

ORIGINALDecision No. 63326

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the joint application)
 of CALIFORNIA-PACIFIC UTILITIES COMPANY)
 and the CITY OF BENICIA for an order)
 authorizing California-Pacific Utilities)
 Company to sell its Benicia water sys-)
 tem to the City and to discontinue its)
 public utility service in the County)
 of Solano.)

Application No. 43973

OPINION AND ORDER

By this application, California-Pacific Utilities Company, a California corporation, seeks authority to transfer all of its Benicia-Solano water system to the City of Benicia, which joins in the application.

On June 14, 1961, Company and City entered into a "Contract of Purchase". A copy of this agreement, attached to the application, shows that Company agrees to sell and City to buy, Company's properties in Solano County. City agrees to assume Company's public utility obligations in this area. There are three conditions precedent: (1) prior approval by this Commission; (2) acquisition of funds by City (now complied with by a revenue bond election, September 19, 1961); (3) prior approval by the City of Napa of the transfer of Company's contractual rights to purchase water for its Solano system from that city.

City agrees to pay a basic purchase price of \$1,024,452.10, with adjustments to reflect improvements subsequent to October 31, 1960 and such materials and supplies as City elects to retain, and other necessary adjustments. The rights of subdividers under main extension agreements are protected.

The Commission finds and concludes that the proposed transfer is not adverse to the public interest and should be authorized. The action taken herein, however, shall not be construed to be a finding of the value of the properties authorized to be transferred.

Company and City desire to consummate their agreement at the earliest opportunity. Therefore, the Commission finds and concludes that the order herein should be made effective on its date. Public hearing is not necessary. Accordingly,

IT IS ORDERED that:

1. On or after the effective date hereof, California-Pacific Utilities Company may transfer and sell to the City of Benicia the Benicia-Solano portion of its Benicia Solano and Napa public utility water system in accordance with the terms and conditions of the "Contract of Purchase" signed by the parties on June 14, 1961, attached to the application herein as Exhibit C thereof.

2. The foregoing authority is conditioned upon:

- a. Provision for refund of construction advances by either the method set forth in paragraph 2 of said "Contract of Purchase" or by the alternative method set forth in paragraph 8 thereof.

- b. Stipulation by the City of Benicia that, as to the service, rules and rates it will apply in the service area of the system herein authorized to be transferred, it will not discriminate between service rendered outside the city limits of Benicia and service rendered within said city limits, except insofar as it may adjust such outside rates and charges to offset any reasonable tax burden sustained by water users within the City in subsidizing the operation of the municipal water system.

c. Amendment of said "Contract of Purchase" to provide that the payments by the City to California-Pacific Utilities Company specified in paragraph 7(b)(iii) of said contract shall at all times be subject to such changes or modifications as this Commission may, from time to time, direct in the exercise of its jurisdiction.

3. Within ten days following compliance with all of the conditions of paragraph 2 of this order, the following shall be submitted in writing to this Commission:

a. Notice of the refund option selected and a list showing (1) all persons, firms or corporations entitled to such refunds and (2) the amount subject to refund to each.

b. A certified copy of the stipulation required by paragraph 2.b. of this order.

c. A copy of the executed amendment to "Contract of Purchase" required by paragraph 2.c. of this order.

4. On or before the actual date of transfer, California-Pacific Utilities Company shall refund all customers' deposits for the establishment of credit, which are subject to refund.

5. Within ten days after the actual date of transfer, California-Pacific Utilities Company shall notify this Commission in writing of the date of transfer and the date upon which the City of Benicia shall have assumed operation of the water system herein authorized to be transferred and shall attach to such notice a copy of the instrument or copies of the instruments of transfer.

6. Upon compliance with the above conditions of this order California-Pacific Utilities Company shall stand relieved of its public utility obligations in the area served by the transferred

property and may discontinue service concurrently with the commencement of service by the City of Benicia.

7. The acceptance of the herein concerned properties by the City of Benicia shall constitute consent by it to all conditions of the order herein which have application to said City.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 26th day of FEBRUARY, 1962.

Carroll H. Bag
 President

W. E. Marshall

D. Lester

Fredrick B. Hulshoff

Commissioners

Commissioner George G. Craver, being necessarily absent, did not participate in the disposition of this proceeding.