

ORIGINAL

Decision No. 55066

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Rachelle D. Asher, of Alturas, Modoc)
 County, California, as Executrix)
 of the Estate of Albert Thomas,)
 deceased, for permission to sell to)
 David J. Bayne and Elsie K. Bayne) Application No. 39022
 of Alturas, Modoc County, California,)
 an undivided one-half interest in and)
 to the Reservoirs and Ditches and)
 all rights appertaining thereto, of)
 the sellers, a Public Utility, of the)
 State of California.)

OPINION AND ORDER

By this application filed April 26, 1957, Rachelle D. Asher,¹ as executrix of the estate of Albert Thomas, deceased, seeks authority to sell the undivided one-half interest, formerly owned by decedent, in the public utility water system known as Thomas and Bayne Ditch Company, located in Modoc County, to David J. Bayne and Elsie K. Bayne,² who join in the application.

The subject water system was operated by Albert Thomas, C. A. Raker and Iva S. Raker since prior to 1912. Although no certificate of public convenience and necessity to operate this public utility water system has been applied for or issued by this Commission, C. A. Raker and Iva S. Raker were authorized to sell their undivided one-half interest in the water system to David J. Bayne by Decision No. 34754, dated November 12, 1941, and by supplemental Decision No. 37230, dated July 26, 1944, in Application

¹ Sometimes herein called Seller.
² Sometimes herein called Buyers.

No. 24444. Subsequently, by Decision No. 40925, dated November 12, 1947, in Case No. 4901, this Commission authorized and directed Albert Thomas and David J. Bayne to file rates and rules.

According to the application and the utility's annual report to the Commission for the year 1956 the system furnishes irrigation water service to six customers for the irrigation of approximately 500 acres of land. It is stated in the application that the proposed transfer of the undivided one-half interest in the subject utility property to Buyers was confirmed on April 15, 1957, by the Superior Court of Modoc County. Also, that the consideration for the transfer is \$5,000, of which \$2,000 was to have been paid upon confirmation of the sale by the court and the remaining \$3,000 is to be represented by a promissory note, secured by a deed of trust, which is to be payable at the rate of \$500 per year with interest on the unpaid balance at 5 percent per year. A copy of the court order confirming the sale is attached to the application as Exhibit B. Copies of the "Executrix' Deed" and "Deed of Trust" and "Promissory Note" by which the transfer is to be executed are attached to the application as Exhibits C and D, respectively.

The utility's annual report to the Commission for the year 1956 shows the total utility plant to be \$35,213 but it does not show any reserve for depreciation.

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 application should be granted; therefore,

IT IS HEREBY ORDERED that:

1. Rachelle D. Asher, as executrix of the estate of Albert Thomas, deceased, may on or before December 31, 1957, transfer the undivided one-half interest in the utility properties described in the application to David J. Bayne and Elsie K. Bayne pursuant to the "Order Confirming Sale of Real Estate at Private Sale" referred to above.

2. The rates and rules of Albert Thomas and David J. Bayne, doing business as Thomas and Bayne Ditch Company, now on file with the Commission shall be refiled within thirty days after the date of transfer under the name of David J. Bayne and Elsie K. Bayne, in accordance with the procedures prescribed by General Order No. 96, or, in lieu of such refileing, David J. Bayne and Elsie K. Bayne may file a notice of adoption of said presently filed rates and rules. No increase in the present rates and rules shall be made unless authorized by the Commission.

3. David J. Bayne and Elsie K. Bayne, after the effective date hereof and on or before December 31, 1957, may issue their promissory note in the principal amount of \$3,000 substantially in the form shown on Exhibit D attached to the application for the properties and purpose described in the foregoing opinion.

4. If the authority to issue a note herein granted is exercised, David J. Bayne and Elsie K. Bayne shall, within thirty days thereafter, file with this Commission a certified copy of the note as actually executed.

5. On or before the date of actual transfer, Rachelle D. Asher, as executrix of the estate of Albert Thomas, deceased, shall refund all customers' deposits and advances for construction which are subject to refund, if any. Any unrefunded deposits and advances shall be transferred to and become the obligation for refund of David J. Bayne and Elsie K. Bayne.

6. On or before the date of actual transfer, Rachelle D. Asher, as executrix of the estate of Albert Thomas, deceased, shall transfer and deliver to David J. Bayne and Elsie K. Bayne, 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.

7. If the authority herein granted is exercised, Rachelle D. Asher, as executrix of the estate of Albert Thomas, deceased, shall within thirty days thereafter notify this Commission of the date of such completion of the property transfer herein authorized and of her compliance with the terms hereof.

8. Upon due compliance with all of the conditions of this order, said Rachelle D. Asher, as executrix of the estate of Albert Thomas, deceased, 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 to execute a note will become effective when David J. Bayne and Elsie K. Bayne have paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25. In all other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of JUNE, 1957.

E. J. ...
 President

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R. ...

C. ...
 Commissioners

