

ORIGINALDecision No. 54134

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ISIDORE MALAMUD, doing business under)
 the firm name and style of GODFREY)
 HEIGHTS WATER CO., and RIVERSIDE)
 HIGHLAND WATER CO., a mutual stock)
 water company, for authority to)
 abandon and dissolve public utility)
 and to transfer water distribution)
 system.)

Application No. 37445

Perry Bertram, for applicant Isidore Malamud,
 doing business as Godfrey Heights Water Company.
Roland H. Crabtree, for applicant Riverside
 Highland Water Co.
Reginald H. Knaggs, for the Public Utilities
 Commission staff.

O P I N I O N

A public hearing was held in this matter at San Bernardino, California, before Examiner Mark V. Chiesa. Evidence having been presented and the matter submitted, it is ready for decision. By Decision No. 44445, dated June 27, 1950, Isidore Malamud, doing business as Godfrey Heights Water Company, hereinafter referred to as Godfrey Company, was granted a certificate of public convenience and necessity to operate a public utility water system for the distribution and sale of water in the unincorporated area known as Cal Neb Ranch comprising some 125 acres in which is located Tract No. 3444, San Bernardino County, and, in addition, in the area adjacent thereto known as Tract No. 2966; said area being located near Highgrove, California, as more particularly delineated on the map filed as Exhibit No. 1 at the hearing on Application No. 31029, as amended.

By this application Isidore Malamud seeks authority to sell and transfer said public utility water system to Riverside Highland Water Co., a mutual water company, hereinafter referred to as Riverside Co.; and the latter has joined in the application.

Applicant is at present serving domestic water to 67 lots in Tract No. 3444 and also to two lots adjacent to but not in said tract. Applicant Malamud's source of water is irrigation water which he is now receiving from the Riverside Co., by reason of his ownership of shares in said company. Godfrey Company has no wells in production and is dependent upon the irrigation water it receives from the mutual water company, which company takes the position that it is not obligated to furnish an uninterrupted flow of irrigation water to its shareholders on a year-round basis. The Riverside Co. has notified the Godfrey Company that it does not consider itself obligated to continue to supply water during the winter months. The utility, in consequence, believes that the present source of water supply is in jeopardy.

The evidence shows that if the present source of water is withdrawn Godfrey Company would not at present be in a position to furnish uninterrupted domestic water to its consumers. Although Godfrey Company has one well which could produce water, the reopening of this well would require reconditioning and some modification of a portion of the distribution system.

Annual reports for the years ending December 31, 1954 and 1955, filed by Godfrey Company with this Commission, show cost of utility property and depreciation reserve as follows:

	<u>1954</u>	<u>1955</u>
Utility Property	\$21,305.88	\$21,305.88
Reserve for Depreciation	2,411.40	2,893.44

For the same years the company's revenues and expenses were as follows:

	<u>1954</u>	<u>1955</u>
Revenue	\$ 1,159.10	\$ 2,088.00
Expense	1,949.41	2,160.14
Profit or Loss	<u>(790.31)</u>	<u>(72.14)</u>

(Red Figure)

The record does not show that Godfrey Company is obligated on account of customers' deposits or advances in aid of construction.

Godfrey Company proposes to transfer and sell to Riverside Co. said utility property, consisting of three lots, water well, distribution system, certain water shares, together with rights of way and/or easements, as more specifically set forth in the application. In consideration therefor Riverside Co. agrees to furnish domestic water to present and future lot owners and consumers in the aforesaid dedicated service area, and to construct and maintain adequate and suitable facilities for such purposes. It will also install, at its own cost, water meters on the 67 lots in Tract No. 3444 now being served by the Seller. Meters for other lots in the acreage will be installed as subdivided at a cost, to lot owners, of approximately \$50 per meter.

Each lot owner will receive one-half share of stock in the Riverside Co. The cost will be \$1.00 for transfer fee. Domestic water will be supplied to all of the lot owners on the basis of a \$3.00 monthly rate for 3,000 cubic feet or less, plus 10 cents per 100 cubic feet in excess of 3,000 cubic feet as more fully set forth in the application and exhibits filed therewith. In addition to the charge for water, lot owners will pay an annual assessment on the one-half share of stock, which assessment at present would amount to \$10.50 per share.

Godfrey Company now has a flat rate of \$3.00 per connection per month and an optional metered rate of \$2.00 per month for the first 2,000 cubic feet, or less, plus 10 cents per 100 cubic feet in excess of 2,000 cubic feet.

Riverside Co. is a mutual water company which has been engaged in the distribution of irrigation water in the Riverside-San Bernardino area for many years. It also serves domestic water.

After World War II the company greatly expanded its domestic facilities due to population growth and change in the character of some of the property from agricultural to residential. In excess of \$150,000 has been spent in developing its domestic water system. Some of this development is in the immediate vicinity of the certificated service area of the Godfrey Company, and the evidence shows that the two water systems can be consolidated at small additional cost. The record shows that said mutual water company is ready, able and willing to provide an adequate service to present and future lot owners in the area in question.

As of December 31, 1955, Riverside Co. possessed total assets of \$388,767.63 subject to liabilities of \$51,163.63. The net worth of \$337,604 was represented by \$187,800 of capital stock outstanding (4,695 shares of the par value of \$40 each) and surplus of \$149,804. Net income for the years 1954 and 1955 was, respectively, \$12,173.10 and \$3,265.73.

The Commission has received expressions from present consumers for and against the proposed sale. Those opposing prefer a public utility to a mutual water company because utility rates are usually lower and the mutual would not be under public regulation. Those who favor the change complain of low water pressure and poor service.

After submission of the matter, Isidore Malamud, doing business as Godfrey Heights Water Company, petitioned for a reopening of the proceeding in order to enable him to make a showing that an adequate water supply (independent of the present source from the Riverside Co.) could be developed from the well on one of the lots that will be transferred, and that the water could be made available to present and future consumers in the said dedicated area.

The application for authority to transfer the water system and to abandon and dissolve the public utility will be granted. The petition for reopening will be denied. This is because no useful purpose would be served by a showing in the record that the Godfrey Company is able to establish an independent source of water supply. The Commission does not accept the conclusion of Riverside Co. that it can, at its own option, cut off the water supply of the Godfrey Company and deprive its present or prospective customers of a needed supply of domestic water. A mutual water company that knowingly supplies water to a public utility for resale for domestic consumption may very properly be held to have dedicated such water to a public use. If it has, it is without any legal right to cut off or curtail the supply without having first obtained authority from this Commission so to do. The issue of whether or not there has been a dedication by Riverside Co. is not before the Commission in this proceeding. The evidence in the record does not warrant, nor does the resolution of the issue require, a finding on that question. The Riverside Co. is put on notice, however, that its position with respect to its right to deprive the Godfrey Company of its water supply will not, should the question ever arise, go unchallenged by the Commission.

The only issue before us in this proceeding is whether or not the proposed sale and transfer will be adverse to the public interest. The application is that of a seller, who desires to sell, to transfer to a purchaser that is in a position to render an adequate service. After full consideration of the application and the evidence of record, we are of the opinion and so find that the proposed sale and transfer will not be adverse to the public interest and that the application should be granted. The authority, as requested in the application will, of course, be permissive and not mandatory.

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

A public hearing having been held, the Commission being fully advised in the premises and having found that the proposed sale and transfer will not be adverse to the public interest, and good cause appearing,

IT IS ORDERED as follows:

(1) That Isidore Malamud, doing business as Godfrey Heights Water Company, may sell and transfer, on or after the effective date of this order and on or before June 30, 1957, his public utility properties to Riverside Highland Water Co., a corporation, substantially in accordance with the terms and conditions as set forth in the application and the memorandum of agreement with escrow instructions (Exhibit No. 3 in this proceeding).

(2) That on or before the date of actual transfer, Isidore Malamud shall refund all customers' deposits, if any, which customers are entitled to have refunded, and within thirty days thereafter shall notify this Commission in writing of the completion of such refunding.

(3) That Isidore Malamud 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, if any, the amounts thereof, and the names of the persons or companies in whose favor such obligations exist as of the date of the transfer.

(4) That in the event of existing obligations to make refunds of customers' advances for construction, as required to be reported by paragraph (3) hereof, Riverside Highland Water Co. shall, before the consummation of the sale and transfer herein authorized, agree to assume payment of said obligations to make refunds.

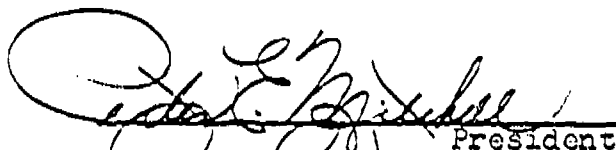
(5) That in the event the authority herein granted is exercised, Isidore Malamud shall, within thirty days thereafter, notify this Commission in writing of the date of the transfer of the public utility property as herein authorized and of compliance with the conditions hereof.

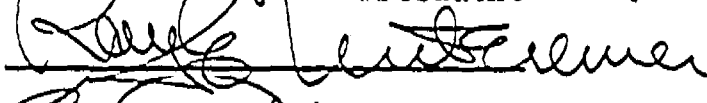
(6) That upon due compliance with all of the conditions of this order, said Isidore Malamud, doing business as Godfrey Heights Water Company, shall stand relieved of all further public utility obligations in connection with the operation of the water system herein authorized to be transferred.


(7) That the "Petition to Vacate and Set Aside Submission and Hold Further Hearing" be and it hereby is denied.

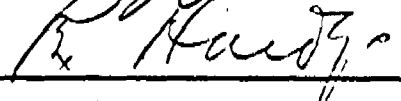
The effective date of this order shall be twenty days after the date hereof.


Dated at San Francisco, California, this 27th day of November, 1956.



President








Commissioners