

Decision No. 30994

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
the CALIFORNIA WATER & TELEPHONE  
COMPANY and the CITY OF PASADENA,  
for an order authorizing the for-  
mer to sell to the latter that  
portion of the water distribution  
system of California Water & Tele-  
phone Company within the section  
of the City of Pasadena known as  
Oak Knoll.

Application No. 21961

**ORIGINAL**

Bacigalupi, Elkus & Selinger by Claude Rosenberg for California  
Water & Telephone Company.  
Harold P. Huls, City Attorney and Leonard A. Diether, Special  
Counsel for the City of Pasadena.

BY THE COMMISSION:

O P I N I O N

In this proceeding, the Railroad Commission is asked to enter its order authorizing the California Water & Telephone Company, hereinafter sometimes referred to as the Company, to sell, transfer and convey to the City of Pasadena, hereinafter sometimes referred to as the City, the property described in the agreement filed in this proceeding as Exhibit A and authorizing California Water & Telephone Company to discontinue its public service in the area now being served by said California Water & Telephone Company from the said properties to be transferred to the City of Pasadena.

California Water & Telephone Company is a corporation, organized and existing under the laws of the State of California and is a public utility engaged, among other things, in the distribution of water for domestic, irrigation and public purposes in the section of the City of Pasadena known as Oak Knoll and elsewhere in the State of California. The Company is also engaged in the business of a public utility rendering telephone and telegraph service in portions of Los Angeles, San Bernardino and Riverside Counties.

The City of Pasadena is a municipal corporation, organized and

existing under, and by virtue of the Constitution of the State of California, and a freeholders charter issued thereunder. The City owns and operates a municipal water works and system of pipes and mains and other distribution facilities for furnishing and supplying water to consumers within the City of Pasadena other than said Oak Knoll section. The City also supplies water to the residents of a section of San Marino. The Commission by decision No. 22466, dated May 21, 1930 in application No. 16525 authorized the Euclid Avenue Water Company to sell its public utility water properties to the City of Pasadena. At that time part of the Company's properties were located within the City of Pasadena and part within the City of San Marino. It is by virtue of having acquired the properties of the Euclid Avenue Water Company that the City of Pasadena is now engaged in selling water to some of the residents of the City of San Marino.

It is of record that the City desires to serve all of its inhabitants with water from its own water works. To accomplish that end California Water & Telephone Company and the City of Pasadena have entered into an agreement, wherein and whereby, subject to the approval and authorization of the Railroad Commission, the Company agrees to transfer, and the City agrees to receive, that portion of the Company's distribution system situate in the section of Pasadena known as Oak Knoll, and the City of Pasadena agrees to transfer, and the Company agrees to receive, a portion of the water distribution system owned by the City in that portion of the City of San Marino known as the Euclid Avenue section. The two distribution systems are more particularly described and set forth in said agreement, (Exhibit A) and in exhibits attached thereto.

The property which the Company has agreed to sell to the City of Pasadena is recorded on its books at \$57,771.14. The Company's depreciation reserve, applicable to such properties, is reported at \$8,120.00. For 1937 the operating revenues of the California Water

& Telephone Company, from its business conducted in the Oak Knoll section of the City of Pasadena is reported at \$26,537.32. The reproduction cost new of the properties which the City will transfer to the Company is reported at \$60,541.00 and the depreciation reserve applicable to such properties at \$13,063.00. During 1937 the City's operating revenue from the operation of such properties is reported at \$21,811.87.

The testimony shows that through the exchange of properties, the consumers in each of the areas will pay a lesser amount in total water charges after the exchange than they are now paying.

The City of Pasadena, on May 29, 1934 filed an action against California Water & Telephone Company in the Superior Court of the State of California in and for the County of Los Angeles, designated as "City of Pasadena, a municipal corporation, plaintiff, v. California Water & Telephone Company, a corporation, defendant," numbered 374,172 wherein the plaintiff prayed for an injunction to restrain the defendant from using certain streets in the City of Pasadena for the operation and maintenance of a water distributing system and for damages for the use of said certain streets without authority from October 1, 1926 to and including the date of the filing of said action. If the agreement between the City and the Company is consummated, said action will be dismissed. The Company agrees to execute and deliver to the City an instrument in writing whereby said Company releases and surrenders to the City any and all of the rights, privileges and franchises owned or claimed by said Company, or any of its predecessors in interest, for conducting, conveying, transporting, supplying, distributing or selling water within the corporate limits of the City as such limits may now or hereafter exist, under Section 19 of Article XI of the Constitution of the State of California as such section existed prior to the amendment thereof adopted October 10, 1911. The City will grant to the Company a franchise for a term

of twenty years to conduct, convey, transport, supply, distribute and sell water in the City of Pasadena under the terms of the agreement. The franchise is in substance a franchise for transmission facilities rather than for service. The only persons whom the company will be entitled to serve under the franchise are persons owning or occupying real property located partly in the City of Pasadena, and partly in the City of San Marino, or persons owning or occupying parcels of real property located within areas that may hereafter be annexed by the City.

The City will pay the Company \$76,000.00 and deliver to the Company without charge or cost, prior to December 31, 1939, subject to the provisions of the agreement, 30,000,000 cubic feet of water. This water will be used by the Company to supply consumers residing in the Euclid Avenue section of the City of San Marino.

The Commission by decision No. 28139 dated July 26, 1935 in application No. 19936, granted the Company's predecessor, San Gabriel Valley Water Company, a certificate of public convenience and necessity to exercise the rights and privileges granted by ordinance No. 258 of the City of San Marino. For 1937 the Company reports its operating revenue from the sale of water in San Marino at \$96,548.55. It is estimated that the Company will have to expend about \$6,500.00 to connect the properties it will acquire with its present system.

The City and the Company agree that on or after the change of possession of the water distributing systems agreed to be exchanged, each of them will assume and fulfill any and all public utility obligations which the prior owner or its predecessors in interest has had, now has, or ever will have, to render public utility service by and through the facilities acquired. The agreement further provides that any refundable guarantee deposits which the City or the Company now hold for the account of consumers in the respective water

distributing systems agreed to be exchanged will be paid directly by the party holding said deposits to the consumers paying the same. Any deposits which either the City or the Company deem necessary to be paid by consumers in their respective water distributing systems to be acquired by them pursuant to the agreement, shall be demanded and collected from consumers by the party desiring such deposits.

While Exhibit four contains an estimate of the reproduction cost of the properties to be acquired by the Company, the person who prepared the exhibit did not appear as a witness. For the purpose of this proceeding the reproduction cost of the properties is not a material matter. We are of the opinion that any properties which the company acquires from the City should be, by the Company, recorded on its books at their original cost. If such cost can not be determined it should be estimated. An appropriate amount to reflect the accrued depreciation in the properties should be added to the Company's depreciation reserve.

No one appeared at the hearing to protest the granting of this application.

#### O R D E R

The Commission, having considered the evidence submitted at the hearing had on this application on June 10, 1938, before Examiner Fankhauser, and it being of the opinion that this application should be granted subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED, that the California Water & Telephone Company be, and it is hereby, authorized, to sell, transfer, and convey, on or before October 1, 1938, to the City of Pasadena, its public utility water properties described in the agreement filed in this proceeding as Exhibit A, said transfer to be upon the terms and conditions set forth in said agreement.

IT IS HEREBY FURTHER ORDERED, that upon the transfer of said properties to the City of Pasadena, the California Water & Telephone Company may discontinue its public service in the area now being served by it from the said properties to be so transferred to the City of Pasadena.

IT IS HEREBY FURTHER ORDERED, that within sixty (60) days after the California Water & Telephone Company acquires from the City of Pasadena, the properties described in said agreement, it shall file with the Railroad Commission a statement showing the original cost of said properties, or an estimate of their original cost, if the actual original cost is not available; the accrued depreciation applicable to said properties; and a copy of the entries whereby it records said properties on its books of account.

DATED at San Francisco, California, this 20<sup>th</sup> day of June 1938.

William Miller  
Frank D. Miller  
Carl W. Miller  
Carl W. Miller  
Carl W. Miller  
COMMISSIONERS