

Decision No. 41650**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CULBERT W. FARIES (Twentynine Palms Utilities Co.) to transfer several water systems to TWENTYNINE PALMS UTILITIES CO., a corporation; and the latter to issue and sell 400 shares of capital stock, and for a consolidated system (including system to be acquired from Desert Estates Mutual Water Co.) with an extended service area.

Application No. 27521

Faries & McDowell, by McIntire Faries;
Culbert W. Faries, for Twentynine Palms
Utilities Company; E. B. Abell, for
Abell Water Company.

O P I N I O N

In this application, the Commission is asked to authorize the transfer of certain public utility water properties and businesses to Twentynine Palms Utilities Company, a corporation, hereinafter referred to as Corporation, granting it a certificate of public convenience and necessity to acquire, construct and operate public utility water properties in the areas hereinafter described, and authorizing it to issue, for the purposes herein stated, 900 shares (\$90,000 par value) of capital stock.

Twentynine Palms Utilities Company is a corporation organized under the laws of California. It has an authorized stock issue of 2,000 shares of the par value of \$100 each and of the aggregate par value of \$200,000.

Several years ago the general area in and surrounding Twentynine Palms underwent intensive development through various real estate promoters with the result that a great number of scattered subdivisions were placed upon the market for desert homesites. The necessary individual tract water systems were installed mostly as temporary

projects under a purported mutual status, in order to sell lots. Several rather comprehensive mutual water companies were organized, some incorporated. The first public utility to commence operations in this area was Twentynine Palms Water Company, the fictitious firm name and style of a copartnership consisting of Leslie W. Evans, Charles H. Davenso and O. W. Lewis. A certificate was granted these copartners and a service area was established by this Commission in its Decision No. 30875, issued May 18, 1938. The service area of this public utility is located at and in the immediate vicinity of the Four Corners, the local name given the intersection of Twentynine Palms Highway and Adobe Road. Another public utility water system, owned and operated by E. A. Abell, was granted a certificate of public convenience and necessity by this Commission's Decision No. 32211, dated August 1, 1939. The service area established by said decision was modified and enlarged by Decision No. 36605 issued December 8, 1942.

The service area of the Abell Water Company lies in the immediate vicinity of the Smoke Tree District. The record in this proceeding shows that Mr. Abell, from time to time, has extended his public utility water system beyond his established certificated area and is now supplying water as far as the local grammar school, a distance of three and one-half miles from his well and pumping plant. The water supplies of these mutual and public utility water systems all are obtained from wells supplemented by storage tanks and reservoirs. Some are further equipped with pressure tanks operated by automatic control.

About the year 1942 or 1943, Mr. Floyd R. Whyers, a local promoter, commenced the acquisition and consolidation of the various water companies in the more developed areas of the Twentynine Palms District. During his operations he obtained control over the following concerns purported to be operating as mutual water companies: Desert Homes Mutual Water Company, Twentynine Palms Mutual Water Company,

Twentynine Palms Utilities Corporation, and Twentynine Palms Corporation. In addition thereto he also acquired the interests of the said copartnership in Twentynine Palms Water Company, a public utility. This transfer never was authorized by this Commission. Floyd R. Whyers became bankrupt. Applicant herein, Culbert W. Faries, acquired at public auction all of the above-mentioned water systems and in addition thereto at the same public auction acquired a five-year lease covering the use of the physical assets of the water system owned by Mrs. S. N. Griffin. Applicant took possession of these properties on October 20, 1945, and since that time has been operating and consolidating the several properties. Various additions and betterments and interconnections have been made to the end that a unified water system has been developed covering the areas heretofore served by the various individual systems together with certain additional territory adjacent thereto. Applicant has acquired new and additional water supplies, has constructed adequate storage facilities and is now in a position to provide a greatly improved water service to its consumers.

Testimony and documentary evidence upon the appraisement of the various properties involved and operational studies and statistics were presented by Leonard P. Wikoff, Engineer and General Manager of Applicant's water properties, and by James F. Wilson, one of the Commission's engineers. Mr. Wikoff appraised the properties as of January 1, 1948 upon the basis of original cost thereof at the sum of \$214,450. Mr. Wilson's appraisement of the same properties amounts to \$213,652.

The annual depreciation charge amounted to \$3,570, computed by the sinking fund method at 5%; the accrued depreciation of these properties amounts to \$15,121 upon the same sinking fund basis as of January 1, 1948. The books of the company show for the year 1946 a total operating expense including depreciation on the straight line basis of

\$16,078. However, of this amount analysis indicated that the sum of \$5,568 more properly should be charged to capital account. Deducting this item leaves the operating expense upon the above basis for the year 1946 as \$10,510. The operating revenues for 1946 were \$6,981. The operating expenses for the year 1947 presented by Mr. Wikoff amounted to \$15,274, of which amount the sum of \$5,264 was for the annual depreciation computed on the straight line basis. The operating revenues for the year 1947 amounted to \$11,620. The operating expenses for the year 1947 presented by Mr. Wilson amounted to the sum of \$13,580, which included the sum of \$3,570 for depreciation computed by the sinking fund method at 5%. The operating revenues and expenses, and the depreciation annuity upon the 5% sinking fund basis were agreed upon jointly by Mr. Leonard Wikoff for the Applicant and Mr. James F. Wilson and Mr. Theodore Stein of the Commission's staff. The operations for the year 1947 resulted in a loss of \$1,959.

The corporation asks permission to issue \$80,000 par value of its capital stock in payment for properties to which reference has been made and \$10,000 for the purpose of paying the cost of additions and betterments to its properties. Its proposed additions and betterments are in Exhibit "7" listed as follows:

New 15 h.p. 450 g.p.m. turbine pump in Smoke Tree and connected to large pressure tank	\$ 2,500
New tie-lines and sectionalizing in the vicinity of the Hansen well to bring two four-inch lines into Four Corners area	2,500
Erection of tank on Chocolate Drop hill one mile north of Smoke Tree pump	2,000
Trunk pipe line along Sullivan Road	1,250
Upper Sherman Stanley booster	500
Replace Four Corners booster	750
Moving 5 h.p. pump from Smoke Tree well to Oasis well	<u>500</u>
Total	10,000

Had the \$80,000 of stock been outstanding on December 31, 1947, the corporation's balance sheet as of that date (Exhibit "E") would have shown assets and liabilities as follows:

Assets

Landed capital		\$ 2,448.61
Depreciable capital		182,859.88
Buildings and structures	\$ 1,512.21	
Wells	4,706.14	
Pumping equipment	9,114.39	
Distribution mains	160,836.24	
Reservoirs	8,169.76	
Services	2,779.64	
Meters and measuring devices	5,441.99	
Misc. distribution equipment	365.66	
General office equipment	761.88	
Automotive and garage equipment	2,161.63	
Less: Depreciation reserve	12,989.66	
Cash and due from banks		690.44
Accounts receivable		1,747.11
Material and supplies on hand		637.64
Prepaid insurance		45.06
Construction work in progress		180.62
Organization expense		125.89
		<u>188,735.25</u>
Total Assets		<u>188,735.25</u>

Liabilities

Capital stock		80,000.00
Accounts payable		5,498.18
Consumers' deposits		586.93
Wages accrued		1,000.00
Taxes accrued		84.42
Withholding taxes		290.06
Consumers' advances for construction		101,275.66
		<u>188,735.25</u>
Total Liabilities		<u>188,735.25</u>

With the single exception of Mr. E. B. Abell who owns and operates the Abell Water Company, no objection was made to the Corporation's request for a certificate of public convenience and necessity. Mr. Abell protested against the establishment of the service area boundaries as requested by Twentynine Palms Utilities Company upon the grounds that he is now supplying water within certain portions of the requested service area; that a portion of his own established service area will be invaded, and that in addition thereto, he believes that he has the right to extend his own operations beyond his service area as now established to take care of potential future demand.

The record shows that Mr. Abell has laid mains and now is serving water outside his established service area boundaries. He now supplies water to the Grammar School properties at a considerable distance from his service area boundaries. This extension, however, was made upon urgent demand and at a time when no other water service was available. Applicant herein through one of the former mutual water systems is supplying water within the certificated area of the Abell Water Company. In this particular instance the mains of a former mutual system, now owned by applicant, were immediately adjoining the tract so served. A main extension of from 750 to 1,000 feet would have been required at the land owner's expense, to connect with the Abell System.

The Abell Water Company already has been extended beyond its capacity to give proper service. The owner has shown no disposition to improve the low pressures and insufficient water deliveries resulting from overtaxing the capacities of his pumping plant and the inadequate 3 and 4 inch mains, a condition which has existed for several years last past. This unsatisfactory service notably exists along the ridge upon which are located the Adobe Hotel and certain residences.

The evidence indicates that the reasonable solution of this service area problem is to confirm to each of these two utilities the territory in which each now is serving regardless of former established certificated areas. The service area fixed in the following order therefore will be considered as recognizing the existing encroachment upon the service areas as heretofore established for Abell Water Company and Twentynine Palms Water Company and modifying and amending the said certificated service areas accordingly.

It should be noted in conclusion that the complaint presented by Mr. Frank H. Bagley, on behalf of Dr. James P. Lucky, claiming unreasonable delay in completing the main extension to serve the doctor's properties should be satisfied by the corporation without unnecessary delay, as agreed to by its representatives.

The certificate of public convenience and necessity granted herein is subject to the following provision of law:

"That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity 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 action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

Application as entitled above having been filed with the Public Utilities Commission of the State of California, a public hearing having been held thereon, the matter having been duly submitted and the Commission having considered the evidence submitted and being of the opinion that the money, property or labor to be procured or paid for by the issue of \$90,000 of stock herein authorized is reasonably required by Twentynine Palms Utilities Company for the purposes herein stated, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that Applicant's requests should be granted, therefore,

IT IS HEREBY ORDERED that Culbert W. Faries may sell and transfer, on or before the first day of August, 1948, to Twentynine Palms Utilities Company the whole of the properties and business more particularly set forth and described in the amended application herein and said Twentynine Palms Utilities Company is hereby authorized to purchase and acquire said properties, subject to the terms and provisions of this order.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require, and will require, Twentynine Palms Utilities Company, a corporation, to construct, maintain and operate a public utility water system in and in

the vicinity of the unincorporated town of Twentynine Palms, in the County of San Bernardino, within that certain area more particularly set forth and delineated upon the map filed in this proceeding as exhibit No. 3, which is hereby made a part of this Order by reference.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Twentynine Palms Utilities Company, to construct, maintain and operate a public utility for the production, distribution and sale of water for domestic, commercial and other purposes within the territory hereinabove described.

IT IS HEREBY FURTHER ORDERED that Twentynine Palms Utilities Company, after the effective date hereof and on or before October 1, 1948, may issue in part payment for the properties herein authorized to be transferred 800 shares (\$80,000 par value) of its capital stock, and issue and sell for cash at not less than par 100 shares (\$10,000 par value) of its capital stock to pay the cost of additions and betterments referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that Twentynine Palms Utilities Company shall file with the Commission a report or reports required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this Order.

IT IS HEREBY FURTHER ORDERED as follows:

1. That Culbert W. Faries shall file with this Commission, on or before the first day of August, a certified copy of the final instrument of conveyance of the properties herein authorized to be transferred.
2. That Twentynine Palms Utilities Company be and it is hereby authorized and directed to file in quadruplicate, within thirty (30) days from the effective date of this Order, in conformity with this Commission's General Order No. 96, the schedule of rates now being charged for water service rendered to consumers, which schedule of rates is hereby found to be just and reasonable for the service to be rendered; said schedule of rates to continue in effect until further order of this Commission.

3. That Twentynine Palms Utilities Company, within sixty (60) days from the effective date of this Order, shall submit to this Commission for its approval four sets of rules and regulations governing relations with its consumers, substantially as filed in Exhibit No. 6 filed herein, which exhibit is hereby made a part of this Order by reference, each set of which shall contain a suitable map or sketch, drawn to an indicated scale upon a sheet 8½ x 11 inches in size, delineating thereupon in distinctive markings the boundaries of its present service area and the location thereof with reference to the immediate surrounding territory; provided, however, that such map or sketch shall not thereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service, or any portion thereof.

4. That Twentynine Palms Utilities Company, within sixty (60) days from the date of this Order, shall file with this Commission four copies of a comprehensive map, drawn to an indicated scale of not less than 600 feet to the inch, upon which shall be delineated by appropriate markings the territory presently served. This map should be reasonably accurate, show the source and date thereof, and include sufficient data to determine clearly and definitely the location of the property comprising the entire utility area of service; provided, however, that such map shall not thereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.

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

Dated at San Francisco, California, this 25th day of May, 1948.

[Signature]
Justus F. Gallivan
Wesley Powell
Harold K. Kull
Harveth Patten
 Commissioners.