

**ORIGINAL**

Decision No. 49054

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of AIRWAYS WATER COMPANY, INC., )  
a California corporation, for )  
authority to sell and transfer )  
physical property under Section )  
851 of the Public Utilities )  
Code. )

Application No. 34522

Frederick L. Botsford and R. P. Reddingius, for  
Airways Water Company, Inc.; Robert E. Moore, Jr.,  
for Liberty Building Company, interested party;  
James F. Wilson, Hydraulic Section, California Public  
Utilities Commission.

O P I N I O N

Airways Water Company, Inc., a California corporation, is engaged in the business of production and distribution of water as a public utility under authority of a certificate of public convenience and necessity granted by this Commission in Decision No. 34356, dated July 1, 1941, on Application No. 23841. This Commission is requested herein to cancel the certificate of Airways Water Company, Inc., and relieve that company of its obligation to provide water service, and to approve the sale and transfer of the physical properties of the corporation to the Los Angeles County Waterworks District No. 22.

The verified application alleges that on March 11, 1952, a petition was filed by certain consumers in applicant's

service area to the Board of Supervisors of Los Angeles County requesting that the entire area be annexed to Los Angeles County Waterworks District No. 22. On April 8, 1952, the Board of Supervisors of Los Angeles County accepted the petition and called an election for June 17, 1952, relative to the proposed annexation and also requesting authorization to issue bonds in the amount of \$396,000. On June 24, 1952, the Board of Supervisors canvassed the election results and found that the vote had been in favor of the annexation and the issue of bonds. Thereafter, applicant entered into negotiations with the Los Angeles Waterworks District No. 22, which negotiations have now resulted in an offer by the Board of Supervisors to purchase all of applicant's physical assets for \$66,000, with the exception of certain assets of a value of slightly less than \$5,000.

There is attached to the application a copy of an agreement between the waterworks district and applicant executed June 16, 1953, whereunder the waterworks district agrees to assume responsibility for supplying service to applicant's present service area.

It is also alleged that there has been a resolution of the Board of Supervisors of Los Angeles County adopted February 17, 1953, instructing the county engineer to prepare plans and specifications for a water service which will parallel applicant's existing water system.

Applicant alleges that in view of this possible paralleling of the system, it is desirous of consummating this sale. It further points out that no dividends have ever been paid on the common stock of applicant.

Attached to the application is a balance sheet showing the condition of applicant company as of May 31, 1953, a profit and loss statement for the five month period ending May 31, 1953, and a corporate surplus account statement as of May 31, 1953. The total indebtedness of applicant company is shown as \$53,470.30, and in addition it is stated that there are two outstanding contracts with the Liberty Building Company covering the extension of water mains to two tracts in applicant's service area. Both of these contracts are payable from future revenues from the tracts involved to the extent of 35 per cent of such future revenues for a period of 10 years or until the balance has been paid, whichever event first occurs. As of May 31, 1953, the balance due on these contracts was \$11,639.94.

A public hearing was held before Examiner Syphers on August 17, 1953, at Los Angeles. At the hearing applicant relied upon the facts set out in the application and presented no further evidence. The Liberty Building Company entered a special appearance and contended that this Commission has no jurisdiction over that company since it is not a public utility and further pointed out that an action, No. 616965, has been filed in the Superior Court of Los Angeles County requesting the court to make a declaration as to the interests of the parties in the contract with Liberty Building Company, and

further requesting that the court declare an equitable lien upon the water distribution system until such time as the amounts due Liberty Building Company shall have been paid.

A consideration of this record leads us to the conclusion and we now find that it will be in the public interest to cancel applicant's certificate of public convenience and necessity and to approve the sale of the physical properties concerned to the Los Angeles County Waterworks District No. 22. The record discloses that the Los Angeles County Waterworks District No. 22 is well qualified, willing and able to operate the water distribution system concerned.

We do not attempt herein to adjudicate any claim of the Liberty Building Company against the Airways Water Company, Inc., or any other party.

O R D E R

Application as above-entitled having been made, the Commission being fully advised in the premises and having found that the requested transfer of assets and the cancellation of the certificate of public convenience and necessity will not be adverse to the public interest,

IT IS ORDERED that Airways Water Company, Inc., after the effective date hereof and on or before December 31, 1953, may transfer to the Los Angeles County Waterworks District No. 22 all of the physical properties set out in Schedules 1 to 4 attached to the agreement between applicant and Los Angeles County Waterworks District No. 22.

IT IS HEREBY FURTHER ORDERED:

1. That, on or before the date of actual transfer, Airways Water Company, Inc., shall refund all consumers' deposits, if any, to consumers entitled thereto, and within thirty days thereafter shall notify this Commission in writing of the completion of such refunding.
2. That, if the authority herein granted is exercised, Airways Water Company, Inc., shall, within thirty days thereafter, notify this Commission in writing of the date of such completion of the property transfer herein authorized, and of its compliance with the conditions hereof.
3. That, upon due compliance with the conditions of this order, said Airways Water Company, Inc., shall stand relieved of all further utility obligations and liabilities in connection with the operations of the public utility water system herein authorized to be transferred.

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

Dated at San Francisco, California, this 4th day of September, 1953.

[Signature]  
President

[Signature]  
[Signature]

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Commissioners

Kenneth Potter  
Commissioners Harold P. Huls being necessarily absent, did not participate in the disposition of this proceeding.