

Decision No. 59871**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WALTER E. SHULL, JR., ALTHEA V. SHULL,)
 JAMES P. O'LAVERTY and KATHERYN R.)
 O'LAVERTY for Authority to Transfer a)
 Substantial Portion of the Public)
 Utility Property of the GOOD HOPE)
 WATER COMPANY to the EASTERN)
 MUNICIPAL WATER DISTRICT.)

Application No. 41962

OPINION AND ORDER

By this application, filed February 17, 1960, Walter E. Shull, Jr., Althea V. Shull, James P. O'Laverty and Kathryn R. O'Laverty,^{1/} doing business as Good Hope Water Company, seek authorization to sell and transfer their public utility water system to Eastern Municipal Water District,^{2/} which joins in the application.

The utility provides water service in an area adjacent to, and southwesterly of, the City of Perris, Riverside County. The utility's annual report to the Commission for the year ended December 31, 1959, shows that the utility was serving approximately 25 customers as of that date.

Commission records indicate that the subject water system was established pursuant to the granting of a certificate of public convenience and necessity to J. O. Walser by Decision No. 25308, dated October 31, 1932, in Application No. 18298. The water system was sold to Walter E. Shull, Jr., and Althea V. Shull in 1947, the sale being authorized by Decision No. 40347, dated June 3, 1947, and

^{1/} Sometimes hereinafter called "Sellers".

^{2/} Sometimes hereinafter called "Purchaser".

Decision No. 41343; dated March 23, 1948, both in Application No. 28424. The current application states that the water system was subsequently sold, in November 1954, to James P. O'Laverty and Kathryn R. O'Laverty without authorization for said transfer from this Commission, and that the water system has been operated by the O'Lavertys since that time. The transfer to the O'Lavertys was initiated without Commission authorization notwithstanding the clear provisions of Section 851 of the Public Utilities Code, and is therefore void.

The terms and conditions of the transfer proposed in this application are set forth in an instrument entitled "Agreement", dated August 26, 1959, and in an instrument entitled "Bill of Sale", bearing no date, copies of which are attached to the application as Exhibits "F" and "G", respectively. The agreement referred to above provides that the transfer is contingent upon authorization by this Commission.

The consideration for the transfer is to be the sum of \$4,300, of which \$400 is payable immediately upon execution of the sale agreement, and the remainder payable on thirty days' written notice. The agreement also provides that prior to the time Purchaser takes possession, Sellers will operate and maintain facilities of the system in a workmanlike manner and shall maintain the facilities in their present condition. The application also states that all customer deposits have been refunded by Sellers.

The entire service area of the subject water system is stated to be located within Purchaser's boundaries, as shown on a map entitled "Eastern Municipal Water District", a copy of which is attached to the application as Exhibit "E". The reasons for the proposed transfer are stated to be that the Sellers' distribution

facilities are in need of rehabilitation which Sellers do not have the financial ability to perform, that Sellers' facilities can become an integral part of Purchaser's facilities, and that Purchaser has sufficient and necessary financial ability to rehabilitate, extend and otherwise service the subject water system.

Sellers' annual report to the Commission for the year ended December 31, 1959, shows as of that date utility plant in the amount of \$7,110 and no depreciation reserve connected therewith.

The action taken herein shall not be construed to be a finding of the value of the property authorized to be transferred.

The Commission having considered the above-mentioned 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; therefore,

IT IS HEREBY ORDERED that:

1. The transfer of the public utility water system known as Good Hope Water Company by Walter E. Shull, Jr., and Althea V. Shull to James P. O'Laverty and Kathryn R. O'Laverty is hereby authorized.

2. James P. O'Laverty and Kathryn R. O'Laverty may, on or after the effective date hereof and on or before October 31, 1960, transfer their public utility water system known as Good Hope Water Company to Eastern Municipal Water District in accordance with the terms and conditions set forth in the instruments entitled "Agreement", dated August 26, 1959, and "Bill of Sale", bearing no date, copies of which are attached to the application as Exhibits "F" and "G", respectively.

3. On or before the date of actual transfer, James P. O'Laverty and Kathryn R. O'Laverty shall refund all customers'

deposits and advances for construction, if any, which are subject to refund and within thirty days thereafter shall notify this Commission in writing of the date of completion of such refunding.

4. If the authority granted herein is exercised, James P. O'Laverty and Kathryn R. O'Laverty shall, within thirty days thereafter, notify this Commission in writing of the date of completion of the transfer herein authorized and of their compliance with all of the conditions hereof.

5. Upon due compliance with all of the conditions of this order, James P. O'Laverty and Kathryn R. O'Laverty shall stand relieved of all further public utility obligations and liabilities in connection with the operations 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 5th day of April, 1960.

Ernest W. Page
President
J. E. Mitchell
M. J. ...
S. ...
Theodore H. ...
Commissioners