

ORIGINAL

Decision No. 41343

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
J. O. Walser and Theda V. Walser to	:	Application
Sell and Walter E. Shull, Jr. and)	No. 28424
Althea V. Shull to Buy the Good Hope	:	(First Supplemental)
Water Company.)	
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FIRST SUPPLEMENTAL OPINION AND ORDER

In the original application herein, J. O. Walser and Theda V. Walser, husband and wife, doing business under the firm name and style of Good Hope Water Company, reported that they had entered into an agreement to sell their water system to Walter E. Shull, Jr. and Althea V. Shull, husband and wife, for the sum of \$2,500, payable \$750 down and the balance in monthly installments of \$50 or more, with interest at the rate of 5% per annum. The agreement provided that the deed and bill of sale conveying the properties would not be delivered to the purchasers until final payment had been made.

The Commission, in Decision No. 40347, dated June 3, 1947, held that the agreement, in effect, was a conditional sale contract, that the sellers retained title to the properties until final payment had been made and that under these circumstances they should not be permitted to divest themselves of their utility responsibility until such time as the purchasers became entitled to the deed and bill of sale conveying the properties to them. The order in said decision authorized the parties to execute the

agreement and permitted Walter E. Shull, Jr. and Althea V. Shull to take possession of the water properties and to operate them as "Agents for J. O. Walser and Theda V. Walser, husband and wife, owners". The opinion preceding said order reads in part as follows:

"In the event that the parties do not wish to take advantage of the authorization herein granted, they should feel free to present to the Commission a request to transfer the properties based upon an agreement vesting legal title in the Purchasers, and if they so desire, protect Sellers' interest by requiring that an appropriate note and mortgage be executed in their behalf."

In a supplemental application filed in this proceeding it appears that the parties have decided to dispense with the conditional contract of sale and have agreed upon the transfer of title to the properties and the issue by the purchasers of a note, secured by a deed of trust, in the amount of \$1,493.15 in payment of the unpaid balance of the purchase price.

The Commission has considered this matter and is of the opinion that a public hearing on the supplemental application is not necessary and that the money, property or labor to be procured or paid for through the issue of said 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. J. O. Walser and Theda V. Walser, husband and wife, may transfer to Walter E. Shull, Jr. and Althea V. Shull, husband and wife, on or before May 31, 1948, the public utility water

system known as the Good Hope Water Company, and said Walter E. Shull, Jr. and Althea V. Shull may acquire and operate said system and in payment of the unpaid balance of the purchase price execute a deed of trust and issue a note for not exceeding \$1,493.15 payable in monthly installments of \$30 or more, with interest at the rate of 5% per annum, which deed of trust and note shall be in, or substantially in, the same form as the deed of trust and note filed with the supplemental application.

2. Walter E. Shull, Jr. and Althea V. Shull shall file with the Commission, on or before May 31, 1948, a notice in which they adopt as their own the rates, rules and regulations now on file with the Commission covering service given by said Good Hope Water Company, and at the same time shall file a copy of the instrument of conveyance and of the note as issued and a statement showing the exact date upon which they acquired and commenced operating the water system in their own names.

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

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

Dated at San Francisco, California, this 23rd day of March, 1948.

R. E. Ingram
Justice F. G. Green
Wright Russell
Harold A. Kille
Samuel C. Potter
Commissioners