

ORIGINAL

Decision No. 44506

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Eva M. Arnerich, dba The Eva M. Arnerich Irrigation Water Service to sell and transfer the water system owned and operated by her, near Los Gatos, California, to Henrietta Arnerich; of the latter to sell and transfer said system to Almaden Water Company, a corporation, and of Almaden Water Company to issue and deliver to said Henrietta Arnerich, as consideration for such sale and transfer, (a) 3 shares of its capital stock and (b) a promissory note for \$29,700 payment thereof to be secured by a deed of trust of the properties comprising said system.

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Application  
No. 28857  
(First Supplemental)

FIRST SUPPLEMENTAL OPINION

By Decision No. 41337, dated March 23, 1948, as amended, the Commission, among other things, authorized Henrietta Arnerich to sell and transfer, on or before August 5, 1948, certain public utility water properties to Almaden Water Company, and authorized Almaden Water Company, on or before August 5, 1948, to issue three shares of stock and a noninterest-bearing installment note for \$29,700 and to execute a deed of trust to secure the payment of said note. Paragraph 8 of the order in said decision reads as follows:

"8. Within thirty (30) days after the sale and transfer of the properties herein authorized, Almaden Water Company shall file with the Public Utilities Commission a statement showing the number of shares of stock issued under the authority herein granted, to whom said shares of stock were issued, a copy of the note and a copy of the deed of trust executed under the authority herein granted, and a copy of the deeds or bills of sale under which it holds title to its properties."

In a supplemental application filed in this proceeding on June 26, 1950, Almaden Water Company reports that as of June 30, 1948, it issued to Henrietta Arnerich three shares of its capital stock, and also issued a note in the principal amount of \$29,700,

signed by Louis A. Benoist and Brayton C. Wilbur, as sureties, and payable to Henrietta Arnerich, and executed a deed of trust to secure the payment of said note.

The company did not comply with the provisions of said paragraph 8 within the time specified therein, for the reason that not all the documents pertaining to the transfers had been completed. It reports that for a period of about two years Louis A. Benoist and Brayton C. Wilbur claimed to own and control the stock and assets of Almaden Water Company, but that until January, 1950, all of the stock, assets, books, records and funds of the water company were in the possession or under the control of Henrietta Arnerich, Eva M. Arnerich and Francis C. Arnerich. An action was brought by said Benoist and Wilbur in the Superior Court in and for the County of Santa Clara, against Henrietta Arnerich and Francis C. Arnerich, for declaratory relief and to have their ownership and control of the stock and assets of the water company confirmed. Thereafter, pursuant to an agreement between the parties, the action was dismissed, the certificate for the three shares of stock was delivered to Benoist and Wilbur, together with possession and control of the assets and some of the papers and records, and the indebtedness represented by the promissory note and deed of trust was assigned to Douglas E. Matthey, as nominee of Benoist and Wilbur. It is reported that neither Henrietta Arnerich, Eva Arnerich nor Francis Arnerich control or possess any of the stock or assets of Almaden Water Company except books and records for the 1949 operations, which have not yet been delivered.

Almaden Water Company now has filed with the said supplemental application a copy of the note for \$29,700, a copy of the deed of trust, a copy of the grant deed from Henrietta Arnerich and

Francis Armerich to applicant conveying the water properties, a copy of the assignment of indebtedness, a copy of an assignment of certain easements and other rights, and a copy of a release executed by said Armerichs. It requests the Commission to accept these documents as compliance with the requirements of paragraph 8 of its order in said Decision No. 41337.

Almaden Water Company is engaged in supplying water for irrigation purposes. The earlier decision of the Commission shows that under present method of operation no actual measurement is made of the water delivered by any pump to any consumer, and that to overcome the prevailing method of charging by the estimated run of the pump, which varies in production with the advance of the season, it is necessary to have some means of water measurement installed, either on the pump or at the point of delivery, so that the consumer may know that he receives the quantity for which he is charged. Accordingly, the Commission in said Decision No. 41337, directed the company to install suitable devices for the purpose of measuring the flow of water. Paragraph 4 of the order in said decision reads as follows:

"4. Almaden Water Company shall, beginning not more than sixty (60) days from and after the effective date of this order, keep a written record of the quantity of water produced by each of its pumping units for delivery to any and all of its consumers, as shown by one or more suitable and reasonably accurate meters or other measuring devices; said records to show at least two entries during the period that water is being delivered to any consumer and not less than two entries daily during the time that any pump is in operation and delivering water to one or more consumers; and said records and measuring devices to be open for inspection by the water users at reasonable hours."

Almaden Water Company alleges that it would be more economical to measure water by portable meters, and accordingly it requests the Commission to modify said paragraph 4 so as to authorize and direct it to use such meters.

The Commission has given this matter consideration and believes that an order granting the company's requests should be entered.

THIRD SUPPLEMENTAL ORDER

The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary, and that the supplemental application filed in this proceeding on June 26, 1950, should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Paragraph 8 of the order in Decision No. 41337, dated March 23, 1948, as amended, is hereby modified so as to remove the time limit specified therein. The documents filed with the first supplemental application in this proceeding on June 26, 1950, hereby are accepted for filing as meeting the requirements of said paragraph 8, as amended.
2. Paragraph 4 of the order in said Decision No. 41337 is hereby amended so as to authorize and direct Almaden Water Company to acquire portable meters to be used to measure the quantity of water delivered to consumers at periodic intervals to check on accuracy of flow, or upon demand of consumers when dispute arises as to the rate of flow or quantity of water delivered.
3. This third supplemental order is effective upon the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of  
July, 1950.

R. B. Anderson  
Justin J. Casper  
Frank S. Powell  
Harold S. Kule  
Fernando J. Potter  
Commissioners