

Decision No. 55698**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application)
of LINCOLN OAKS WATER CO., INC., a)
California corporation, ARLINGTON)
CONSTRUCTION CO., a limited partnership,)
and ARLINGTON WATER COMPANY, a California)
corporation, for an order authorizing)
Arlington Construction Co. and Arlington)
Water Company to sell their water system)
to Lincoln Oaks Water Co., Inc.)

Application No. 39856

OPINION AND ORDER

Arlington Water Company,¹ a corporation, and Arlington Construction Co.,² a limited partnership, and Lincoln Oaks Water Co., Inc.,³ a corporation, by their joint application filed February 28, 1958, seek authority for Arlington and Subdivider to sell, and Lincoln Oaks to purchase, the assets of the public utility water system operated by Arlington in Sacramento County. The partners comprising Subdivider's organization are E. J. McGah and Ward H. Cramer, as general partners, and Gregory Development Company, Alhambra Homes, Inc., and Melbourne Homes, Inc., all corporations, as limited partners.

The water system proposed to be transferred serves the unincorporated area known as Arlington Heights Subdivision, located approximately 11 miles northeast of the City of Sacramento.

The terms of the proposed transfer are set forth in an instrument dated January 14, 1958, and entitled "Water Service Agreement", a copy of which is attached to the application as

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- ¹ Sometimes herein called Arlington.
² Sometimes herein called Subdivider.
³ Sometimes herein called Lincoln Oaks.

Exhibit A. The properties to be transferred include lands, water system facilities and operating rights, and are more particularly described in the above-mentioned agreement. The principal consideration for the transfer is \$37,500, of which \$35,000 is to be paid in cash on the closing date of the transaction. The remaining \$2,500 is to be paid within ten days after Subdivider has certified to Lincoln Oaks that 100 homes in the subdivision have been completed and are ready for occupancy. As further consideration, Lincoln Oaks is to furnish without charge such water as may reasonably be required for the construction of 800 residences in the subdivision within a three-year period from the closing date of the transfer. The original cost of the water system properties is stated to be \$64,485.07.

Arlington was granted a certificate of public convenience and necessity to operate the subject water system by Decision No. 54521, dated February 11, 1957, in Application No. 38451. The same decision authorized Arlington to issue 600 shares of its \$100 par value capital stock in payment for the water system properties which had been constructed by Subdivider.

According to a statement in the application, neither the authority to issue stock nor to transfer the properties had been exercised prior to the filing of this application.

The reasons given for the proposed transfer are that the owners of Arlington desire to retire from active operation of the water system and, inasmuch as Lincoln Oaks' system surrounds the area served by Arlington, it is anticipated that the two systems will be integrated when the area is sufficiently developed.

The application states that Arlington is not holding any refundable advances for construction. Any customer's deposits to

establish credit being held by Arlington are to be either refunded prior to the transfer or will be transferred to and become the obligation for refund of Lincoln Oaks.

Lincoln Oaks will be authorized, in the order which follows, to continue in effect Arlington's presently effective rate schedules. Since the two areas are adjacent, however, it does not appear necessary for Lincoln Oaks to maintain in effect two separate sets of tariff schedules. Accordingly, Lincoln Oaks will be authorized and directed to apply, in the Arlington area, its rules presently on file and to refile Arlington's rates as part of Lincoln Oaks' tariff schedules. Any increase in charges or more restrictive conditions that may result from applying Lincoln Oaks' rules in the area to be acquired is found to be justified.

With respect to the provision of the agreement under which Lincoln Oaks would be obligated to furnish water for the construction of 800 residences, any such service may be furnished only in accordance with filed tariff schedules. Inasmuch as the amount of the charge that would result from this service is not known, this provision will be specifically excluded from the authorization granted by the order which follows.

Decision No. 54521, by which a certificate of public convenience and necessity was granted to Arlington required, in ordering paragraph 12, that Arlington procure and dedicate to water and utility purposes certain lands, rights of way and easements, and to file with the Commission one copy of each appropriate document showing such procurement or dedication. Inasmuch as Arlington has not complied with the requirements of the above-mentioned paragraph 12, Lincoln

Oaks, if it exercises the authority herein granted, will be required to assume the obligation for such compliance.

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 in part, therefore,

IT IS HEREBY ORDERED that:

1. Arlington Water Company and Arlington Construction Co. may, on or after the effective date hereof and on or before September 30, 1958, sell and transfer the herein described public utility water system properties to Lincoln Oaks Water Co., Inc., substantially in accordance with the agreement attached to the application, except that authorization to carry out the terms and conditions of paragraph 3.5 of said agreement which relate to the furnishing of water without charge to Arlington Construction Co. is specifically withheld.

2. Lincoln Oaks Water Co., Inc., on or 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 Arlington Water Company and to apply in said service area its own rules which are now on file with the Commission.

3. Lincoln Oaks Water Co., Inc., 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, Arlington Water Company 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 Lincoln Oaks Water Co., Inc.

5. On or before the date of actual transfer, Arlington Water Company shall transfer and deliver to Lincoln Oaks Water Co., Inc., and the latter shall receive and preserve, all records, memoranda and papers pertaining to the construction and operation of the properties herein authorized to be transferred.

6. If the authority herein granted is exercised, Lincoln Oaks Water Co., Inc., shall, within thirty days thereafter, file with this Commission one copy of each deed, bill of sale or any other instrument effecting the property transfer herein authorized, including specifically those documents required by ordering paragraph 12 of Decision No. 54521.

7. If the authority herein granted is exercised, Arlington Water Company shall notify this Commission in writing of the date such completion of the property transfer herein authorized and of its compliance with the conditions hereof.

8. Upon due compliance with all the conditions of this order, Arlington Water Company 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 Los Angeles, California, this 20th day of May, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners