

Decision No. 38927

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of )  
FRANK AUSTIN and NORA AUSTIN, )  
his wife, and WALTER SEWALL )  
and VERNA SEWALL, his wife, )  
) )  
for Order Authorizing Sale and )  
Encumbrance of Public Utility )  
Property. )  
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**ORIGINAL**

Application  
No. 27260

O P I N I O N

In this application, the Railroad Commission is asked to make an order authorizing Frank Austin and Nora Austin, his wife, hereinafter referred to as Sellers, to sell certain water properties to Walter Sewall and Verna Sewall, his wife, hereinafter referred to as Buyers, and authorizing said Buyers to execute a deed of trust and a chattel mortgage and to issue a note in the principal amount of \$9,971.15 in part payment for said properties.

The properties to be transferred are known as the Del Rey Water System and are used to deliver water, primarily for domestic purposes, to approximately 150 consumers in and about Del Rey, Fresno County. It appears that the system was installed by one Ben Swanson who, in 1913, received from this Commission a certificate of public convenience and necessity to operate the same. (Decision No. 6022, dated December 26, 1918, in Application No. 4158.) Later, under authority granted by Decision No. 34015, dated March 18, 1941, the properties were transferred to

the present owners who have continued to operate them. For the last three years they have reported their revenues at \$3,186 in 1943, at \$3,826 in 1944 and at \$3,866 in 1945, and their net operating revenues, after depreciation charges, at \$657 in 1943, at \$1,302 in 1944 and at \$1,802 in 1945. They estimate the present value of the properties at \$18,000. This estimate is based on an inheritance tax appraisal made in 1934, plus the net cost of additions and betterments since then.

Sellers report that they desire to dispose of the water properties because they are no longer residents of Del Rey and cannot give their personal attention to their operation and maintenance. They therefore have made arrangements to sell the properties to Buyers for the sum of \$18,000 under an agreement whereby said Buyers will assume the payment of indebtedness of \$6,028.85 due Josephine Swanson, will make a cash payment of \$2,000 and will issue to Sellers their promissory note for \$9,971.15 payable in monthly installments of \$50 or more with interest at the rate of six percent per annum, payment to be secured by a deed of trust and by a chattel mortgage covering the water properties. Copies of the note, the deed of trust and the chattel mortgage have been filed in this proceeding as Exhibits "C", "D" and "E", respectively. Walter Sewall is supervisor of water distribution of the Fresno Irrigation District.

The proposed instruments appear to be in satisfactory form and an order authorizing their execution and the sale of the properties will be entered. The certificate of public convenience and necessity herein authorized to be transferred is subject to the provisions of law that the Commission shall have no power to authorize the capitalization thereof or the right to

own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

The authority herein granted shall not be construed to be a finding of value of the water properties herein authorized to be transferred.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the sale of properties, the execution of a deed of trust and a chattel mortgage and the issue of a note, the Commission having considered the matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the note is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Frank Austin and Nora Austin, after the effective date hereof and on or before June 30, 1946, may sell to Walter Sewall and Verna Sewall the water properties referred to in the foregoing opinion, including the certificate of public convenience and necessity granted by the Commission by Decision No. 6022, dated December 26, 1918, in Application No. 4158.

2. Walter Sewall and Verna Sewall, after the effective date hereof and on or before June 30, 1946, may execute a note in the principal amount of not exceeding \$9,971.15, said note to be in, or substantially in, the same form as the note filed in this proceeding as Exhibit "C", and may assume the payment of indebtedness in favor of Josephine Swanson, in an amount of not exceeding \$6,028.85, said note to be issued and said indebtedness to be assumed in part payment for the water properties herein authorized to be transferred.

3. Walter Sewall and Verna Sewall, after the effective date hereof and on or before June 30, 1946, may, for the purpose of securing the payment of said note and indebtedness, execute a deed of trust and a chattel mortgage in, or substantially in, the same form as the deed of trust and the chattel mortgage filed in this proceeding as Exhibits "D" and "E", respectively.

4. Frank Austin and Nora Austin, on or before the date of actual transfer of said water properties, shall refund all deposits which consumers are entitled to have refunded under the utility's filed rates, rules and regulations, and shall file with the Commission, on or before July 31, 1946, a written statement showing disposition of any such deposits, or indicating that no deposits existed.

5. Frank Austin and Nora Austin shall file with the Commission, on or before July 31, 1946, a certified copy of each instrument executed to transfer said water properties under the authority herein granted, and, at the same time, a written statement indicating the date upon which they relinquished control and

possession of said properties.

6. Walter Sewall and Verna Sewall, immediately upon acquiring the water properties referred to herein, shall file with the Commission four (4) copies of the schedule of rates for water service to be supplied by said properties, which rates shall not be higher, in any particular, than the applicable rates now on file with the Commission.

7. Walter Sewall and Verna Sewall shall file with the Commission, on or before July 31, 1946, four (4) sets of rules and regulations applicable to water service supplied by them, each set of which shall contain a map or sketch, drawn to an indicated scale, upon a sheet approximately 8½ by 11 inches in size, delineating thereon in distinctive markings the boundaries of the present service area and the location thereof with reference to the surrounding territory.

8. Walter Sewall and Verna Sewall shall file with the Commission, on or before July 31, 1946, four (4) copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, delineating the area served in and in the vicinity of Del Rey, and its location with reference to source of supply and surrounding territory, such map to show the source and date thereof and to include data sufficient to determine clearly and definitely the location of the various properties comprising the service area.

9. Walter Sewall and Verna Sewall shall file with the Commission, on or before July 31, 1946, a report of the issue of the note and of the assumption of indebtedness under the authority herein granted, such report to show the principal amount of

the note and indebtedness, the names of the payees, the annual rate of interest and the date of maturity or rate of repayment.

10. The authority herein granted will become effective when Walter Sewall and Verna Sewall have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 7<sup>th</sup> day of May, 1946.

Harold Rudman  
Justin J. Cooney  
Francis E. Long  
Irving H. Powell  
Harold P. Hule  
 Commissioners

