

Decision No. 53329

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CORA B. HARDING, doing business as)
 LAKESIDE LODGE UTILITY SYSTEM and)
 LINNE E. NELSON and CECIL W. CAPLE, JR.,)
 co-partners, for authority to sell public)
 utility properties and operating right)
 and to issue a note and deed of trust.)

Application No. 37778
 As Amended

In the Matter of the Application of)
 LOUIS BARTLETT, PINWOOD WATER COMPANY,)
 a corporation, and LINNE E. NELSON and)
 CECIL W. CAPLE, JR., co-partners, for)
 authority to sell public utility)
 properties and to acquire stock of a)
 public utility.)

Application No. 37779

Scott Elder, for applicants.
Frank C. Globin, for Tahoe Southside Water
 Utility, interested party.
George F. Tinkler, for the Commission staff.

O P I N I O N

These applications, as originally filed February 23, 1956, and heard on a consolidated record before Commissioner Justus F. Craemer and Examiner John M. Gregory at Bijou on April 12, 1956, have for their object the acquisition and operation, as a unified system, by applicants Nelson and Caple, of two adjacent public utility water systems near Bijou, Lake Tahoe. One of the systems is owned by applicant Harding. The other comprises two connected distribution systems supplied by the same source and owned, respectively, by applicants Bartlett and Pinewood Water Company, a corporation controlled by Bartlett.

By an amendment to Application No. 37778 (Harding et al.), filed subsequent to the hearing, Nelson and Caple seek authority to acquire the capital stock of Pinewood Water Company, one of the applicants in Application No. 37779, and Mrs. Harding requests authority to sell her system to Pinewood Water Company instead of to Nelson and Caple, who desire to operate the unified system as a corporation.

By a letter, dated May 28, 1956, a copy of which is attached to the amendment to Application No. 37778 as Exhibit A, Nelson and Caple, with the consent of Mrs. Harding, have offered to assign to Pinewood Water Company all of their rights under their agreement of sale with her, dated January 12, 1956, which is annexed as Exhibit I to Application No. 37778.

Pinewood Water Company, joining in the amendment to Application No. 37778, has applied for authority (a) to issue to Mrs. Harding its promissory note for \$18,000 (the balance of the purchase price of \$20,000 set forth in the original agreement of sale between Mrs. Harding, Nelson and Caple), payable in annual installments as provided in said agreement of sale but not less than \$1,000 each on or before April 15 of each year commencing April 15, 1957, together with interest at the rate of 5 per cent per annum on the principal from time to time remaining unpaid; (b) its deed of trust and chattel mortgage on the properties to secure payment of the principal of and interest on the note; (c) to issue to Nelson and Caple 80 shares of its capital stock of the par value of \$25 per share and the aggregate par value of \$2,000. The forms of deed and other instruments proposed to be used will be substantially the same as those annexed to the original application or, in the case of the chattel mortgage, as later filed with the Commission by counsel for applicants, with substitution of Pinewood Water Company for applicants Nelson and Caple where appropriate.

In Application No. 37779, Louis Bartlett, who resides in Berkeley and who is unable to exercise personal supervision over the operation of his water system and who has had difficulty in retaining satisfactory managerial assistance, requests authority to transfer to Pinewood Water Company, all of the stock of which he owns, his individually-owned water distribution system located in Pinewood Terrace subdivision and which is connected with the distribution system of Pinewood Water Company.

Applicants Nelson and Caple request authority to acquire from Bartlett all of the issued and outstanding stock of Pinewood Water Company, comprising 461 shares, pursuant to the terms of a letter agreement, dated January 12, 1956, a copy of which is annexed to the application. Bartlett, pursuant to that agreement, will also assign to Nelson and Caple an indebtedness of \$1,400 on open account of Pinewood Water Company to Bartlett for money advanced during 1955 for a new pump and certain easements. All of said transfers and assignments are conditioned upon Nelson and Caple also acquiring the Lakeside Lodge Utility System and combining it with the Pinewood Water Company system to provide the latter, including Pinewood Terrace, with presently unused water of Lakeside Lodge Utility System.

With respect to Pinewood Terrace, the Commission, in a previous decision (Martin - Decision No. 41453, April 13, 1948, Application No. 27719), had denied authority to a predecessor of Pinewood Water Company to extend public utility water service to a number of subdivisions, including Pinewood Terrace, because of lack of a substantial amount of water resulting from conflicting private claims to water rights in Lakeside Spring, one of the then sources of supply, and to various distribution facilities then in use. Acquisition of the Harding system by Pinewood Water Company will make available additional quantities of water for the unified operation

contemplated herein, including Pinewood Terrace. Hence, no reason now appears to exist which would prevent Pinewood Water Company from extending public utility water service to Pinewood Terrace, which it may do under the provisions of Section 1001 of the Public Utilities Code without further certification from this Commission. No Lakeside Spring water is included or involved in any part of the transaction for transfer of the Pinewood Terrace distribution system to Pinewood Water Company.

The transfer of the Pinewood Terrace distribution system is proposed to be made, as part of the transaction with Nelson and Caple, without specific consideration beyond the stock of Pinewood Water Company heretofore issued to Bartlett as consideration for the present facilities of Pinewood Water Company.^{1/}

The price to be paid by Nelson and Caple for the 461 shares of stock of Pinewood Water Company is \$1 for the 431 shares issued for the properties pursuant to Decision No. 51054. For the 30 shares issued for cash, Nelson and Caple will pay an additional amount equal to the amount of the corporation's cash in the bank at the time of transfer, plus \$360 as the estimated collectible part of accounts receivable for 1955 water service, less the amount of 1955 income and franchise taxes and other known indebtedness of the corporation except its \$1,400 indebtedness to Bartlett, but not to exceed a total additional amount of \$750. The price for the stock is to be paid in

^{1/} Bartlett acquired 461 shares of the stock of Pinewood Water Company, of an aggregate par value of \$11,525, as the result of the transfer of the water system of C. R. Parks, dba Pinewood Water Company (Decision No. 51054, February 1, 1955, Application No. 36548, as amended). Of the authorized issue, 431 shares, of a par value of \$25 each, represented the depreciated book value of the water system in Pinewood Heights, Bartlett Triangle Tract and Pinewood Terrace, amounting to \$10,775, while 30 shares, of the aggregate par value of \$750, were subscribed for by Bartlett for the purpose of providing cash for working capital and for organization and incorporation expenses of Pinewood Water Company.

cash concurrently with the delivery of the stock certificates upon the effectiveness of the order of the Commission applied for herein and in the contemporaneous application for authority for the transfer of Lakeside Lodge Utility System.

The evidence indicates that applicants Nelson and Caple are financially able to undertake the operation of the two systems as a unified project and that such operation should result in improvements in service to the public as well as in operating economies.

We hereby find that the transfers of property, as proposed in Application No. 37778, as amended, and in Application No. 37779, are not adverse to the public interest and they will be authorized as requested and as hereinafter provided for.

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

O R D E R

Public hearing having been held on the above-entitled and numbered consolidated applications, the Commission having considered the evidence and being of the opinion that said applications should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the shares of stock and the other evidences of indebtedness herein authorized is reasonably required by Pinewood Water Company for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Cora B. Harding, after the effective date of this order and on or before October 1, 1956, may sell and transfer to Pinewood Water Company, a corporation, in lieu of to applicants Nelson and Caple, the public utility water

system properties and operating rights, situated in El Dorado County, California, known as Lakeside Lodge Utility System, as described in Application No. 37778, as amended, substantially in accordance with an agreement of sale, dated January 12, 1956, annexed to Application No. 37778 as Exhibit 1, as modified by a supplement dated May 22, 1956, and also in substantial accordance with an option, annexed to Application No. 37778 as Exhibit 2, and a letter agreement, dated May 28, 1956, annexed as Exhibit A to the amendment to Application No. 37778 filed June 6, 1956.

2. Louis Bartlett, after the effective date of this order and on or before October 1, 1956, may sell and transfer to Pinewood Water Company, a corporation, that certain water distribution system located in Pinewood Terrace subdivision, in El Dorado County, California, as described in Application No. 37779, and may also sell and transfer to Linne E. Nelson and Cecil W. Caple, Jr. 461 shares of the capital stock of said Pinewood Water Company, said sale and transfer of properties and stock to be made substantially in accordance with the terms and conditions of a letter agreement, dated January 12, 1956, annexed to said Application No. 37779 as Exhibit 1 thereof, as supplemented by said letter agreement, dated May 28, 1956, annexed as Exhibit A to the amendment to Application No. 37778 filed June 6, 1956.
3. Pinewood Water Company, a corporation, after the effective date of this order and on or before October 1, 1956, may issue to Cora B. Harding its promissory note in the principal sum of \$18,000, together with its deed of trust

and mortgage of chattels, and may issue to Linne E. Nelson and Cecil W. Caple, Jr. not exceeding 80 shares of its capital stock of the par value of \$25 per share for the purposes above described.

4. The forms of deed, bill of sale, note, deed of trust and mortgage of chattels to be used in effectuating the various transactions herein authorized shall be substantially in accordance with those annexed as exhibits to Application No. 37778, as amended, and, with respect to the form of mortgage of chattels, as furnished to the Commission by counsel for applicant under a letter dated June 29, 1956. Said form of mortgage of chattels is hereby incorporated in the record of this proceeding as one of the forms pursuant to which the transactions herein authorized are to be accomplished.
5. On or before the date of actual transfer Cora B. Harding shall refund all customers' deposits and advances for construction which she is obligated to refund. Any such unrefunded deposits and advances shall be transferred to and become the obligation for refund of Pinewood Water Company, a corporation.
6. The rates, rules and tariff service area maps now on file with this Commission for Cora B. Harding, doing business as Lakeside Lodge Utility, and for the Pinewood Water Company, a corporation, shall be refiled in a manner satisfactory to the Commission, within thirty days after the date of actual transfer, under the name of Pinewood Water Company, a corporation, in accordance with the procedure prescribed by General Order No. 96. Such rates, rules and tariff service area maps shall be consolidated into a single set of tariff

schedules of which the rules shall reflect present day relationships between the utility and its customers.

No increase in the present rates and rules shall be made unless authorized by this Commission.

7. If the authority herein granted is exercised, Pinewood Water Company, a corporation, within 30 days thereafter, shall notify the Commission in writing of the date of completion of the transaction, and shall file, as executed, a certified copy of the deed, bill of sale and other documents used in effectuating the authority herein granted.
8. If the authority herein granted is exercised, Pinewood Water Company, a corporation, within 40 days after the date of actual transfer, shall file four copies of a comprehensive map drawn to an indicated scale not smaller than 100 feet to the inch, delineating by appropriate markings the various tracts of land and territory served, the principal water production, storage and distribution facilities, including the location of the connection to the LakeSide Spring, and the location of the various properties of the water systems hereinabove authorized to be transferred.
9. Upon due compliance with all the conditions of this order, Cora B. Harding and Louis Bartlett shall stand relieved of all further utility obligations and liabilities in connection with the operation of the public utility water system, or systems, herein authorized to be transferred.

10. Pinewood Water Company, a corporation, shall file with the Commission monthly reports as required by General Order No. 24-A, which order, in so far as applicable, is hereby made a part of this order.

11. This order will become effective when applicant has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 10th day of July, 1956.

[Signature]
President
Justice S. Coe
[Signature]
[Signature]
[Signature]
Commissioners

