

**ORIGINAL**Decision No. 53367

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 BEN ALI WATER COMPANY, a corporation, )  
 for an order authorizing the trans- ) Application No. 38084  
 fer of utility property to ARCADE )  
 COUNTY WATER DISTRICT. )

OPINION AND ORDER

Ben Ali Water Company,<sup>1</sup> a corporation, by application filed on June 1, 1956, seeks authority from this Commission to sell its physical assets to Arcade County Water District,<sup>2</sup> which joins in the application. The terms and conditions of the sale are set forth in an agreement, dated April 12, 1956, a copy of which is attached to the application as Exhibit B.

Under the terms of the agreement Company proposes to sell to District its water system properties described therein for the sum of \$1,707,500 plus the cost of such capital additions and improvements as may have been made by Company subsequent to March 1, 1956 and prior to August 31, 1956.

The purchase price is to be paid from the proceeds from the sale of bonds to be submitted to voters of District at an election scheduled to be held on June 19, 1956.<sup>3</sup>

Company was authorized by this Commission in Decision No. 46764, issued February 19, 1952 in Application No. 33034, to acquire the subject public utility properties from the former owner,

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<sup>1</sup> Sometimes herein called Company.

<sup>2</sup> Sometimes herein called District.

<sup>3</sup> Through the press and from other sources the Commission has received the information that the sale of bonds has been approved by the voters in the election held on June 19, 1956.

Jere Strizek, doing business as Ben Ali Water Company. Subsequently, by Decision No. 47886, issued November 3, 1952 in Application No. 33672 and Decision No. 49414, issued December 8, 1953 in Application No. 34757, Company was granted certificates of public convenience and necessity to extend its water system into adjacent territory. Water is furnished by Company for residential and commercial purposes to approximately 11,458 customers in an area of approximately 9.2 square miles which lies northerly and easterly of the City of North Sacramento.

It is stated in the application that while those portions of Company's service area known as North Highlands and Swanston Estates lie outside District boundaries, District agrees to serve all of the customers now served by Company, with the exception of the area known as the Arden Highlands subdivision which is shown on Exhibit B attached to the above-mentioned agreement. The Commission has received an application for authority to transfer Company's properties in that area to Citizens Utilities Company of California, a corporation.<sup>4</sup> Accordingly, in the order herein Company will be relieved of its public utility obligations only in the portions of its area that are proposed to be transferred to District.

The balance sheet of Company as of April 30, 1956, attached to the application as Exhibit A, shows utility plant of \$1,802,648.84 and reserve for depreciation of \$242,516.45, thus indicating a depreciated utility plant of \$1,560,132.39. As of December 31, 1955, the balance sheet of Company included in its annual report to the Commission for 1955, shows the total utility plant and reserves for depreciation of \$1,785,762.69 and \$223,935.49, respectively, thus indicating a depreciated utility plant of \$1,561,827.20.

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<sup>4</sup> Application No. 38190.

The property proposed to be transferred is further defined on page 3 of the herein agreement by the statement "The term 'Water System' shall include any right, contractual or otherwise, possessed by Company to render service to and/or to acquire the water distribution system of the Sierra Water Company, a public utility corporation, serving the area known as Swanston Estates as shown on Exhibit 'B'." It is noted, however, that Application No. 35598 (as amended), filed by Sierra Water Company requesting a certificate of public convenience and necessity to serve a portion of Swanston Estates, was denied by the Commission in Decision No. 51527, dated May 31, 1955. By its Application No. 37282 (as amended), now pending before this Commission, Ben Ali Water Company requests authority to exercise the franchise granted by the County of Sacramento to Sierra Water Company, and also to carry out the terms of an agreement with the latter providing for Ben Ali Water Company to extend water service into Swanston Estates under conditions which deviate from the standard main extension rule. It is anticipated that the decision on the latter application will be issued concurrently herewith.

It is noted in the above-mentioned agreement that paragraph 8(d) thereof, providing that Company .... "will not enter into, execute or become a party to any refund agreement or agreements of any kind or nature whatever without consulting with and obtaining written approval of the District," is in direct conflict with Company's public utility obligation. Consequently, it shall be understood by applicant utility that it is under obligation to provide adequate service where proper application has been made, and to install new services and main extensions under the provisions of its filed tariffs, and the transfer authorized herein shall not be construed to restrict up to the date of actual transfer, the additions and improvements required for Company to fulfil its public utility obligations.

Under the terms of the before-mentioned agreement District agrees to undertake all of the obligations of Company to be performed pursuant to refund agreements entered into by Company prior to September 1, 1956, including those listed in Exhibits D and E attached to the agreement.

Authority for the transfer is stated to be sought for the reason that District proposes to reconstruct and improve the water system in order to more adequately serve the customers now served by Company.

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 as follows:

1. Ben Ali Water Company, a corporation, may, on or after the effective date hereof and on or before November 30, 1956, sell and transfer its public utility properties to Arcade County Water District substantially in accordance with the agreement, included in the application as Exhibit A, except that the provision of numbered paragraph 8(d) relative to the provision requiring the utility to obtain written consent prior to executing refund agreements is specifically excluded from the authority herein granted.

2. On or before the date of actual transfer, Ben Ali Water Company shall refund all customer's deposits which customers are entitled to have refunded, and within thirty days thereafter shall notify the Commission in writing of the completion of such refunding.

3. Ben Ali Water Company shall, within thirty days after the date of actual transfer, file with this Commission a verified

statement showing all obligations to make refunds of customers' advances for construction entered into in addition to those shown in Exhibits D and E attached to the agreement. Such verified statement shall show the amounts thereof, and the names of persons or corporations in whose favor such additional obligations exist as of the date of transfer.

4. If the authority herein granted is exercised, Ben Ali Water Company 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.

5. Upon due compliance with all of the conditions of this order, said Ben Ali Water Company shall stand relieved of all further public utility obligations and liabilities in connection with the operation of those portions of its water system herein authorized to be transferred. However, relief of Ben Ali Water Company from its public utility obligations and liabilities in connection with the operation of the area known as Arden Highlands is specifically withheld.

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

Dated at San Francisco, California, this 10<sup>th</sup> day of July, 1956.

John E. Mitchell  
President  
Justin J. Adams  
Paul J. Adams  
William J. Adams  
W. J. Adams  
Commissioners