

ORIGINAL

Decision No. 43122

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC GARDENS WATER COMPANY, a)
corporation, and CALIFORNIA WATER)
SERVICE COMPANY, a corporation,)
) :
for (1) an order authorizing the) :
transfer by Pacific Gardens Water) :
Company of the water system now) :
operated by it to California Water) :
Service Company, and (2) a certif-) :
icate that public convenience and) :
necessity require an extension of) :
the plant and system of California) :
Water Service Company now serving) :
water to the City of Stockton and) :
vicinity, to the territory now) :
served by Pacific Gardens Water) :
Company.) :
-----) :

Application
No. 30404

Walter E. Drobisch, for Pacific Gardens Water Company;
McCutchen, Thomas, Matthew, Griffiths & Greene, by
Robert M. Brown, for California Water Service Company;
Martel Wilson, in propria persona, protestant.

O P I N I O N

In this application, Pacific Gardens Water Company asks permission to sell and transfer to California Water Service Company the properties described in the agreement of sale on file in this application as Exhibit "1", for the consideration and upon the terms and conditions set forth in the agreement. California Water Service Company asks the Commission to grant it, under the provisions of Section 50(a) of the Public Utilities Act, a certificate of public convenience and necessity authorizing the extension of its plant and system now serving the City of Stockton and the vicinity thereof

to serve the territory presently served by Pacific Gardens Water Company, at the rates and subject to the rules and regulations of California Water Service Company now in effect in the City of Stockton, California, or that may hereafter, from time to time, be in force therein.

The Commission by Decision No. 35371, dated May 19, 1942, in Application No. 24404, granted to Pacific Gardens Water Company a certificate of public convenience and necessity authorizing it to construct, operate and maintain a public utility water system in the territory described in said decision and to exercise the rights and privileges granted it by the County of San Joaquin, by Ordinance No. 449, adopted August 11, 1941, and also the rights and privileges granted it by the City of Stockton by Ordinance No. 1633, adopted October 6, 1941. The certificated area comprises about 900 acres. It is located northwesterly of and adjacent to the City of Stockton.

Pacific Gardens Water Company, hereinafter sometimes referred to as Seller, is now engaged in operating a public utility water system in part of the area covered by said certificate of public convenience and necessity. For 1948, Seller reported operating revenues of \$12,487.88. It serves about 500 consumers. The rates which it charges for water service are identical with the rates now charged by California Water Service Company, hereinafter sometimes referred to as Purchaser, in the City of Stockton and vicinity.

Subject to the approval of the Commission, Seller has agreed to sell its public utility water properties to Purchaser, pursuant to the terms of the agreement of sale on file in this application as Exhibit "1". Seller will transfer to Purchaser all

wells, well sites, buildings, pumps, tanks, pipe lines, facilities, properties, franchises, operative rights, lands and easements or rights of way and assets of every kind comprising a part of or used in connection with the operation of said water system, excepting only cash and accounts receivable. In view of the fact that the transfer includes Seller's operative rights, there is no need to grant to Purchaser a certificate of public convenience and necessity. Upon the acquisition of Seller's properties, Purchaser may extend its operations to the area covered by the certificate of public convenience and necessity heretofore granted to Seller.

Purchaser agrees to pay for the properties \$76,116.44. The purchase price is subject to adjustment at the closing date in accordance with proper accounting principles for all depreciation, changes in materials and supplies, and additions and betterments to the system occurring or made between March 31, 1949, and the closing date. The \$76,116.44 represents the depreciated historical cost of Seller's properties as of March 31, 1949. Purchaser will assume the liability of making all refunds due under the three main extension agreements filed in this application as Exhibits Nos. "2", "3" and "4". Seller and Martel Wilson have to date failed to reach an agreement as to the amount of the refund due him under the agreement filed as Exhibit "4". Martel Wilson has asked the Commission to take no action on this application until such time as he and Seller have agreed upon the amount due him. It is of record that Purchaser will assume all obligations of Seller to make refunds to Martel Wilson, upon being indemnified to its satisfaction against said liability exceeding the sum stated by Seller to be subject to possible refund, to wit, \$10,632.88 as of May 1, 1949. The refunds will be made pursuant to rule and regulation No. 19 of Seller, on

file with the Commission.

The testimony shows that the water supply now available to the area served by Seller should be increased. It is Purchaser's intention to increase such supply by interconnecting the system of Seller with that of Purchaser, which interconnection can be made with little expense. In view of the fact that Purchaser is assuming all liabilities of Seller under the several main extension agreements, and that the water supply available to Seller's service area should be increased, we feel that our decision in this application should not be delayed until Seller and Martel Wilson may reach an agreement on the issue between them. We are by our action on this application making no finding as to the amount of refund due Martel Wilson.

O R D E R

The Commission having considered the record in this application and it being of the opinion that the sale and transfer of the public utility water properties of Pacific Gardens Water Company to California Water Service Company is not adverse to the public interest, that the sale and transfer of said properties should be authorized, and that in view of such sale and transfer there is no need to grant to California Water Service Company a certificate of public convenience and necessity as requested; therefore,

IT IS HEREBY ORDERED as follows:

1. Pacific Gardens Water Company may sell and transfer to California Water Service Company, on or before September 30, 1949, the properties described in the agreement of sale on file in this

application as Exhibit "1", for the consideration and upon the terms and conditions therein set forth.

2. California Water Service Company may acquire said public utility properties, and operate the same under its rates, rules and regulations now in effect in the City of Stockton, or that may hereafter, from time to time, be in force and effect therein.

3. On or before the date of the actual transfer of said properties, Pacific Gardens Water Company shall refund all deposits which customers are entitled to have refunded. Any unrefunded deposits shall be transferred to and become the obligation for refund of California Water Service Company.

4. Within thirty (30) days after the sale and transfer of said properties, California Water Service Company shall file with the Commission a copy of the agreement of sale executed under the authority herein granted, together with a copy of the deed and bill of sale under which it acquired and holds title to said properties. It shall also advise the Commission of the date when it took possession of said properties, and file with the Commission a copy of its journal entries recording the purchase of said properties.

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

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

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

A. Z. Morrison
Justice J. Calverly
Earl L. Powell
Harold P. Kido
Therese H. Pottier
Commissioners