

Decision No. 58285

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LOIS A. DENTON, Executrix of the Last Will of Tarrant Putnam, Deceased, and DONALD PUTNAM, for authority to transfer a certificate of public convenience and necessity and water system.

Application No. 40884

OPINION AND ORDER

By this application, filed on February 26, 1959, Lois A. Denton, executrix of the estate of Tarrant Putnam, deceased, seeks authority to transfer the public utility water system formerly operated by Tarrant Putnam, to Donald Putnam, grandson of the decedent. The transfer is proposed to be carried out in accordance with the terms of an instrument entitled "Order and Decree of Final Distribution of Estate", rendered in a probate proceeding on February 6, 1959, in the Superior Court of the State of California, in and for the County of Santa Clara. A conformed copy of the court order is attached to the application as Exhibit "A".

The subject water system serves water for irrigation purposes in an area in and near the City of Cupertino, Santa Clara County. Commission records show that, as of the end of 1957, the utility served approximately 26 customers. The utility's annual report to the Commission for the year ended December 31, 1957, shows utility plant of \$40,982.84 and a depreciation reserve of \$12,190.12, indicating a net utility plant of \$28,792.72.

The system was established pursuant to a certificate of public convenience and necessity granted to Tarrant Putnam by

Decision No. 30270, dated October 25, 1937, in Application No. 20989. Since the death of Tarrant Putnam in 1950, the system has been managed by one Harold E. Denton. The application states that Donald Putnam intends to continue the operation of the system under the active management of said Harold E. Denton.

The decree of distribution, in distributing the water system to Donald Putnam, contains the condition,

"....SUBJECT, HOWEVER, to the right of said Lois A. Denton, her heirs, and assigns, to receive free of cost, water from said utility for ten (10) days each calendar year for the irrigation of her property consisting of approximately 30 acres of land situate at No. 21920 McClellan Road, in said Santa Clara County, and being commonly known as the Bay View Ranch,".

Since the late Tarrant Putnam was a public utility water corporation within the meaning of Sections 216(a), 241 and 2701 of the Public Utilities Code, and since this public utility status will attach to Donald Putnam, it would be unlawful for Donald Putnam to supply water to Lois A. Denton, her heirs and assigns, without charge.^{1/} The order which follows will deny authorization for this service without charge to Lois A. Denton.

The action taken herein shall not be construed to be a finding of the value of the water system property 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 and denied in part; therefore,

^{1/} See Section 532 of the Public Utilities Code.

IT IS HEREBY ORDERED that:

1. Lois A. Denton, executrix of the estate of Tarrant Putnam, deceased, on or after the effective date hereof and on or before September 30, 1959, may transfer the herein described public utility water system to Donald Putnam, under the terms of the instrument entitled "Order and Decree of Final Distribution of Estate", a copy of which is attached to the application as Exhibit "A", except that authority for Donald Putnam to furnish water to Lois A. Denton, her heirs and assigns, free of cost, is specifically denied.

2. The rates and rules of Tarrant Putnam, deceased, now on file with this Commission, shall be refiled within thirty days from the date of actual transfer under the name of Donald Putnam in accordance with the procedure prescribed by General Order No. 96, or in lieu of such refileing, Donald Putnam may file a notice of adoption of said presently filed rates and rules. No increases in the presently filed rates and rules shall be made unless otherwise properly authorized by this Commission.

3. On or before the date of actual transfer, Lois A. Denton, as executrix of the estate of Tarrant Putnam, deceased, 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 Donald Putnam.

4. If the authority herein granted is exercised, Lois A. Denton as executrix of the estate of Tarrant Putnam, deceased, shall, within thirty days thereafter, notify this Commission in writing of the completion of the property transfer herein authorized and of her compliance with the conditions hereof.

5. On or before the date of actual transfer, Lois A. Denton, as executrix of the estate of Tarrant Putnam, deceased, shall transfer and deliver to Donald Putnam, 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. Upon due compliance with all of the conditions of this order, Lois A. Denton, as executrix of the estate of Tarrant Putnam, deceased, 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 effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of April, 1959.

Eric L. Fox
President
John S. [unclear]
William [unclear]
Theodore [unclear]
Commissioners