

ORIGINALDecision No. 50328

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PORTOLA WATER COMPANY,)
 a corporation, for an order authorizing) Application No. 35188
 it to lease with option to purchase its)
 water system to the City of Portola.)

Chellis Carpenter for Portola Water Company.Winslow Christian for City of Portola.E. I. Lane and Ruth R. Lane in propria personae,
interested parties.O P I N I O N

A public hearing was held in the above-entitled proceeding before Examiner Silverhart on May 26, 1954, at Portola. There were no protests to the granting of the application.

The record discloses:

1. That applicant, a California corporation, is a public utility operating its water system within a service area which includes the City of Portola.
2. That applicant and the City of Portola propose to enter into a lease and option to purchase agreement, a copy of which is attached to the application as Exhibit "B".
3. That, among other things, said agreement provides that:
 - (a) Applicant is to lease to the City of Portola its entire water system, including all real and personal property appurtenant thereto, for a monthly rental of \$500 plus interest as calculated in the manner therein provided.
 - (b) The City of Portola may at any time cease making such rental payments in which event it shall surrender to applicant said water system.

(c) The City of Portola may, at any time during the existence of the lease, purchase such water system for the sum of \$100,000 payable in installments of \$500 per month plus interest at the rate of 5% per annum.

(d) The said sum of \$100,000 shall be represented by a promissory note secured by a deed of trust and chattel mortgage which shall be delivered by the city to the applicant simultaneously with the delivery to it of a grant deed and bill of sale conveying the real and personal property contained in such system.

(e) In the event the City of Portola exercises its option to purchase, all sums theretofore paid to applicant shall be applied against the said purchase price plus interest. ✓

4. That the City of Portola is not now able to purchase said water system because of insufficient funds and the constitutional debt limitation imposed upon cities.

5. That Louis C. DeArmond is the president and former manager of Portola Water Company:

6. That the said Louis C. DeArmond has suffered an impairment of his health and no longer desires to participate in the operation of applicant's business.

7. That Louis C. DeArmond and Elsie L. DeArmond his wife, are the owners of 2,300 shares of the capital stock of Portola Water Company, said shares being all the issued and outstanding shares of the stock of said corporation.

8. That by a securities pledge agreement dated May 3, 1950, Louis C. DeArmond and Elsie L. DeArmond, pledged said 2,300 shares to E. I. Lane and Ruth R. Lane, his wife.

9. That by the terms of said agreement the said L. C. DeArmond and Elsie L. DeArmond retained the right to vote all of said shares of stock so long as they were not in default under any

of the provisions of the agreement.

10. That said agreement further provided that during the term thereof, L. C. DeArmond and Elsie L. DeArmond would not either individually or as officers or directors of the Portola Water Company mortgage or otherwise encumber the real property of the corporation without first having obtained the written consent of the said E. I. Lane and Ruth R. Lane.

11. That L. C. DeArmond and Elsie L. DeArmond are not in default under the provisions of said securities pledge agreement.

12. That E. I. Lane and Ruth R. Lane have filed with the Commission their written consent to the proposed lease and option to purchase agreement between Portola Water Company and the City of Portola.

The Commission finds therefore that it will not be adverse to the public interest to approve that portion of the proposed agreement dealing with the lease of the water system. The Commission will not presently approve the proposed agreement insofar as it concerns a sale of the system sometime in the future but will require the applicant to seek authority therefor at such time as the City of Portola shall exercise its option to purchase the system.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That Portola Water Company, a corporation, is authorized to lease on or before December 31, 1954, the properties and operating rights which comprise its water system to the City of Portola in accordance with the terms of agreement attached to

the application as Exhibit "B".

(2) That on or before the date of actual transfer, Portola Water Company, a corporation, shall refund all deposits which customers are entitled to have refunded.

(3) If the authority herein granted is exercised, applicant shall, within thirty days thereafter, notify this Commission in writing of the date of such completion of the transfer of the operation of the water system herein authorized and of its compliance with the conditions thereof.

(4) That Portola Water Company, Portola, shall not effect a sale and transfer of its properties and operating rights unless and until the permission of this Commission is secured.

(5) The authority herein granted shall become effective upon the date hereof.

W.G. Dated at Los Angeles, California, this 27th day of July, 1954.

John E. Mitchell
PRESIDENT
Justin J. Caswell
Kenneth Pittel
Verne Duggins

COMMISSIONERS