

**ORIGINAL**

Decision No. 46058

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of Reinholt Achziger, and Agnes  
Achziger, his wife, to sell,  
and  
Louis L. Ferguson and Mae Ferguson,  
his wife, to purchase the undivided  
one-half interest of Reinholt Achziger,  
et ux, in the public utility known as  
the Homeland Water Company, of Boron,  
Kern County, California.

Application  
No. 32643

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O P I N I O N

This is an application for an order authorizing Reinholt Achziger and Agnes Achziger, his wife, hereinafter referred to as Sellers, to transfer to Louis L. Ferguson and Mae Ferguson, his wife, hereinafter referred to as Buyers, their undivided one-half interest in a public utility water system known as Homeland Water Company, and authorizing Buyers to execute a deed of trust and to issue a note in the principal amount of \$2,500.

The Commission by Decision No. 30691, dated March 14, 1938, in Application No. 21553, granted to Jesse Dallas Nichols and Myrtle Nichols a certificate of public convenience and necessity to operate a water system in that certain tract of land described as all of that portion of Tract 1049 situate in the northeast quarter of Section 6, Township 10 North, Range 7 West, San Bernardino Base and Meridian, which lies south of the right-of-way of The Atchison, Topeka and Santa Fe Railway in Kern County. By Decision No. 39714, dated December 10, 1946, in Application No. 27904, this certificate was transferred to Louis E. Ferguson and Mae Ferguson, his wife, as joint tenants as to an undivided one-half interest, and Reinholt Achziger and Agnes Achziger, his wife, as joint tenants as to an undivided one-half interest.

The water properties which Sellers ask permission to sell consist of their undivided one-half interest in said certificate of public convenience and necessity, some real estate, pumping equipment, a well, storage tank, meters, pipe lines, and other personal property used to supply water to about 54 consumers. The undepreciated investment in the properties is reported to be \$5,915.64 as of December 31, 1950. For the year 1950 the company reports operating revenues of \$1,908.86 and net loss from operations of \$277.71.

Sellers report that they desire to withdraw from the water business due to the extreme ill health of Agnes Achziger, and that they have made arrangements to sell to Buyers their undivided one-half interest for the sum of \$2,500. Buyers propose to finance the entire purchase price through the issue of a promissory note which will be payable in monthly installments of \$25, including interest at the rate of 5% per annum. The note is to be secured by a deed of trust on the real property to be transferred. As the result of this transfer, Buyers will become sole owners of the water system.

Attached to the application is a copy of a promissory note and a copy of a deed of trust, executed by Buyers under date of January 9, 1951. Applicants are placed on notice that the Public Utilities Act provides, among other things, that evidences of indebtedness of a public utility, payable at a period of more than 12 months after date of issue, and encumbrances of utility properties if executed without an order of the Commission authorizing the same then in effect, shall be void. The Commission cannot by a later order approve the execution of evidences of indebtedness or of encumbrances of utility properties which are declared void by the act. Accordingly, it will be necessary for applicants to execute new instruments in lieu of those heretofore executed by them without authorization from the Commission.

The transfer of the properties as here proposed will not be adverse to the public interest. Accordingly, an order will be entered granting the application.

O R D E R

The Commission having considered the above entitled matter, and being of the opinion that a public hearing thereon is not necessary; that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by Louis L. Ferguson and Mae Ferguson, his wife, for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Reinholt Achziger and Agnes Achziger, his wife, after the effective date hereof and on or before December 31, 1951, may sell and transfer to Louis L. Ferguson and Mae Ferguson, his wife, their undivided one-half interest in the water properties referred to herein, known as Homeland Water Company.

2. Louis L. Ferguson and Mae Ferguson, his wife, after the effective date hereof and on or before December 31, 1951, may execute a deed of trust and issue a note in the principal amount of not to exceed \$2,500 for the purpose of financing the purchase price of the properties referred to herein.

3. Reinholt Achziger and Agnes Achziger, his wife, shall file with the Commission, on or before January 15, 1952, a certified copy of each instrument executed to convey their undivided one-half interest in said water properties to Louis L. Ferguson and Mae

Ferguson, his wife, and a statement indicating the date upon which they relinquished their interest in said properties.

4. The rates, rules and regulations of Reinholt Achziger, Agnes Achziger, Louis L. Ferguson and Mae Ferguson now on file with this Commission shall be refiled within thirty (30) days from the date of transfer under the name of Louis L. Ferguson and Mae Ferguson, his wife, in accordance with the procedure prescribed by General Order No. 96, or, in lieu of such refiling, Louis L. Ferguson and Mae Ferguson, his wife, may file a notice of adoption of said presently filed rates, rules and regulations. No increase in the present <sup>debt</sup> rates shall be made unless authorized by this Commission.

5. Louis L. Ferguson and Mae Ferguson, his wife, on or before January 15, 1952, shall file with the Commission a copy of the note and a copy of the deed of trust executed under the authority herein granted.

6. The authority herein granted will become effective when Louis L. Ferguson and Mae Ferguson, his wife, have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five (\$25.00) dollars.

7. Purchasers are placed upon notice that the transfer of the certificate of public convenience and necessity is subject to the following provision of law: That the Commission shall have no power to authorize the capitalization of the 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.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of August, 1951.

A. Z. Ingram  
Justus F. Craven  
Harold Hula  
Benjamin H. Patton

Commissioners

