

Decision No. 61677

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of IRVEN L. WOFFORD,
individually and doing business as
a public utility under the firm name
and style of ARDEN WATER COMPANY, for
Order authorizing him to transfer and
sell his public utility system to
MAXWELL C. HOOD, KEN MYNATT AND ROY
GARGANO, Trustees for WOFFORD HEIGHTS
ASSOCIATES.

Application No. 42689

V. P. DiGiorgio, for applicants.
Sheldon Rosenthal, for the Commission
staff.

O P I N I O N

By this application, filed September 14, 1960, Irven L. Wofford seeks authority to transfer the public utility water operative rights and system, operated under the name Arden Water Company, to Maxwell C. Hood, Ken Mynatt, Roy Gargano, H.S.M., Inc., Harrison-Lusich & Associates, Inc., V. P. DiGiorgio, W. Summer Kolbrook, Jr., Rex R. Mull, William R. Seugling and Art Weatherby, partners, doing business under the name Wofford Heights Associates, for a purchase price of \$20,000 plus the right of the seller and his wife to receive water free for the balance of their lives; to be paid \$5,000 cash and the balance of the \$20,000, to wit, \$15,000 to be secured by a deed of trust and chattel mortgage and payable within one year after a promissory note of \$150,000 for the purchase of other properties of seller has been paid.

Public hearing was held in Bakersfield on December 20, 1960, before Examiner Rowe, at which time evidence both oral and documentary was adduced and the matter duly submitted for decision.

The agreement dated April 30, 1960, attached to the application, indicates that the utility is to be transferred to Mynatt, Hood and Gargano, Trustees. The application states that such trustees, on July 11, 1960, transferred and conveyed their rights thereto to a partnership known as Wofford Heights Associates. Buyers agreed to file exhibits showing such transfer and setting forth the partnership agreement of Wofford Heights Associates.

The water system and operative rights were acquired and developed initially pursuant to Commission Decision No. 42306, dated December 14, 1948 and Decision No. 42839, dated May 3, 1949, both in Application No. 29653. The property to be transferred consists of certain parcels of land, a pumping plant, a reservoir facility, pipeline rights of way and all pipes and other means used in connection with the domestic water supply in and adjacent to Wofford Heights, California. The rate base determined for this system in 1956 was approximately \$55,000. The purchasers propose to continue with the subdivision of this real property and will operate the utility as an adjunct thereto and as a business. The gross revenue from the system in 1959 was \$7,663.93 and its present book value is stated to be \$80,980.06.

The action taken herein shall not be construed to be a finding of the value of the rights, the water system or the property herein authorized to be transferred.

The Commission having considered the above-entitled application and the evidence of record, finds that the proposed transfer will not be adverse to the public interest and that the money, property or labor to be procured or paid for by the incurrence of the indebtedness hereinafter 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. The Commission further finds that the application should be granted with the modifications stated in the following paragraph.

The application provides for the deferred payment of the sum of \$15,000, as heretofore described, bearing interest at the rate of 6% per annum, said payment to be secured by a chattel mortgage and by a deed of trust. The parties stated that they were agreeable to modifying the agreement dated April 30, 1960, attached to the application, to remove therefrom the provision that the sellers are to receive water during their lives while they remain in their present house. That modification will be made.

O R D E R

Application therefor having been filed, public hearing having been held and based upon the above findings,

IT IS ORDERED:

1. a. That Irven L. Wofford may, on or after the effective date hereof and on or before April 15, 1961, sell and transfer, under the terms of the agreement attached to the application, except for the provision for free water service to said seller, his public utility water system property and rights described in the above opinion and above-numbered application, to Maxwell C. Hood, Ken Mynatt, Roy Gargano, E.S.M., Inc., Harrison-Lusich & Associates, Inc., V. P. DiGiorgio, W. Sumner Kolbrook, Jr., Rex R. Mull, William R. Seugling and Art Weatherby, hereinafter referred to as purchasers, who are authorized to incur an indebtedness of \$15,000 and execute a chattel mortgage, deed of trust and an agreement as described above and modified as stated in the opinion.

b. That the foregoing authorization for the sale and transfer shall not become effective until the applicants shall have filed with the Commission a certified copy of the purchase agreement, which has been amended to delete the provision for free water service to the seller.

2. That on or before the date of actual transfer, Irven L. Wofford shall refund all deposits and all advances for construction which customers are entitled to have refunded as of the effective date of the transfer. All unrefunded deposits and advances shall be transferred to and become the responsibility for refund of the purchasers stated in ordering paragraph 1 above.

3. That within thirty days after the authority herein granted is exercised, applicants shall notify this Commission in writing of the date of completion of transfer and of their compliance with the conditions hereof and shall send to the Commission correct copies of the instruments by which such transfer was effectuated.

4. Purchasers shall refile with the Commission under the name Wofford Heights Associates, within thirty days after the date of the transfer, the rates and rules of Irven L. Wofford presently on file, in accordance with the procedure prescribed by General Order No. 96; or in lieu of such filing shall file a notice of adoption of said presently-filed rates and rules. No increases in the present lawfully filed rates and rules and regulations shall be made unless otherwise properly authorized by the Commission.

5. On or before the date of actual transfer of the physical properties herein authorized, Irven L. Wofford shall transfer and deliver to said purchasers, 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 compliance with all of the conditions of this order, Irven L. Wofford 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.

7. Purchasers shall file a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

The authority herein granted to incur indebtedness shall become effective when the purchasers pay the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00. In all other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of March, 1961.

[Signature] President
[Signature]
George E. Grover
Frederick B. Holakoff
 Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

