

ORIGINALDecision No. 56880

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ADA H. MARCH, sole owner, doing
 business as the IVANHOE WATER CO.,
 and the IVANHOE PUBLIC UTILITY
 DISTRICT, for an order authorizing
 the lease by said Ivanhoe Water Co.
 of the facilities, with an option
 to purchase to the IVANHOE PUBLIC
 UTILITY DISTRICT.

Application No. 39125

Russell R. McKinney, of McKinney & Ballantyne,
 for Ivanhoe Water Co.
Leroy McCormick, of McCormick, Mook &
 McCormick, for Ivanhoe Public Utility District.
Martin Abramson, for the Commission staff.

OPINION ON REHEARING

The Commission denied without hearing, and without prejudice, the joint application of Ada H. March and Ivanhoe Public Utility District to transfer the March domestic public utility water system at Ivanhoe to the district for \$50,000 under a lease-purchase agreement dated April 29, 1957. The reason for the denial, stated in the opinion of the Commission, was that "Under the purchase option, the transfer of the ... water system might be consummated at some indefinite time in the future and under conditions not presently known." Approval by the Commission of such a transaction was considered to be inconsistent with "public interest". (Decision No. 55480, August 27, 1957)

Both parties sought and were granted a hearing, which was held, after due notice, before Examiner John M. Gregory at Visalia on April 24, 1958, when the matter was submitted for decision. No objections to the transfer were raised at the hearing.

The record shows that Mrs. March, who has owned and operated the Ivanhoe Water Company herself since 1931, and who now has about 500 customers, has found it difficult, because of advancing years, to finance necessary improvements to or extensions of her water system.

Ivanhoe Public Utility District, organized under the Public Utility District Act (Public Utilities Code, Secs. 15501-18004), since August, 1953 has operated a sewer system in an area comprising about 450 acres which includes the service area of Ivanhoe Water Company. The district has an assessed valuation in excess of \$1,000,000 and has outstanding bonds amounting to \$140,000.

The Public Utility District Act does not permit such districts to incur funded indebtedness which in the aggregate exceeds 20 percent of the assessed valuation of all real and personal property situated within the district (Pub. Util. Code, Sec. 16573). Such debt limitations may be exceeded, however, when the district finances waterworks by means of a bond issue and makes provision to pay the indebtedness out of revenues received over a period not to exceed 30 years (Pub. Util. Code, Sec. 16574).

The record shows that Mrs. March and the district have agreed upon an appraised value of \$50,000 as a fair and reasonable price for purchase of the water system. Under the terms of the lease agreement the district would pay \$4,000 after approval of the transaction by the Commission and in addition, \$500 monthly rental thereafter for one year. The agreement is renewable annually for nine consecutive years, on the same monthly rental terms. The instrument would be converted into an installment purchase contract upon exercise by the district of its option to purchase, with the amounts paid as rental credited to interest on unpaid balances and to reduction of principal.

The district, upon acquisition of the March system, proposes to rehabilitate and improve water production and distribution facilities, to improve fire protection and to extend water service to areas

not presently served by the utility. It expects to spend \$85,000 for a 5-step program, commencing in the utility's service area, to be financed from the balance of its debt limit and from taxation and revenue from its combined water and sewage services. Its representatives placed in the record some figures designed to reflect its estimate of funds which would be available for the first year's operations, including commencement of the first stage of the improvement project.

<u>Item</u>	<u>First Year Combined Operation</u> <u>District Estimate</u>
Total Revenues - incl. \$18,000 from water service	\$46,500
Operating Expenses	17,000
Bonds and Interest	9,000
Rental payments to Mrs. March - 1st year	<u>10,000</u>
<u>Total Expenses</u>	<u>36,000</u>
Amount available for 1st year's construction	\$10,500

The district expects to be in a position to exercise its option to purchase the water system in about 7 or 8 years, either before or after completion of the rehabilitation project. It has estimated that the combined operation would result in lower administration and operating costs and in improved supervision and maintenance procedures.

It is plain, from this record, that further operation of the utility by Mrs. March, who is no longer able to provide necessary water service improvements and extensions in the growing community of Ivanhoe, is not likely to result in satisfactory or adequate service for her consumers, or for those who may desire such service in the future. Nor do we perceive any reason for continuing to shoulder her with public utility obligations in the event of the assumption, in good faith, of water and other public services by a public district.

Our authorization of the agreement would have the effect, of course, of changing Mrs. March's status to that of lessor, or

conditional seller, of utility properties to which she retained legal title, and thus would present the seemingly irregular case of operation of utility services by a lessee or conditional buyer which is not subject to our regulatory jurisdiction. The Commission, however, in the exercise of its regulatory power may, in our view, properly concern itself with the paramount interest of the consumers or patrons of utility services. When we find, as we do here, that the owner of utility properties is unable to provide necessary facilities for rehabilitation or expansion of service to meet legitimate public demands, and that an entity is in existence which appears to be ready, able and willing to assume that responsibility, we should not hesitate to authorize a transfer of the properties under an agreement satisfactory to both parties, under which, if carried out, the consumers would appear to have prospects of more adequate service than the present owner, through no fault of her own, is able to provide.

Upon rehearing, and upon reconsideration of all of the facts disclosed by this record, we find that the proposed transfer, under the terms and conditions set forth in the agreement of April 29, 1957, between Ada H. March and Ivanhoe Public Utility District, a copy of which agreement is attached to the application as Exhibit "A" thereof, is not adverse to the public interest and will be authorized subject to the conditions described in the following order.

The action taken herein shall not be construed by the parties, or their successors, nor in any proceeding before this Commission or before any court, to be a finding of the value of the properties herein authorized to be transferred pursuant to the terms and conditions of said agreement of April 29, 1957, or of any subsequent agreement between the parties or their successors relating to said properties.

O R D E R

Public hearing having been held herein, the matter having been submitted for decision and the Commission now being fully advised,

IT IS HEREBY ORDERED that:

1. Decision No. 55480, issued herein on August 27, 1957, is vacated and set aside.

2. Ada H. March may, on or after the effective date hereof and on or before October 1, 1958, lease with option of lessee to purchase her public utility water system, known as Ivanhoe Water Company, to Ivanhoe Public Utility District in accordance with the terms of an agreement dated April 29, 1957, a copy of which is attached to the application as Exhibit "A".

3. On or before the date of actual lease herein authorized, Ada H. March shall refund all customers' deposits and advances for construction, if any, and within thirty days thereafter shall notify this Commission in writing of the completion of such refunding.

4. In the event the purchase option contained in the agreement herein authorized is exercised by Ivanhoe Public Utility District, Ada H. March shall, within thirty days thereafter, notify this Commission in writing of the date of completion of such transfer and of her compliance with the conditions hereof.

5. In the event of transfer of her public utility water system to Ivanhoe Public Utility District and upon due compliance with all provisions of this order, Ada H. March shall stand relieved of all public utility obligations and liabilities in connection with the operation of the public utility water system herein authorized to be transferred.

6. In the event the agreement herein authorized is terminated without exercise of the option to purchase by Ivanhoe Public Utility District, Ada H. March shall then immediately so notify the Commission.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 24th day of June, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
Theodore Jensen
Commissioners