

Decision No. 42703

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

GORDON BELL and FERN J. BELL, husband and
wife, JOHN W. DAWSON and VELMA DAWSON,
husband and wife, GRAY PHELPS and
MARJORIE PHELPS, husband and wife,
HOMER BARNES and MARY F. BARNES, husband
and wife, KERSEY KINSEY and GLEN DAUGHERTY,
to Transfer public utility assets

Application No. 29767

Charles D. Warner for applicants;
Lee J. Myers for a group of customers.

· O P I N I O N

The ten persons, Bell, et al, an association, named in the title of this application as transferors, together with Melville E. Rogers and Consuelo D. Rogers, joining in this application as transferees, on October 15, 1948 applied for authority to transfer public utility assets from the former to the latter.

Public hearings in this matter were held before Examiner Warner in Chino, January 26, February 2, and February 15, 1949.

The public utility properties requested to be transferred comprise the Pomona Valley Resort water utility serving Los Serranos Village, an unincorporated community in San Bernardino County, about four miles southwest of Chino. About 175 customers are being served with water for domestic purposes throughout the former Los Serranos Country Club territory, an area consisting of a total of 720 acres.

The record shows that the transferors have been the owners of certain nonutility properties, including a golf club, in addition to the water system. In June 1948, arrangements were made to transfer the property, nonutility as well as utility, to the transferees subject

to outstanding notes in the aggregate amount of \$150,000 as follows: a note for \$26,838.54 in favor of Citizens National Trust and Savings Bank of Riverside, payable \$500 monthly; a note for \$48,161.46 in favor of Gordon and Fern J. Bell, et al, payable over a period of five (5) years, plus interest at the rate of 4% per annum; and a note for \$75,000 in favor of Kenneth A. and Winnie Mae Rogers, payable out of earnings from the golf club and the water system. The three notes are secured by deeds of trust which, according to the testimony, are not liens on the public utility property. In any event, no application has been made to, nor permission received from, this Commission to execute said deeds of trust.

The total consideration for the properties is stated at \$150,000 and will be represented by the three notes.

Mr. Lee J. Myers protested the granting of authority to transfer the water properties on the ground that there was some question as to the financial responsibility of the new owners and their ability and intention to operate the properties in such a manner as to insure the customers of a continuance and satisfactory supply of water. He also questioned the several financial transactions involved in the transfer of the properties, particularly in respect to the deeds of trust.

However, the record shows that numerous improvements to the water system have been made by Rogers, including the installation of new pumps and wells, the purifying of the water, the increasing of pressures, and the continuous installation and replacement of mains. It is also stated to be the transferees' intention to segregate the utility properties from the nonutility properties. We are of the opinion that the evidence indicates the willingness and ability of the transferees to operate the utility properties in what may well be a much more satisfactory manner than has prevailed in the past.

Accordingly, in our opinion, the transfer of the water system as proposed is in the public interest and the order herein will so provide.

The action taken herein is not to be construed to be a finding of the value of the property authorized to be transferred, nor is any authority granted to subject the public utility water system to the lien of any deed of trust or mortgage.

O R D E R

Application, as entitled above, having been filed with the Public Utilities Commission of the State of California, public hearings having been held thereon, the matter having been duly submitted, and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that Gordon Bell and Fern J. Bell, John W. Dawson and Velma Dawson, Gray Phelps and Marjorie Phelps, Homer Barnes and Mary F. Barnes, and Kersey Kinsey and Glen Daugherty are authorized to transfer, after the effective date hereof and on or before the 30th of May, 1949, to Melville E. Rogers and Consuelo D. Rogers, those certain water public utility properties and assets referred to in the preceding opinion.

IT IS HEREBY FURTHER ORDERED that Melville E. Rogers and Consuelo D. Rogers, in acquiring the properties referred to in the foregoing opinion, may assume the payment of the outstanding indebtedness of \$150,000 represented by the three notes to which reference is made in the opinion.

IT IS HEREBY FURTHER ORDERED that Melville E. Rogers and Consuelo D. Rogers shall furnish and supply water service to the public under and in accordance with the rates, rules and regulations on file with the Commission in the name of Gordon Bell, and shall adopt at once, as their own, said rates, rules and regulations.

IT IS HEREBY FURTHER ORDERED that Gordon Bell and Fern J. Bell, John W. Dawson and Velma Dawson, Gray Phelps and Marjorie Phelps, Homer Barnes and Mary F. Barnes, and Kersey Kinsey and Glen Daugherty shall refund all deposits which customers are entitled to have refunded, and shall file with the Commission a written statement showing the disposition of any such deposits or showing that no deposits existed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 12th day of April, 1949.

R. E. Anderson
James F. Galloway
Harold P. Kula
Samuel H. Potter
Commissioners