

ORIGINALDecision No. 52360

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GEORGE E. HANSEN and)
 ELIZABETH A. HANSEN, doing business)
 as Agnew Water Works, to sell and)
 MERLIN E. POORE and EDITH POORE to)
 purchase utility real and personal)
 property, together with utility)
 rights of Agnew Water Works, under)
 Sections 851-852 of the Public Utili-)
 ties Code.)

Application No. 37464

OPINION AND ORDER

George E. Hansen and Elizabeth A. Hansen,^{1/} by the above-entitled application, seek authority to sell and Merlin E. Poore and Edith Poore^{2/} to purchase the public utility water system known as Agnew Water Works, and for Purchasers to secure the unpaid balance of the purchase price with an encumbrance upon the assets of the water system proposed to be acquired.

The properties proposed to be transferred consist of pipe lines, tanks, wells, pumping equipment, tools and all other personal property used for the operation and maintenance of Agnew Water Works, and certain nonutility properties. Sellers' annual report to the Commission for the year 1954 shows the original cost of the utility properties as of December 31, 1954, to be \$20,475.33, a reserve for depreciation of \$5,875.95, and net utility plant of \$14,599.38.

The water utility known as Agnew Water Works was acquired by Sellers from Walter H. Davis, Jr. and Ruth K. Davis under authority granted by the Commission in its Decision No. 50016, dated May 11, 1954, in Application No. 35345.

^{1/} Sometimes herein called Sellers.

^{2/} Sometimes herein called Purchasers.

The terms of the proposed transfer, as outlined in the Agreement of Exchange attached to the application, provide for the conveyance of the water system facilities, the exchange of certain nonutility real property, the assumption by both parties of existing indebtedness against the properties to be exchanged and the issuance of certain personal notes.

Sellers propose to convey to Purchasers, subject to a promissory note in the amount of \$20,425.81 secured by a deed of trust, the facilities and real property of their water utility and to transfer certain real property located at the corner of South Third and Bassett Streets in the Town of Agnew, which transfer of real property is subject to a promissory note in the amount of \$1,501 secured by a deed of trust. In addition, Sellers are to execute a personal note payable to Purchasers in the amount of \$1,000.

Purchasers, in return, agree to convey to Sellers, subject to a promissory note in the amount of \$10,731 secured by a deed of trust, certain real property located at 998 East San Antonio Street, San Jose, and, further, Purchasers are to execute a personal note in the amount of \$528.81 to assume payment of an indebtedness formerly incurred by Sellers.

The application includes a request for authorization of the transfer of the certificate of public convenience and necessity stated to be now held by Sellers. Inasmuch as rates for this water system were originally filed in 1912 and no certificate was required nor has been applied for, applicants' request relative to the certificate transfer is inappropriate and requires no Commission action.

With respect to applicants' request for authority to encumber the assets of the water utility, the terms of the agreement provide that Purchasers will assume the payment of a note. The

execution of this note was previously authorized by the Commission in its Decision No. 50016, dated May 11, 1954, in Application No. 35345, and further authorization is not required. No further encumbrance upon the water system assets is proposed under the terms of the agreement herein.

The reasons given for the proposed transfer are that the demands of other enterprises of Sellers will not permit them to continue the utility operations, and that Sellers desire to retire from public utility activity. The financial statement of Purchasers attached to the application indicates that they have adequate resources to carry on the operations of the subject water system.

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

The Commission having considered the above-entitled application and being of the opinion that the proposed transfer will not be adverse to the public interest, that a public hearing is not necessary, and that the application should be granted; therefore,

IT IS HEREBY ORDERED that:

1. George E. Hansen and Elizabeth A. Hansen may, on or after the effective date hereof and on or before June 30, 1956, sell and transfer the public utility water system properties referred to herein, known as Agnew Water Works, to Merlin E. Poore and Edith Poore, substantially in accordance with the terms and conditions set forth in the Agreement of Exchange attached to the application.
2. The rates and rules of George E. Hansen and Elizabeth A. Hansen now on file with the Commission shall be refiled within thirty days after the date of actual transfer under the names of Merlin E. Poore and Edith Poore, in accordance with the procedure prescribed by General Order No. 96, or, in lieu of such refileing, Merlin E. Poore and Edith Poore may file a notice of adoption of said presently filed rates and rules. No increase in the present rates shall be made unless authorized by the Commission.

3. On or before the date of actual transfer, George E. Hansen and Elizabeth A. Hansen shall refund all deposits which customers are entitled to have refunded. Any unrefunded deposits shall be transferred to and become the obligation for refund of Merlin E. Poore and Edith Poore.
4. If the authority herein granted is exercised, George E. Hansen and Elizabeth A. Hansen, within thirty days thereafter, shall notify the Commission in writing of the date of the completion of the transfer herein authorized and of their compliance with the conditions hereof.
5. Upon due compliance with all the conditions of this order, George E. Hansen and Elizabeth A. Hansen shall stand relieved of all further public utility obligations and liabilities in connection with the operation of the public utility water system hereinabove authorized to be transferred.

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

Dated at San Francisco, California, this 14th day of December, 1955.

John E. Mitchell
President

Justin J. Casella

Matthew J. Dooly

R. H. ...

Commissioners