

ORIGINAL

Decision No. 54629

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GREAT WESTERN WATER SERVICE, a
California corporation, to buy,
and SAMUEL H. EMERSON and J. B.
HENDERSON CO., LTD. to sell all of
the outstanding stock of DESACRES
WATER COMPANY, a California corpo-
ration.

Application No. 38630

DESACRES WATER COMPANY, a California
corporation, to distribute in vol-
untary liquidation all of its assets,
operating rights, and certificates
of public convenience and necessity
to GREAT WESTERN WATER SERVICE, a
California corporation.

O P I N I O N

Great Western Water Service, a corporation,^{1/} by the
above-entitled application, seeks authority to buy all of the out-
standing stock of Desacres Water Company, a corporation,^{2/} in
accordance with the terms of the agreement of sale dated
November 2, 1956, a copy of which was attached to the application
as Exhibit "A". Desacres also seeks authority to distribute in
voluntary liquidation all of its assets, operating rights, and
certificates of public convenience and necessity to Great Western.

Great Western was granted a certificate of public con-
venience and necessity to operate as a public utility by
Decision No. 53985, issued October 30, 1956, in Application
No. 38394. Desacres was granted a certificate of public convenience
and necessity to operate as a public utility water company by

^{1/} Hereinafter referred to as Great Western.
^{2/} Hereinafter referred to as Desacres.

Decision No. 49824, issued March 23, 1954, in Application No. 35092. Each utility furnishes water service in an area southeast of Palmdale, Los Angeles County, and each has filed an application for a certificate of public convenience and necessity to extend its service area in overlapping territory: Great Western's Application No. 37874 and Desacres' Application No. 37838. Said applications were temporarily removed from calendar at the request of each applicant and are pending.

By the instant application Great Western proposes to purchase all of Desacres' stock from Samuel H. Emerson and J. B. Henderson Co., Ltd., for a fixed price of \$38,350, payable as follows:

1. Cash in the amount of \$500, at the close of escrow.
2. A promissory note in the amount of \$6,500, secured by the delivery of \$6,500, face value of land contracts and/or trust deeds, to be delivered to Desacres upon close of escrow.
3. A promissory note in the amount of \$30,000, payable in quarterly installments of \$1,250 per quarter beginning January 15, 1957, until paid; said note to be secured by land contracts and/or trust deeds payments upon which the yield will be at least \$1,250 quarterly.
4. A promissory note, in the amount of \$1,350, payable either through the delivery by Great Western to Desacres of 135 shares of Great Western; common stock or in cash. In the event stock is delivered in lieu of cash, Great Western shall have the option to repurchase said stock at par to and including January 15, 1963.

Exhibit "B" attached to the application is a copy of the escrow instructions dated November 2, 1956, to Security First National Bank of Los Angeles, Glendale Branch.

Exhibit "C" is a copy of Great Western's balance sheet as of November 23, 1956. It shows total assets, including \$336.46 cash, of \$97,932.06. Accounts payable amounted to \$13,659.87 and capital of Warren O. Wagner of \$84,272.19 represented the balance of liabilities and net worth.

Exhibit "D" is a copy of Desacres' balance sheet as of October 31, 1956. Total assets were \$26,411.74, including cash of \$37.85. Liabilities included an amount of \$39.98 due the bank; accounts payable were \$6,415.80; reserve for depreciation was \$3,555.96; capital stock issued was \$16,400; and the company showed a deficit of \$4,178.30, and a loss of \$3,660.09 for the first ten months of 1956.

By Decision No. 53985 (supra), Great Western was authorized to issue up to 20,000 shares of its Class "B" common stock at a par value of \$10 per share in the aggregate amount of \$200,000 to Warren O. Wagner in exchange for the transfer by said Wagner to Great Western of land sales contracts and/or trust deeds to an aggregate face value of not less than \$200,000, the income from which was to be used for the acquisition or construction of facilities used and usable as a part of Great Western's water system installations. Said decision provided further, however, that none of the shares of Class "B" stock authorized should be sold or issued without Great Western's first having placed said shares in escrow, to be transferred out of escrow only upon order of the Commission.

Nowhere in the instant application is it shown that Great Western has placed sufficient amounts of its Class "B" stock in escrow to purchase the necessary amounts of land sales contracts and/or trust deeds from Warren O. Wagner, which it intends to and must furnish as collateral security for the promissory notes proposed to be issued for the acquisition of Desacres' stock. Nor has Great Western sought an order of the Commission to transfer such shares or interest therein, or receive any consideration therefor. The order hereinafter will contain a condition that Great Western shall meet these stated requirements before the

authorization to applicant to carry out the provisions of the agreement, Exhibit "A", shall become effective.

In the instant application, Great Western asks the Commission to indicate to what extent its Class "A" common stock may be issued in exchange for Class "B" common stock upon the acquisition of the operating rights and assets of Desacres by Great Western. In this connection it is noted that Great Western has not been authorized by the Commission to issue any Class "A" common stock, and until a proper showing relating thereto has been made to the Commission, no indication with respect to the instant request can be given.

From a review of the application it appears that if Great Western seeks and is granted authority to issue Class "B" common stock of sufficient amount to purchase land sales contracts and/or trust deeds of sufficient amount to place such land sales contracts and/or trust deeds as collateral security for the notes to be issued to Desacres, it will then be financially able to meet the financial obligations incurred by reason of its acquisition of the stock of Desacres. When such conditions have been met, it does not appear that the proposed acquisition by Great Western, of the outstanding capital stock of Desacres, will be adverse to the public interest, and an order will be entered granting the application as requested conditioned, however, upon these precedents. In making this finding, it is the Commission's opinion that the money, property or labor to be procured or paid for by the issue of the promissory notes herein authorized is reasonably required for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The authority herein granted is not to be construed as being indicative of amounts to be included in a future rate base of Great Western for the purpose of determining just and reasonable rates.

The certificate of public convenience and necessity authorized to be transferred herein is subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

O R D E R

The Commission having considered the above-entitled matter, and being of the opinion that a public hearing is not necessary, and that the application should be granted as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. That Great Western Water Service, after the effective date hereof, and on or before December 31, 1957, may acquire the issued and outstanding stock of Desacres Water Company from Samuel H. Emerson and J. B. Henderson Co., Ltd.
2. That Great Western Water Service, after the effective date hereof, and on or before December 31, 1957, may issue its promissory notes in the aggregate amount of not to exceed \$37,850, in part payment of the purchase price, to be paid for the outstanding capital stock of Desacres Water Company, such notes to be issued in accordance with the terms of the agreement of sale, Exhibit "A", attached to the application, subject, however, to the condition that any common stock of Great Western

- repurchased by it as provided in the agreement of sale attached, as Exhibit "A", to the application shall be so repurchased with funds then existing in Great Western's earned surplus.
3. That Great Western Water Service shall file with the Commission a report or reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.
 4. That upon the acquisition of all of the outstanding stock of Desacres Water Company, Great Western Water Service may dissolve Desacres Water Company and may acquire its operating rights and assets.
 - 5.a. That on the date of acquisition of the stock of Desacres Water Company by Great Western Water Service the certificate of public convenience and necessity granted to Desacres Water Company by Decision No. 49824 be, and it is transferred to Great Western Water Service.
 - b. That Great Western Water Service, on and after the date of acquisition, is authorized and directed to charge, in the territory acquired under the authorization herein granted, the rates presently being charged by Desacres Water Company and to apply in said territory its own rules now being on file with the Commission.
 - c. That Great Western Water Service, if it acquires the hereinabove described properties, shall, within thirty days thereafter, file the rates authorized herein, and shall revise its presently effective tariff schedules to provide for the application of its rules and said rates in the service area being acquired herein, together with a revised service area map, all in accordance with the procedures prescribed by General Order No. 96. Such rates and revised tariff sheets shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.
 6. That on or before the date of actual transfer of Desacres Water Company's properties to Great Western Water Service, Desacres shall refund all deposits which customers are entitled to have refunded. Any of said unrefunded deposits shall be transferred to and become the obligation for refund of Great Western Water Service.
 7. That if the authority herein granted is exercised, Desacres Water Company and Great Western Water Company shall each, within thirty days thereafter, notify this Commission, in writing, of the date of such completion of the property transfer herein authorized and of their compliance with the conditions hereof.

- 8. Upon due compliance with all of the conditions of this order, Desacres Water Company, a corporation, shall stand relieved of all further public utility obligations and liabilities in connection with the operation of the water system herein authorized to be transferred.
- 9. That the authority herein granted shall become effective when Great Western Water Service shall have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$38, and when Great Western Water Service shall have obtained authority from the Commission to issue, and shall have issued, a sufficient amount of its Class "B" common stock, to exchange said stock for a sufficient amount of land sales contracts and/or trust deeds, from Warren O. Wagner, to be able to fulfill the collateral security requirements of Exhibit "A" of the application.

Dated at San Francisco, California, this 5th day of March, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

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BY [Signature]