

Decision No. 37042

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of Sidney Smith, owner of HOME GARDENS WATER CO. (not incorporated) and Frank Gillelen, for permission to sell Home Gardens Water Co. to said Frank Gillelen and also APPLICATION of said Frank Gillelen, in event of granting said permission to sell, for authorization to mortgage said property.

Application  
No. 25890

George B. Ross, for Sidney Smith  
Frank Gillelen, In propria persona

BY THE COMMISSION:

O P I N I O N

Sidney Smith, owner and operator of Home Gardens Water Co., a public utility, asks permission to sell his public utility water properties to Frank Gillelen. Said Frank Gillelen asks permission to acquire said properties and mortgage the property in the amount of \$137,000, with interest at 5% per annum. He proposes to pay the principal at the rate of 3% per year for fifteen years and the balance at the end of the sixteenth year.

Sidney Smith, hereinafter sometimes referred to as

the Seller, serves water in a portion of South Gate and in a portion of Los Angeles County near Pico. The South Gate area served by him is described as follows:

"Parcel 1. Beginning at the intersection of Century Boulevard and Elizabeth Street, thence North to Tweedy Boulevard, thence West to Deeble St., thence North to Southern Place, thence East to San Vicente Avenue, thence South to Tweedy Boulevard, thence West to San Gabriel Avenue, thence South to Century Boulevard, thence West to point of beginning.

"Parcel 2. Beginning at the intersection of Southern Place and McMarney Avenue, thence North to Firestone Boulevard, thence East to Bent St., thence North to Mason Street, thence East to Vassler Avenue, thence South to Southern Place, thence West to point of beginning.

"Parcel 3. Beginning at the intersection of Wood Avenue and Atlantic Boulevard, thence North to Southern Avenue, thence East to Salt Lake Avenue, thence South to Ward Avenue, thence West to point of beginning."

The area served in Los Angeles County near Pico is described as Tract 9095, M-155; Tract 10056, H-183, and Tract 8128, M-101.

The area served with water is shown on a map in Exhibit 5.

As of December 31, 1943, the Seller had 2,430 active service connections, of which 118 were metered. His operating revenues for 1943 amounted to \$48,633.33. Of this sum \$43,166.23 was billed under flat rates. His operating expenses, exclusive of Federal Income Taxes, were \$32,665.71, leaving a net operating revenue, before Federal Income Tax, of \$15,967.62. The operating expenses include \$4,921.18 for depreciation, a matter to which reference will hereafter be made.

Seller has on file with the Commission a monthly flat rate of \$1.50 for service from a 3/4" connection. His monthly

meter rates are:

a. Minimum Monthly Charges:

5/8" and 3/4" meters	\$1.00
1" meter	1.75
2" meter	3.00

b. Monthly Charge for Water Use:

0 to 1,000 Cu. Ft. per 100 Cu. Ft.	\$ .20
1,000 to 2,000 Cu. Ft. per 100 Cu. Ft.	.15
All over 2,000 Cu. Ft. per 100 Cu. Ft.	.10

For fire hydrants owned by a city or county fire district, his rate is \$2.00 per hydrant per month. Seller also has on file victory garden rates.

The Seller has agreed to sell to Frank Gillelen, lots 975 and 976 in Tract 5280; lots 1800, 1801, and 2776 in Tract 5772, and a portion of lot one of the resubdivision of a portion of Montebello. His water system in addition to said lots comprises four wells, equipped with electrically-driven deep well pumps; three elevated storage tanks, two of redwood stave construction on wooden towers located in South Gate, one of 30,000 and the other of 50,000-gallon capacity, and the third, a 50,000-gallon steel tank on a steel tower situate at East Montebello; three small frame buildings to house the pumping equipment; 127,926 lineal feet of distribution mains, consisting of 9,901 feet of cast iron, 53,407 feet of standard, 62,584 feet of casing, and 2,034 feet are riveted or welded pipe; 2,430 services, and 127 meters. The fire hydrants are owned by the City of South Gate or by Los Angeles County.

The Seller reports the cost of his Fixed Capital as of December 31, 1943 at \$194,525.07 and a depreciation reserve of \$115,728.11. The Seller has used the straight line method

for computing the annual depreciation expense. The testimony shows that his depreciation accruals in the aggregate have been excessive. The accruals from 1923 to and including 1931 were not earned in their entirety. During this period he included in operating expenses on account of depreciation, \$112,106.92, while his net operating loss aggregated \$41,806.49. Beginning with 1932, the depreciation accruals were, generally speaking, 50% lower than during the previous years. At that time he concluded that the properties had a longer life than the estimates made by him in 1924. A further downward adjustment of the depreciation accruals was made by him in 1940. Estimates of the life of the Seller's properties, used by him in calculating depreciation accruals, appear in Exhibit 3. Estimates of the probable life of the properties appear in the appraisal report submitted by Frank Gillelen, a Consulting Engineer, and the Purchaser of the properties, and in the reports submitted by the Valuation Division of the Public Utilities Department of the Railroad Commission.

The Purchaser estimates the Reproduction Cost of the properties, as of January 1, 1941, at \$210,057 and the accrued depreciation at \$41,333, leaving a Reproduction Cost New less depreciation of \$168,724. The Valuation Division estimates the Reproduction Cost New of the properties, as of December 31, 1940, at \$217,395 and the Reproduction Cost New less depreciation at \$123,354. To these figures it adds the cost of additions and betterments installed during 1941, 1942, and 1943 less retirements. As of December 31, 1943, it estimates the Reproduction Cost New of the properties at \$230,066 and the

Reproduction Cost New less depreciation at \$136,172. The Valuation Division also submitted an estimate of the Historical Cost New of the properties to be transferred. This estimate is \$126,208. Its estimate of the historical cost of the properties less depreciation, calculated on a straight line basis, is \$118,796. The Valuation Division estimates the accrued depreciation, calculated on a straight line basis, at \$67,410 and at \$32,952, if calculated on a 5½% sinking fund basis. The cost and accrued depreciation estimates submitted by the Valuation Division were not questioned by the Seller or the Purchaser.

The testimony shows that the owner of the property should immediately expend \$26,736 to increase the water supply and improve service to consumers.

Purchaser has agreed to pay the Seller in cash \$125,000 for the properties. The Purchaser is asking permission to mortgage the properties for the sum of \$137,000, with interest at 5% per annum. He proposes that the principal be payable at the rate of 3% per year for 15 years and the balance be payable at the end of the sixteenth year. He has not filed with the Commission a copy of the proposed mortgage nor had he at the time of the hearing entered into any agreement with any one for a loan of that or any other amount. He did testify that the consummation of the transaction is not dependent upon the authorization of a mortgage in the sum of \$137,000.

In our opinion we are not warranted in authorizing the Purchaser to place a \$137,000 mortgage on the properties. The estimated historical cost of the properties less deprecia-

tion, calculated on a straight line basis, is, as said above, \$113,798. Adding to that figure the estimated cost, \$26,736, for additions and betterments makes a total of \$145,534.

Assuming that the additions and betterments will be installed, we will authorize the Purchaser, if he submits a note and mortgage in satisfactory form, to issue a note secured by a deed of trust or mortgage of not more than \$90,000. The sale of the properties will be authorized subject to the condition that the Order will not become effective until the Commission, by Supplemental Order, has authorized the Purchaser to issue a note, execute a deed of trust or mortgage.

Sidney Smith desires to sell his public utility properties so that he can devote his attention to another line of business. Frank Gillelen, if he acquires the properties of Sidney Smith, intends to operate them under the rates, rules and regulations now filed by Sidney Smith.

#### O R D E R

A public hearing having been held in the above entitled matter and the Commission having considered the evidence submitted at such hearing, and it being of the opinion that this application should be granted subject to the conditions of this Order, therefore,

IT IS HEREBY ORDERED that Sidney Smith, owner of Home Gardens Water Co., be, and he is hereby, authorized to sell to Frank Gillelen, after the effective date of this Order and on or before September 30, 1944, his public utility water properties

described in Exhibit 1 on file in this application, said sale to be made subject to the conditions of said Exhibit 1.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will not become effective until the Commission has authorized Frank Gillelen to issue a note and execute a deed of trust or mortgage to secure the payment of such note.

IT IS HEREBY FURTHER ORDERED that if Frank Gillelen acquires said Home Gardens Water Co. properties, he shall file:

(a) within forty-five (45) days after the purchase of said properties, four (4) copies of rates for water service in the areas now served by Sidney Smith which rates shall not be higher in any particular than the applicable rates now on file by Sidney Smith.

(b) within forty-five (45) days after the purchase of said properties, four (4) sets of rules and regulations applicable to water service in the areas now served by Sidney Smith, each set of which shall contain a map or sketch drawn to an indicated scale upon a sheet approximately 8½" x 11" in size, delineating thereupon in distinctive markings the boundaries of the present service area, and the location thereof with reference to the surrounding territory, it being understood, however, that the filing of such sketch shall not be considered as a conclusive determination of the area of dedication.

(c) within forty-five (45) days after the purchase of said properties, four (4) copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, delineating the areas served and its location with reference to sources of supply and surrounding territory. Such map shall show the source and date thereof, and include data sufficient to determine clearly the location of the various properties comprising the service area.

Dated at San Francisco, California, this 9<sup>th</sup> day  
of May, 1944.

Richard Lusk

Justus F. Cameron

Francis A. Havenner

Frank D. ...

Geo. A. ...

Commissioners.