

ORIGINAL

Decision No. 54712

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DAVID BLACK, CELIA BLACK, ESTELLE
MOSK, ABBY GITTLESOHN, CECILY PERAZZI,
DAVID BLACK and PHILLIP BLACK,
individually and doing business as
BLACK'S ALMADEN WATER SYSTEM, and
SAN JOSE WATER WORKS, a corporation,
for an order authorizing the transfer
of Black's Almaden Water System to
San Jose Water Works.

Application No. 38782

OPINION AND ORDER

David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black, and Phillip Black, individually and doing business as Black's Almaden Water System,^{1/} by the above-entitled application filed January 31, 1957, join with San Jose Water Works,^{2/} a corporation, in asking the Commission to authorize Sellers to transfer the public utility water system operated by them in the community of Almaden, Santa Clara County, to Buyer. Further, Buyer requests authority to operate the subject water system under the rates and rules now on file by Sellers for this utility system.

Seller's water system was originally operated by David Black and Bernard Black under a certificate of public convenience and necessity granted to them by Decision No. 42921, dated May 24, 1949, in Application No. 29873. It is alleged in the present application that on March 25, 1952, the assets of the estate of Ben Black, also known as Bernard Black, including the

1/ Sometimes herein referred to as Sellers.
2/ Sometimes herein referred to as Buyer.

water utility properties, were distributed under a decree of final distribution by the Superior Court of the State of California, in and for the City and County of San Francisco in No. 120077. Authorization for this change in ownership has not been heretofore requested of, nor heretofore granted by, this Commission, notwithstanding the clear provisions of Section 851 of the Public Utilities Code.

The property proposed to be transferred consists of several parcels of land, pumping plants, transmission and distribution system facilities, water rights, franchises and easements, all as more particularly described in the "Agreement", a copy of which is attached to the application as Exhibit B. According to Sellers' annual report to the Commission for the year 1955, the system furnishes water service to approximately 100 customers.

The terms of the proposed agreement provide that the properties are to be transferred for the total consideration of \$15,000, subject to certain adjustments as provided in the purchase agreement. Sellers' annual report to the Commission for the year 1955 and the statement of the original book cost of the properties to be transferred, Exhibit "C" attached to the application, both show the total utility plant to be \$25,889.62 with a reserve for depreciation of \$10,993.30, thus indicating a depreciated utility plant of \$14,896.32 for the water system properties proposed to be transferred.

The reasons given for the proposed transfer are that Buyer is presently engaged in operating a public utility water system in the area adjacent to that served by Sellers, and is familiar with the territory and needs of the present and prospective customers. It is further alleged that the purchase and

operation of the system proposed to be transferred will be in the public interest and for the benefit of the customers of said system.

In view of the fact that San Jose Water Works serves the area immediately adjacent to the area served by Sellers, it does not appear necessary for Buyer to maintain on file separate tariff schedules for the water system to be acquired herein. Therefore, the order which follows will authorize and direct Buyer to apply the rules on file for San Jose Water Works to the service area to be transferred herein, and to refile the rates now on file for Black's Almaden Water System as a part of Buyer's tariff schedules. Any increase in rates or more restrictive condition that may result from applying Buyer's rules to the system to be acquired herein is found to be justified.

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 that:

1. The transfer of an undivided one-half interest in the public utility water system known as Black's Almaden Water System by "Decree of Distribution of the Estate of Ben Black", dated March 25, 1952, to Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black, nephew of the David Black first mentioned in the opinion herein, and Phillip Black; and the sale and transfer by David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black, and Phillip Black, of their interest in the public utility water system known as Black's Almaden Water System to San Jose Water Works, on or before October 31, 1957, substantially in accordance with the terms of the

instruments entitled "Agreement", and "Deed and Bill of Sale", copies of which are attached to the application as Exhibits B and F, respectively, are hereby authorized.

2. San Jose Water Works, a corporation, on and after the date of actual transfer, is authorized and directed to charge in the service area acquired under the authorization herein granted, the rates presently being charged by Sellers under the name of Black's Almaden Water System, and to apply in said service area its own rules which are now on file with the Commission for San Jose Water Works.
3. San Jose Water Works, 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 for its water system to provide for the application of its rules and said rates in the service area being acquired herein, together with a revised tariff service area map acceptable to the Commission, and in accordance with the procedures prescribed by General Order No. 96. Such rates, revised tariff sheets and tariff service area map shall become effective upon five days' notice to the Commission and the public after filing as hereinabove provided.
4. On or before the date of actual transfer, David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black, and Phillip Black shall refund all deposits and advances for construction which are subject to refund. Any unrefunded deposits and advances for construction shall be transferred to and become the obligation of San Jose Water Works.
5. On or before the date of actual transfer, David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black and Phillip Black shall transfer and deliver to San Jose Water Works, and the latter shall receive and preserve all records, memoranda and papers pertaining to the construction and operation of the properties hereinabove authorized to be transferred.
6. If the authority herein granted is exercised, David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black and Phillip Black shall notify this Commission in writing of the date of such completion of the property transfer herein authorized and of their acceptance of and compliance with all of the conditions hereof.

7. Upon due compliance with all the conditions of this order, said David Black, Celia Black, Estelle Mosk, Abby Gittlesohn, Cecily Perazzi, David Black and Phillip Black shall stand relieved of all further public utility obligations in connection with the operation of the public utility water system herein authorized to be transferred.

The authority herein granted will become effective twenty days after the date hereof.

Dated at _____ California, this 26th day of _____, 1957.

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