

Decision No. 37983

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FRANKLIN CANYON COMPANY, a corporation, and CARRIE ESTELLE DOHENY, an individual, joined in by F. B. R. CUNNINGHAM, an individual, and PETROLEUM SECURITIES COMPANY, a dissolved corporation, for various orders pertaining to the issuance of shares of Franklin Canyon Company, the acquisition of property by said corporation and the sale by said corporation of a portion of such property so acquired.

First Supplemental Application of Franklin Canyon Company to Discontinue Public Utility Service.

ORIGINAL

Application
No. 26628

BY THE COMMISSION:

O P I N I O N

In this application, as amended, the Commission is asked to authorize the conveyance to a newly created corporation of certain properties heretofore devoted to the rendition of a public utility water service, and for release from the obligation to continue such water service in the future. Authority is also sought by the corporation to issue its capital stock.

The properties referred to are described in Schedule "1" attached to the application, and shown on the map annexed thereto. It is alleged that Carrie Estelle Doheny has for more than five years past been in possession of such properties under claim of title granted by F. B. R. Cunningham, et al.

Under the authority granted by Decision No. 6806, dated October 28, 1919, as amended, in Application No. 4657, P. T. Durfy transferred a public utility water system then known as the Sherman Water System, to W. P. Cunningham and F. B. R. Cunningham. Subsequently by Decision No. 12805, dated November 8, 1923, in Application No. 9441, the Commission authorized W. P. Cunningham and F. B. R. Cunningham to transfer to Ed Fletcher that part of the Sherman Water Company properties lying to the east and south of the division point marked on the map filed as Exhibit "B" in Application No. 9441. The Cunninghams retained, generally speaking, that portion of the system located north and west of the Town of Sherman, together with a proportionate interest in the franchise previously granted by the County of Los Angeles, the water sources in Franklin Canyon, and a greater part of the main transmission line.

Said W. P. Cunningham and F. B. R. Cunningham, until the death of said W. P. Cunningham, and F. B. R. Cunningham thereafter continued to operate the properties retained until about February 1929. For a number of years prior to that time they furnished water to E. L. Doheny, now deceased, and his wife, Carrie Estelle Doheny, for use on their property known as the Doheny Beverly Ranch. Early in 1929 by various conveyances, F. B. R. Cunningham conveyed her interest in the water system as it then existed and her interest in the Franklin Canyon properties, with the exception of certain lots in Tract No. 6114, to E. L. Doheny. On or about April 15, 1930, E. L. Doheny conveyed to Petroleum Securities Company all his interest in said water system and Franklin Canyon properties. On

September 8, 1935, E. L. Doheny died leaving his widow, Carrie Estelle Doheny, his sole legatee and devisee. The decree of distribution made on April 3, 1939, in probate proceedings No. 153011, distributed his estate to Carrie Estelle Doheny. On or about November 1, 1938, Petroleum Securities Company, then in process of voluntary dissolution, distributed its assets to its stockholders, and as a part of said distribution conveyed all of its interest in said Franklin Canyon properties and water system to Carrie Estelle Doheny. The transfer of the Franklin Canyon properties and the water system from W. P. Cunningham to F. B. R. Cunningham, from F. B. R. Cunningham to E. L. Doheny, and from E. L. Doheny to Carrie Estelle Doheny were all made without the approval of the Railroad Commission. Applicants allege that to the extent that such approval may have been required, the parties to such transfers made the same in good faith, but without recognition of the necessity of such approval which is occasioned by the prior operation of a portion of such property as a public utility. To remedy this situation applicants, if authorized to do so, will execute new instruments of transfer in all cases where the transferor is available to execute the same. Such proposed transfers are combined in one instrument running directly to Franklin Canyon Company. A copy of the instrument, a quit claim deed, is filed in this application as Exhibit "A".

Franklin Canyon Company asks permission to issue in payment for said properties 352 shares of its capital stock, each share being of the par value of \$100. The stock will be issued to Carrie Estelle Doheny. It is alleged that said properties have a value of \$35,220.41.

Upon the acquisition of said properties, Franklin Canyon Company asks permission to discontinue furnishing water as a public utility.

As said, Carrie Estelle Doheny has, for more than five years last past, been in possession of the water properties. She used the water system to supply water to certain properties owned by her and in connection with such operation also supplied water as a matter of convenience to Mrs. Lucy Smith Battson, widow of the late E. L. Doheny, for use on property owned by Mrs. Battson. Exhibit "C" shows that water service to Mrs. Battson has been recently terminated by mutual consent of Carrie Estelle Doheny and Mrs. Battson, and that the latter does not claim any right to receive water from Carrie Estelle Doheny as a public utility or otherwise. No demand for public utility water service has been at any time made upon Carrie Estelle Doheny.

The application as first presented prayed that should the Commission permit the transfer of all the described properties to Franklin Canyon Company, it further authorize this corporation to reconvey to Carrie Estelle Doheny all parts thereof except the pipe line and certain well sites. By the amended application it is declared that the foregoing request is waived if the Commission authorize the owners to cease all utility water service and thus relieve all portions of the property from any public utility servitude.

In view of the facts presented, we believe that an order should be issued authorizing the discontinuance of all utility water service by either those applicants who propose to make conveyance of the properties to Franklin Canyon Company or by that corporation, should it elect to acquire the properties

in accordance with the permissive authorization herein given. Accordingly, it will be unnecessary to pass upon that part of the application involving the proposed reconveyance by Franklin Canyon Company to Carrie Estelle Doheny of those parts of the properties that clearly have never been impressed with any public utility use.

O R D E R

The Commission has considered applicants' requests and is of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for through the issue of 352 shares of capital stock, each being of the par value of \$100, by Franklin Canyon Company is reasonably required by said company for the purposes herein stated; that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted; therefore,

IT IS HEREBY ORDERED as follows:

1. F. B. R. Cunningham, Petroleum Securities Company, and Carrie Estelle Doheny may, on or before September 1, 1945, execute a deed similar in form to the deed on file in this application as Exhibit "A" and thereby transfer to Franklin Canyon Company the properties described in said deed.
2. Franklin Canyon Company may, on or before September 30, 1945, issue and deliver to Carrie Estelle Doheny in payment for the properties described in said Exhibit "A", 352 shares of its capital stock, each share being of the par value of \$100.

3. Franklin Canyon Company, if it acquires said properties as herein authorized, and Carrie Estelle Doheny, and all other persons who may have any interest or control of said properties, are hereby authorized to discontinue the furnishing of water as a public utility service and the use of said properties for such purpose.

4. Franklin Canyon Company shall, within thirty days after the acquisition of said properties, file with the Railroad Commission a report showing how many shares of stock it issued under the authority herein granted, the purpose for which said stock was issued, and to whom said stock was issued.

5. The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

6. The authority herein granted is effective upon the date hereof.

Dated at San Francisco, California, this 12th day of June, 1945.

David Rudson
Justus F. Casper
Richard L. Baker
Francis Clark
Samuel Lawrence
Commissioners