

ORIGINAL

Decision No. 43549

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of K. Frank Henneken and George D. Pollock for an Order approving the heretofore formed Partnership of K. Frank Henneken and George D. Pollock doing business as the East Monterey Water Service and for an Order approving the Sale by K. Frank Henneken of his interest in the said Water Company unto George D. Pollock.

Application
No. 30765

O P I N I O N

This is an application for an order of the Commission authorizing K. Frank Henneken to sell to George D. Pollock all his right, interest and title in a certain public utility water system known as East Monterey Water Service and in a certificate of public convenience and necessity authorizing the operation of the same.

The certificate of public convenience and necessity proposed to be sold and transferred was granted to K. Frank Henneken by the Commission by Decision No. 32935, dated March 26, 1940, in Application No. 22973 and permits the operation of a public utility water system in certain tracts situate in and adjacent to the community of Seaside, approximately three miles northeast of the City of Monterey in the County of Monterey. The said certificate covers the following tracts, to wit:

East Monterey, Subdivision No. 1
Vista del Rey Tract, Subdivision No. 6
Del Monte Heights, Map 2, Subdivision No. 10
Grey Eagle Terrace, Subdivision No. 24

The physical properties proposed to be transferred include eight wells and pumping plants, approximately 95,000 feet of water mains, and two reservoirs, together with meters and

services. Applicant's annual reports show his fixed capital at the close of each year since 1940, his operating revenues, his net income before provision for federal income taxes, and the number of active service connections as follows:

	<u>Fixed Capital</u>	<u>Operating Revenues</u>	<u>Net Income</u>	<u>Service Connections</u>
1941	\$24,603	\$ 6,282	\$3,828	425
1942	25,336	6,849	1,995	475
1943	27,337	8,013	2,784	490
1944	31,056	9,215	6,740	500
1945	35,668	10,547	3,458	550
1946	44,948	13,807	(5,217)	752
1947	63,873	18,244	233	918
1948	82,791	22,826	3,642	1,101

The record before the Commission shows that K. Frank Henneken was unable to finance and improve his water system and that during 1940 he entered into an agreement to transfer one-half interest in his certificate and properties to George D. Pollock in order to obtain assistance in securing a loan. The Commission, however, in Decision No. 34240, dated May 27, 1941, denied without prejudice an application to transfer such one-half interest.

Even though Henneken holds title to the certificate and the water properties, it appears that George D. Pollock has advanced funds to enlarge the water system and has been in charge of its operations. In 1945 Henneken and Pollock entered into an agreement whereby the former agreed to transfer all of his interest in said certificate and properties to the latter in consideration that Pollock agree to pay to Henneken the sum of \$200 per month for the rest of his life and that upon the death of Henneken to pay to his sister, Edith Du Chesne, the sum of \$50 per month during her life. A copy of the agreement is on file in this application as Exhibit "B". The payments due under said agreement will not be regarded by the Commission as an operating expense.

George D. Pollock reports that he has invested approximately \$75,000 in the properties and that upon completion of the present transaction he proposes, if authorized to do so, to borrow the sum of \$65,000 from the Reconstruction Finance Corporation for the purpose of financing the cost of additions and betterments and of paying presently outstanding indebtedness. That matter, however, is not now before the Commission.

A review of the application indicates that the sale of said properties is not adverse to the public interest. The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred. The certificate of public convenience and necessity to be transferred is subject to the provisions of law, that the Commission shall have no power to authorize the capitalization of any franchise or permit whatsoever, or the right to own, operate or enjoy any such franchise or permit in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision as the consideration for the grant of such franchise, permit or right.

O R D E R

The Commission having considered this application and being of the opinion that a hearing thereon is not necessary, and that the application should be granted, as herein provided,

IT IS HEREBY ORDERED as follows:

1. K. Frank Henneken, after the effective date hereof and on or before December 31, 1949, may sell to George D. Pollock, the properties referred to in this application, including the certificate of public convenience and necessity acquired by him

under the authority granted by Decision No. 32935 dated March 26, 1940; such sale to be in accordance with the terms of the agreement filed in this application as Exhibit "B".

2. The rates, rules and regulations of K. Frank Henneken now on file with this Commission shall be refiled within thirty days from the date of transfer under the name of George D. Pollock in accordance with the procedure prescribed by General Order No. 96, or, in lieu of such filing, George D. Pollock may file a notice of adoption of said presently filed rates. No increase of the present lawfully filed rates, rules and regulations, shall be made unless otherwise properly authorized by this Commission.

3. On or before the date of the actual sale of said properties, K. Frank Henneken 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 George D. Pollock.

4. George D. Pollock, within thirty days after the sale of said properties under the authority herein granted, shall notify the Commission in writing of the completion of such sale and shall file with the Commission a copy of deed and/or bill of sale under which he acquired title to said properties.

5. The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 22nd
day of November 1949.

R. E. Donnan
Justice J. C. ...
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Harold P. ...
...
Commissioners