

ORIGINAL

Decision No. 57552

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BERTHA S. HAMILTON Owner of the
Inverness Water Works for an order
permitting her to sell certain
property. }

Application No. 40257
(Amended)

OPINION AND ORDER

Bertha S. Hamilton, ^{1/} doing business as Inverness Water Works, by application filed July 16, 1958, and amended October 6, 1958, seeks authority to sell and transfer her public utility water system to Larry H. Marks, Jr., ^{2/} who joins in the application.

The water system proposed to be transferred is located in the unincorporated community of Inverness, Marin County. Commission records show that, as of the end of 1957, the utility served approximately 160 customers.

The application states that Seller has received an offer from Purchaser to buy the subject water system. The properties comprising the system include real estate, tanks, pumping equipment, mains, meters and miscellaneous water system facilities. The consideration for the proposed transfer is to be the sum of \$30,000, of which \$5,000 is payable upon Seller's acceptance of said offer, \$5,000 within eight months following said acceptance, and \$5,000 within each six months' period thereafter until the total purchase price of \$30,000 has been paid. Interest on the unpaid balance is

^{1/} Sometimes herein called Seller.
^{2/} Sometimes herein called Purchaser.

to accrue at the rate of six percent per annum. A copy of Purchaser's offer, dated February 10, 1958, entitled "Uniform Agreement of Sale and Deposit Receipt" is attached to the application as Exhibit B. An unexecuted copy of a proposed promissory note covering the unpaid balance of the purchase price, amounting to \$25,000, is attached to the application as Exhibit B-1.

The application states that Seller has not accepted the Purchaser's offer but will accept said offer if authorization for the transfer is granted.

The utility's annual report to the Commission for the year ended December 31, 1957, shows utility plant of \$64,645.28, a depreciation reserve of \$28,308.82, indicating a net utility plant of \$36,336.46.

The operations of the water system were commenced prior to 1912 and no certificate of public convenience and necessity to operate the public utility water system has ever been requested of or issued by this Commission. Seller acquired the water system from Julia Shafter Hamilton by means of a grant deed on May 11, 1931. Authorization from this Commission has not heretofore been sought for the transfer provided for in the above mentioned deed.

It has been concluded from an investigation by an engineer of the Commission's staff that Purchaser is capable of acquiring the water system and continuing its operation as a public utility. Exhibit A attached to the application is a financial statement of Purchaser and shows a net worth of \$271,390 as of November 19, 1957.

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 as amended should be granted; therefore,

IT IS HEREBY ORDERED that:

1. The transfer of the public utility water system known as Inverness Water Works by Julia Shafter Hamilton to Bertha S. Hamilton is hereby authorized.

2. Bertha S. Hamilton may, on or after the effective date hereof and on or before April 30, 1959, sell and transfer the public utility water system, known as Inverness Water Works, to Larry H. Marks, Jr., substantially in accordance with the terms and conditions of the instrument entitled "Uniform Agreement of Sale and Deposit Receipt", a copy of which is included in the application as Exhibit B.

3. Larry H. Marks, Jr., may issue a note in the principal amount of \$25,000 in part payment for the water system herein authorized to be transferred, which note shall be in, or substantially in, the same form as that filed in this proceeding as Exhibit B-1. The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. The rates and rules of Bertha S. Hamilton, now on file with this Commission, shall be refiled within thirty days from the date of actual transfer under the name of Larry H. Marks, Jr., in accordance with the procedure prescribed by General Order No. 96, or in lieu of such refileing, Larry H. Marks, Jr., may file a notice

of adoption of said presently filed rates and rules. No increase in the presently filed rates and rules shall be made unless otherwise properly authorized by the Commission.

5. On or before the date of actual transfer, Bertha S. Hamilton shall refund all customers' deposits and all advances for construction, if any, which are subject to refund. Any such unrefunded deposits and advances shall be transferred to and become the obligation for refund of Larry H. Marks, Jr.

6. If the authority herein granted is exercised, Bertha S. Hamilton shall, within thirty days thereafter, notify this Commission in writing of the date of such completion of the property transfer herein authorized and of her compliance with the conditions hereof.

7. On or before the date of actual transfer of the physical properties herein authorized, Bertha S. Hamilton shall transfer and deliver to Larry H. Marks, Jr., 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.

8. Upon due compliance with all the conditions of this order, Bertha S. Hamilton shall stand relieved of all further public utility obligations and liabilities in connection with the operation of the public utility water system herein authorized to be transferred.

The authority herein granted to issue a note will become effective when Larry H. Marks, Jr., has 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 3rd day of November, 1958.

E. Lynn Fox
President
W. L. Mitchell
Paul J. Krenier
W. L. Mitchell
Richard J. Krenier
Commissioners

