

**ORIGINAL**

Decision No. 39903

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )

H. S. Porter )

and )

James J. Downey. )

A copartnership doing business under the )  
fictitious firm names and style of: )

Application  
No. 28063

Penngrove Water Company )  
Rio Dell Water Company )  
Inverness Park Water Company )  
Pt. Reyes Station Water Company )

For authority to permit H. S. Porter to sell )  
his interest in said water companies to )  
James J. Downey. )

O P I N I O N

H. S. Porter and James J. Downey, applicants herein, are co-partners engaged in the operation of public utility water systems in Marin and Sonoma Counties under the firm names of Penngrove Water Company, Rio Dell Water Company, Inverness Park Water Company and Pt. Reyes Station Water Company. The revenues and expenses for 1945 and the number of consumers served by the systems have been reported as follows:

	<u>Revenues</u>	<u>Expenses</u>	<u>Net</u>	<u>Consumers</u>
Penngrove	\$1,200	\$1,666	\$ (466)	57
Rio Dell	601	1,259	(658)	49
Inverness	916	973	(57)	57
Pt. Reyes	<u>3,011</u>	<u>1,050</u>	<u>1,960</u>	<u>96</u>
Totals	<u>\$5,728</u>	<u>\$4,948</u>	<u>\$ 780</u>	<u>259</u>

It appears that said co-partners are engaged also in the operation of the Russian River Terrace Water Company.

The application shows that H. S. Porter is engaged in other activities and that he no longer is able to devote any portion of his time to the operation of the water systems. Accordingly he has agreed to sell his interest in these systems, including the Russian River Terrace Water Company, to James J. Downey, and said Downey has agreed, in payment, to issue to said Porter his promissory note for \$5,000, payable on or before April 1, 1947, and to assume the outstanding indebtedness and liabilities.

However, the transfer of the interest in the Russian River Terrace Water Company is not involved in this application, and this decision is limited to a consideration of the transfer of Porter's interests in the other four systems now being operated by applicants. We are advised that of the \$5,000 consideration to be paid by Downey, the sum of \$1,500 is allocable to the Russian River Terrace Water Company.

The properties comprising the Penngrove, Rio Dell, Inverness and Pt. Reyes Station systems have been considered by us in recent proceedings...

By Decision No. 37554, dated December 19, 1944, in Application No. 26411, the Commission authorized the transfer of the Penngrove Water Company to H. S. Porter and James J. Downey and the issue by them of a note for \$1,300 payable on or before December 1, 1948, with interest at the rate of 5% per annum, to finance the cost of such properties. We are advised that the

principal amount of the note has been reduced to \$990.

By Decision No. 37888, dated May 15, 1945, in Application No. 26702, the Commission authorized the transfer of the Rio Dell Water Company to H. S. Porter and James J. Downey for the sum of \$2,040 and authorized Porter and Downey to issue in part payment a note for \$1,000, since reduced to \$870, payable on or before April 1, 1948. The properties thus authorized to be transferred included a certificate of public convenience and necessity granted by the Commission by Decision No. 34465, dated August 5, 1941.

By Decision No. 37393, dated October 10, 1944, in Application No. 26242, the Commission authorized the transfer of the Inverness Park Water Company to H. S. Porter and James J. Downey for the sum of \$1,500.

By Decision No. 39383, dated September 3, 1946, in Application No. 27649, the Commission authorized the transfer of the Pt. Reyes Station Water Company to H. S. Porter for the sum of \$9,000 and the issue by Porter, in part payment, of a note for \$7,000, payable in monthly installments of \$117.64 including interest at the rate of 5% per annum. Although the authority thus granted in this decision ran to H. S. Porter only, as purchaser, the present application shows that the partnership agreement between Porter and Downey covers the Pt. Reyes Station Water Company properties.

In these former proceedings reference was made to the estimated original cost of the water systems or the investment of the owners therein, and to the revenues and expenses from the operations.

After a review of these matters, it appears to the Commission that a public hearing is not necessary on the present application and that the request of applicants should be granted. The certificate of public convenience and necessity referred to herein 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.

The action taken herein shall not be construed to be a finding of value of the properties referred to herein.

O R D E R

Application having been made to the Public Utilities Commission for an order authorizing the transfer of properties, and the Commission having considered the matter and being of the opinion that the application should be granted, as herein provided,

IT IS HEREBY ORDERED as follows:

1. H. S. Porter and Isabel G. Porter, his wife, after the effective date hereof and on or before April 30, 1947, may transfer to James J. Downey their interest in the Penngrove Water Company, Rio Dell Water Company, Inverness Park Water Company and Pt. Reyes Station Water Company, and James J. Downey may assume the payment of the indebtedness, not exceeding \$8,860, referred to

in the preceding opinion.

2. James J. Downey shall adopt as his own the rates, rules and regulations now on file with the Commission applying to service given by the water properties referred to herein and shall assume the payment of deposits, if any, which consumers are entitled to have refunded under such rates, rules and regulations.

3. James J. Downey shall file with the Commission, on or before May 15, 1947, a certified copy of each instrument executed to convey to him title to the properties referred to herein, and a statement indicating the exact date upon which he obtained ownership and control of said systems.

4. The authority herein granted will become effective twenty (20) days from the date hereof.

Dated at Los Angeles, California, this 24th day of January, 1947.

Harold P. Hulse  
Justice F. C. Brewer  
W. H. H. Russell  
R. I. Murray  
Commissioners