of Maps at page 26. Together with the improvements and fixtures situated thereon.

SECOND: The water system now belonging to said party of the first part, consisting of water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings, now located on and under the lands marked as streets, roads and avenues on those certain maps recorded in the office of the County Recorder of said County of San Mateo, and entitled substantially as follows:

"Map No. 1 of the Town of Burlingame", filed for record and recorded therein, March 15th, 1897, in Book 2 of Maps at Page 87; "Lyon & Hoag Subdivision of the Town of Burlingame", filed for record and recorded therein, July 16th, 1906, in Book 4 of Maps at Page 26; "Map No. 2 of the property of the Burlingame

Land Company", filed for record and recorded therein, February 20th, 1905, in Book 3 of Maps at Page 55; "Burlingame Villa Park", filed for record and recorded therein, June 5th, 1905, in Book 3 of Maps at Page 65; "Map of the de Coulon Subdivision, Burlingame, Cal." filed for record and recorded therein, May 14th, 1909, in Book 6 of Maps at Page 61; "Map of Subdivision No. 2 of Burlingame Park, Cal.", filed for record and recorded therein, October 16th, 1905, in Book 3 of Maps at Page 77; "Map of Subdivision No. 3, Burlingame Park, Cal." filed for record and recorded therein, November 20th, 1905, in Book 3 of Maps at page 84; "Map of Subdivision No. 4 of Burlingame Park, Cal.", filed for record and recorded therein November 20th, 1905, in Book 3 of Maps, Page 85; "Map of Subdivision No. 5 of Burlingame Park", filed for record and recorded therein, May 13th, 1907, in Book 5 of Maps at Page 4; "Map of Burlingame Heights, San Mateo County, California", filed for record and recorded therein, June 15th, 1905, in Book 3 of Maps at Page 67; "Map of Burlingame Terrace, San Mateo County, Cal.", filed for record and recorded therein June 4, 1906 in Book 4 of Maps at Page 23; "Map No. 2 of Burlingame Terrace, Burlingame, California", filed for record and recorded therein January 3, 1911, in Book 7 of Maps at Page 38.

Also the water system now belonging to said party of the first part, consisting of water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings now located on and under all streets, roads, avenues, alleys, squares and rights of way, in the City of Burlingame, other than those hereinabove described.

THIRD: All water, water rights and water privileges and appropriations now owned or held by the party of the first part in the City of Burlingame, county and state aforesaid.

FOURTH: All rights, easements, privileges and franchises including the right to lay, construct, maintain, repair, restore and renew water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings, now owned or held by the party of the first part in, to, upon, along, under, through or across the streets, roads, avenues, alleys, squares and rights of way hereinbefore described.

FIFTH: All business now carried on by the party of the first part at and in the City of Burlingame, county and state aforesaid, and elsewhere in the county of San Mateo where the consumers are served through the aforesaid water system, together with the good will of the same.

AND BE IT FURTHER ORDERED: That this Order shall not become effective until the City of Burlingame shall have filed with this Commission a stipulation regularly passed by its Board

of Trustees and signed by the President and Secretary thereof that said city accepts each and all of the obligations which the Peninsula Water Company, and its subsidiary company, the Burlingame Water System, are under to the patrons of said Peninsula Water Company, and its subsidiary company, the Burlingame Water System, whose homes and property served by said company are outside of the corporate limits of said City of Burlingame, and will discharge those obligations to said consumers in the same manner and to the same extent as the Peninsula Water Company, and its subsidiary company, the Burlingame Water System, were obligated to do, and will give to said consumers the same character of service as is given to the consumers of said Peninsula Water Company, and its subsidiary company, the Burlingame Water System, whose homes and property are within the limits of the said City of Burlingame.

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 6th day of September, 1913.

John W. McArthur
W. D. Leland
Ed. Gordon
Edwin C. Edgerton

Commissioners.