

ORIGINAL

Decision No. 54360

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN FERNANDEZ, an individual doing)
 business under the name and style of)
 FREEPORT WATER COMPANY, for author-)
 ity to transfer and sell his proper-)
 ties to the CITY OF SACRAMENTO, a)
 municipal corporation.)

Application No. 38562

OPINION AND ORDER

By this application filed November 7, 1956, John Fernandez,¹ doing business as Freeport Water Company, seeks authority from this Commission to sell the physical assets of his water system to City of Sacramento,² a municipal corporation, which joins in the application.

Under the terms of an agreement executed on July 14, 1955, a copy of which is attached to the application as an unidentified exhibit, Seller proposes to sell to City, for the sum of \$33,035.62, his water system properties described therein. The sum of \$17,150 was to be paid upon the execution of the agreement and the balance is to be paid in equal annual installments of \$3,177.12 with the last installment of \$3,177.12 being due on or before July 1, 1960. The unpaid balance of the purchase price is to bear interest at the rate of 4 per cent per annum.

Seller was granted a certificate of public convenience and necessity to construct and operate a public utility water system by this Commission by its Decision No. 42702 issued April 12, 1949 in Application No. 29930.

1. Sometimes herein called Seller.
 2. Sometimes herein called City.

According to the application there are no liens, mortgages, or encumbrances of any kind or nature against said properties to be sold, except that John Fernandez is obligated to refund out of revenues to Fred H. Bartig the sum of \$18,498.19 for certain advances for construction. City has expressly assumed the obligation to pay said refunds.

As justification for the authority sought, it is alleged that the sale of this system and its incorporation into the system operated by City will give the customers the benefits of a larger system which will provide for more economical operation than the system now operated by Seller. According to the application, Freeport Water Company realized a net operating profit of \$511.98 for the first six months of the year 1955.

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 a public hearing is not necessary, that the proposed transfer will not be adverse to the public interest, and that the request of the applicant should be granted; therefore,

IT IS HEREBY ORDERED that:

1. John Fernandez may, on or after the effective date hereof and on or before May 15, 1957, sell and transfer his public utility properties to City of Sacramento substantially in accordance with the terms of the agreement, a copy of which is attached to the application.
2. On or before the date of actual transfer, John Fernandez shall refund all customers' deposits which customers are entitled to have refunded, if any, and within thirty days thereafter shall notify this Commission in writing of the completion of such refunding.

3. John Fernandez shall, at least ten days prior to the date of actual transfer, file with this Commission a verified statement showing all obligations to make refund of advances for construction, if any, the amounts thereof and the names or corporations in whose favor such obligations exist. A copy of such statement shall be served by John Fernandez upon City of Sacramento prior to the time of filing said statement with the Commission and proof of service thereof shall be filed with said statement. Unless John Fernandez discharges his obligation to make refund of advances for construction prior to the actual transfer of the public utility properties herein concerned, such obligation shall devolve upon City of Sacramento pursuant to the condition hereinafter prescribed. As a condition to the grant of authority herein, the Commission hereby finding that the public interest so requires, City of Sacramento shall assume and become obligated to discharge each and every lawful obligation of John Fernandez to make refund of advances for construction according to the terms and conditions thereof, and the purchase by City of Sacramento of the herein concerned public utility properties shall be deemed an acceptance by it of the foregoing condition and agreement thereto.

4. John Fernandez shall, within ten days after the sale of said properties, file with this Commission a statement showing the date when he ceased to deliver water to the area involved and to which area water service is thereafter to be rendered by City of Sacramento.

5. Upon due compliance with all the conditions of this order, John Fernandez 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 8th day of JANUARY, 1957.

[Signature]
 President
[Signature]
[Signature]
[Signature]
 Commissioners