

52383

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EUGENE B. ABELL, d.b.a.)
 ABELL WATER COMPANY, and the)
 TWENTYNINE PALMS COUNTY WATER DISTRICT)
 for permission to sell the physical)
 assets of the ABELL WATER COMPANY, to)
 the TWENTYNINE PALMS COUNTY WATER)
 DISTRICT.)

Application No. 37110

Roland T. Williams, attorney, for Eugene B. Abell,
 dba Abel Water Company;
Kirkbride, Wilson, Harzfeld and Wallace, attorneys,
 by Harold N. Blake, for Twentynine Palms County
 Water District;
Charles W. Drake, for the Commission staff.

O P I N I O N

Eugene B. Abell, an individual, doing business as Abel Water Company,¹ and Twentynine Palms County Water District,² a public agency, by the above-entitled application filed July 8, 1955, seek permission to sell the physical assets of the Company to the District in accordance with the terms of a contract of purchase dated May 31, 1955, a copy of which was attached to the application as Exhibit A. The application was amended at the hearing by Exhibit No. 3.

A public hearing in this matter was held before Examiner Stewart C. Warner on October 26, 1955, at Twentynine Palms. There were no protests to the granting of the application.

The record shows that the Company furnishes domestic water service to about 450 consumers in and about the unincorporated community of Twentynine Palms in San Bernardino County.

¹ Hereinafter referred to as the Company or Abell.

² Hereinafter referred to as the District.

On April 5, 1955, an election was held, the results of which were 504 votes "yes", 50 votes "no", authorizing the issuance and sale by the District of \$800,000 of general obligation bonds to purchase the assets of Pacific Water Company serving about 1,100 consumers, Condor Mutual Water Company, and Abell Water Company all in and about Twentynine Palms. Of the total amount of bonds authorized to be issued, \$750,000 were sold to the Bank of America. The proceeds of said sale were used to purchase Pacific Water Company's assets and capital improvements since November 1, 1954, for \$305,000. The balance of the proceeds was to be used to purchase the water system assets of Condor Mutual for \$10,000, and the Abell water system for \$138,000 plus the cost of assets installed between November 1, 1954, and the date of sale.

A balance sheet of Abell Water Company as of December 31, 1954, attached to the application as Exhibit B, shows total fixed capital of \$108,062.33 less reserve for depreciation of \$38,954.83, resulting in total depreciated fixed capital of \$69,107.50.

In July, 1955, the Twentynine Palms Bank was closed and the District's funds remaining after the purchase of the Pacific properties have been tied up because of said bank closing. A witness for the District testified that the Citizens National Bank of Riverside (Twentynine Palms Branch) had committed itself to lend the District \$160,000 at 4 per cent interest to acquire the Abell system if the District's funds were still tied up on the date of purchase of said system.

Exhibit No. 1 is a schedule of Advances for Construction to the Company, showing the name of the advancer, the date of completion of construction, the date the contract expires, the amount advanced, the amount of refunds through September 30, 1955, and the balance as of that date. This exhibit shows the total amount advanced between

April 26, 1945, and March 12, 1954, to have been \$62,006.85; of which \$9,183.20 had been refunded, and a balance of \$52,823.65, remained as of September 30, 1955. The contracts for such advances were made under Abell's main extension Rule No. 19, which provided for the refund to the subdivider of his advance on the basis of 35 per cent of the gross revenues arising from the sale of water within the subdivision, payable every six months for a 10-year period.

Exhibit No. 3 is an amendment to paragraph 9 of the application. Said exhibit provides that the company proposes to deposit the cash amount of \$10,823.65 and U. S. government bonds amounting to \$42,000, for a total deposit of \$52,823.65, in trust or escrow with the Citizens National Bank of Riverside (Twentynine Palms Branch). The trust or escrow will provide for payments from such funds to consumers who have made advances as shown on Exhibit No. 1; such payments to be based on the Company's presently filed rates for water service. The exhibit provides that at the end of a 10-year period Abell may withdraw the unpaid balance. It further provides that Abell shall have the right to make a cash settlement for individual advances with any advancer prior to the expiration of the advancer's contract for construction with Abell.

The Company's balance sheet, Exhibit B, shows Consumers' Deposits in the amount of \$172.81, which, Abell testified, would be refunded to depositors.

The record shows that the District proposes to install some \$200,000 of additional water system equipment, including additional reservoir capacity, main trunk lines, booster pumps and pressure regulators, in order to improve service conditions throughout the District. The District's boundaries include the Company's present service area.

It is evident, and the Commission so finds, that the public interest requires that the application, as amended, be granted, except that refunds to consumers who have made advances for construction shall, in the future, be based on the District's rates for water service in effect in the future. The record shows that the District's present rates, proposed to be applied to the Abell system, are approximately 40 per cent higher than Abell's present rates.

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

O R D E R

Application, as amended, having been filed, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. Eugene B. Abell, an individual, doing business as Abell Water Company, may, on or after the effective date hereof and on or before March 31, 1956, sell and transfer the public utility water system property described in the application to Twentynine Palms County Water District pursuant to the contract of purchase included in the application as Exhibit A.
2. Abell shall, on or after the effective date hereof and prior to the actual date of the transfer of property authorized hereinabove, deposit in trust or escrow with Citizens National Bank of Riverside (Twentynine Palms Branch) \$10,823.65 in cash, \$21,000 in United States Treasury Certificates 2½ per cent, due June 22, 1956 and \$21,000 in United States Treasury Certificates 1-5/8 per cent, due May 15, 1957, totaling \$52,823.65, for the purposes and according to the proposed terms of trust or escrow set forth in Exhibit No. 3, except that refunds shall be based on the District's rates for water service. The amounts deposited will represent the unrefunded balances of Consumers' Advances for Construction as shown in Exhibit No. 1. A copy of the trust or escrow shall be filed with this Commission within twenty days after its execution with the bank.

- 3. On or before the actual date of transfer Abell shall refund all deposits which customers are entitled to have refunded, and within thirty days thereafter shall notify this Commission in writing of the completion of such refunding.
- 4. If the authority herein granted is exercised, Abell shall, within thirty days thereafter, notify this Commission in writing of the date of completion of the property transfer herein authorized and of his compliance with the conditions hereof.
- 5. Upon due compliance with all of the conditions of this order, Eugene B. Abell, an individual, doing business as Abell Water Company, shall stand relieved of all further public utility obligations and liabilities in connection with the water system herein authorized to be transferred.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 29th day of November, 1955.

E. B. Abell
President

Justice J. Calmes
Ralph L. ...
Marking ...

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.