

Decision No. 38422

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of Miss Maron Ebert Randolph, doing business under the name and style of Plymouth Water Works, and Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, for an order of the Railroad Commission, authorizing the former to sell to the latter, the water distribution system herein described.

Application No. 26942

Mrs. Clare Youmans, for Applicants.

Joseph W. Cross, for City of Plymouth.

BY THE COMMISSION:

O P I N I O N

Miss Maron Ebert Randolph owns and operates a public utility water business under the fictitious firm name and style of Plymouth Water Works in the Town of Plymouth, Amador County. In this proceeding she asks authority to sell the water system for a consideration of \$11,500 to Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, who join in the application.

A public hearing was held in this proceeding before Examiner M. R. MacKall at Plymouth.

The evidence presented shows that Plymouth Water Works carries upon its books a fixed capital investment of \$23,953. The reserve for accrued depreciation amounts to \$10,844, as of June 1, 1944. The company's annual report to the Railroad Commission for the year 1944 sets forth the operating revenues as \$4,400 and the expenses, including depreciation, as \$3,563, leaving a net revenue of \$837. There were 43 consumers on December 31, 1944.

The purchasers of this property have presented evidence satisfactory to the Commission of their ability to maintain and operate this water system.

Mr. Conterno has been operating the utility for the past few months during which period he has made a considerable number of much needed repairs and has succeeded in establishing excellent public relations between the utility and consumers.

The agreement, Exhibit A, between the parties provides for a total consideration of \$11,500. Of this sum, \$1,500 was paid in cash and the balance is payable as follows: \$100 or more per month, including interest at 6% per annum, commencing on the 5th day of August, 1945, and continuing on the 5th day of each and every successive month thereafter for twelve months. After the twelve months, the monthly payments are increased \$10 per month each year until the total sum of \$150, or more, per month has been reached, whereupon the indebtedness remaining shall be paid at the rate of \$150, or more, including interest, per month until fully paid. It occurs to us that the agreement constitutes an evidence of indebtedness coming within Section 52 of the Public Utilities Act and that its execution should be authorized by the Commission.

A protest was entered in behalf of the City of Plymouth against the granting of this transfer upon the grounds that the City of Plymouth hoped to acquire the utility to operate as a municipal enterprise. In this connection it was stated that the City of Plymouth now stands ready and willing to enter into a contract of purchase under substantially the same terms and conditions as the agreement signed by the applicants herein.

The record in this proceeding shows that to date the City of Plymouth has taken no official action whatsoever through its City Council in passing the measures necessary for the purchase or acquisition of the Plymouth Water Works, other than perhaps to authorize the appearance of Mr. Gross in its behalf at the hearing held herein.

The evidence shows that for several years last past it has been general knowledge in this community that the owner of this water system was anxious and ready to sell for a reasonable price. Miss Randolph testified that no offer has ever been made to her by the City of Plymouth, either officially or otherwise to purchase the Plymouth Water Works for the consideration set forth in her agreement

with the Conternos or for any other consideration or upon any other terms and conditions.

The manifest uncertainties and indecision surrounding the position taken by the City of Plymouth conclusively indicate that recognition of its protest would be neither just nor proper and furthermore would work great hardship upon the applicants herein.

O R D E R

The Commission has considered the evidence submitted at the hearing had in this application and is of the opinion that this application should be granted as herein provided and that the money, property or labor to be procured or paid for by the execution of the agreement filed in this application as Exhibit A is reasonably required for the purpose herein stated; therefore,

IT IS HEREBY ORDERED that Maron Ebert Randolph, operating under the fictitious firm name and style of Plymouth Water Works, be and she is hereby authorized to transfer to Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, that certain public utility water system supplying consumers in and in the vicinity of the Town of Plymouth, Amador County, said system being more particularly described in the agreement filed in this application as Exhibit A.

IT IS HEREBY FURTHER ORDERED that for the purpose of affecting the transfer of said properties Maron Ebert Randolph and Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, be and they are hereby authorized to execute an agreement in form similar to that on file in this application as Exhibit A.

IT IS HEREBY FURTHER ORDERED as follows:

1. That such transfer shall be made on or before January 1, 1946, and that Maron Ebert Randolph shall file a certified copy of the final instrument of conveyance with this Commission on or before said date;
2. That Maron Ebert Randolph shall file a written statement with this Commission, on or before January 1, 1946, indicating the date on which control and possession of said water system were relinquished;

3. That on or before the date of actual transfer of said system, Maron Ebert Randolph shall refund all deposits which consumers are entitled to have refunded, under the utility's filed rates, rules and regulations, and shall file a written statement, on or before January 1, 1946, showing disposition of any such deposits, or that no deposits existed;
4. That upon compliance with the above Order of the Commission, said Maron Ebert Randolph shall be relieved of all public utility obligations and liabilities in connection with said system;
5. That Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, are hereby directed to file, on or before January 1, 1946, four copies of rates for water service furnished by this system in the Town of Plymouth, Amador County, which rates shall not be higher, in any particular, than the applicable rates now on file;
6. That Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, are hereby directed to file, on or before January 1, 1946, four sets of rules and regulations applicable to water service in the Town of Plymouth, Amador County, each set of which shall contain a map or sketch, drawn to an indicated scale, upon a sheet approximately 8½ x 11 inches 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 dedicated; and
7. That Eugene O. Conterno, Jr., and Helen K. Conterno, his wife, are hereby directed to file, on or before January 1, 1946, four copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, delineating the area served in the Town of Plymouth, Amador County, and its location with reference to source of supply and surrounding territory. Such map shall show the source and date thereof, and include data sufficient to determine clearly and definitely the location of the various properties comprising the service area.
8. The authority herein granted will become effective when Eugene O. Conterno, Jr., has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is \$25.00.

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

Dated at San Francisco, California, this 20th day of November, 1945.

David Rubin
Justin J. Cameron
Frank O. Park
James J. Luce
Harold P. Huls
 Commissioners.

