

**ORIGINAL**Decision No. 65710

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MIRAFLORES WATER COMPANY,  
INCORPORATED, for Certificate of Public  
Convenience and Necessity.

Application No. 45317  
(Filed April 5, 1963)

In the Matter of the Application of  
MIRAFLORES WATER COMPANY, INCORPORATED  
and CALIFORNIA CONSOLIDATED WATER COMPANY,  
INC., to sell and buy utility plant,  
transfer Certificate of Public Conven-  
ience and Necessity, for authority to  
issue common stock and to indebt on short  
term borrowing.

Application No. 45324  
(Filed April 9, 1963)

Investigation into the operations and  
practices of MIRAFLORES WATER COMPANY,  
INCORPORATED; OAK KNOLL WATER COMPANY,  
INCORPORATED; MINSON COMPANY, a limited  
partnership; ALTON L. PABST; RUSSELL K.  
MELTON; L. D. MINOR; and STUART A.  
BARTLESON.

Case No. 7322  
(Filed April 24, 1962)

Robert L. Trapp, for Miraflores Water Company,  
applicant and respondent.  
Robert L. Trapp and Kent Blake, for California  
Consolidated Water Co., applicant.  
Harmon G. Scoville, for Oak Knoll Water Company,  
Minson Co., L. D. Minor and Stuart A. Bartleson,  
applicant and respondents.  
Cyril M. Saroyan, for the Commission staff.

O P I N I O N

After due notice public hearing in these matters was held on a consolidated record before Examiner Emerson on May 7 and 8, 1963, at Santa Maria. The matters are submitted and ready for decision.

The two applications were engendered by this Commission's Decision No. 64804, issued in Case No. 7322 on January 17, 1963, which decision, among other things, directed Miraflores to file an appropriate application for a certificate of public convenience and necessity and directed Oak Knoll to negotiate with Miraflores respecting the transfer of the Oak Knoll water system to Miraflores. In broad terms, these proceedings present proposals by which (1) Miraflores would be certificated for that over-all area in which it is presently serving or holds itself out to serve the public, (2) Oak Knoll would transfer its system to Miraflores and subsequently dissolve, and (3) a new public utility water corporation, California Consolidated Water Company, Inc., would purchase all of the water system facilities, receive the Miraflores certificate and become the successor to Miraflores and Oak Knoll in providing water service in the area.

The record shows that all respondents in Case No. 7322 have promptly, and fully complied with all of the directives contained in Decision No. 64804.

The area for which certification is sought (delineated on Exhibit No. 1 in this proceeding) may generally be described as the entire area lying between U.S. Highway 101 on the east, Orcutt Road on the west, Lakeview Road on the north and Clark Avenue and Stubblefield Road on the south, with some minor variations, all lying in the unincorporated territory to the south of Santa Maria known as the "Orcutt Wye". The area includes approximately 2,750 acres of land zoned primarily to residential and small-business uses. Of the 2,750 acres in the total area, 800 acres are presently fully developed, although not contiguously.

Approximately 2,028 customers received public utility water service in the area during 1962. Estimates for the years 1963, 1964 and 1965, show an average growth of about 450 customers per year. The ultimate density, based on land use as zoned by the County of Santa Barbara, is expected to require utility water service for approximately 6,330 service connections. To meet future growth and its attendant necessary increase in plant facilities will require major plant additions of wells, pumps, storage reservoirs and transmission mains to total estimated expenditures of \$174,500 during the year 1963 and \$177,300 during the year 1964. The over-all system has been designed to exceed the minimum requirements set forth in this Commission's General Order No. 103. It presently operates under a State water supply permit.

In view of the evidence respecting the needs of the public in the area, the Commission finds that public convenience and necessity require and will require the construction and operation of the public utility water system proposed and that Miraflores should be granted a certificate for the area as requested.

The interrelationships of Miraflores, Oak Knoll, Minson Co., and others, have heretofore been explained<sup>1/</sup> and will not be repeated herein. Suffice it to say, that Oak Knoll and Miraflores, promptly and in good faith, have negotiated the sale and transfer of all of the Oak Knoll utility assets to Miraflores for the sum of \$171,650 and that as soon as authorization for such transfer is issued by this Commission, Oak Knoll will dissolve. The financial arrangements of transfer are set forth in certain agreements and in "escrow instructions" which also involve the proposed successor to the two companies. In view of the evidence respecting such

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<sup>1/</sup> See Decision No. 54804 in Case No. 7322, an Interim Opinion and Order issued January 17, 1963.

aspects of the consolidated proceedings, the Commission finds that the sale and transfer of Oak Knoll to Miraflores will not be adverse to the public interest and should be authorized.

California Consolidated Water Company, Inc., is a California corporation, originally incorporated under the name Western States Utilities on August 22, 1958, which has entered into agreements to purchase all of the utility plant of Miraflores including the Oak Knoll system. Under its proposal, it will receive all utility assets, except cash in bank, accounts receivable, prepaid interest or refundable deposits for a sales price of \$500,223 payable in cash upon close of escrow and subject to customary adjustments incident to closing. Main extension agreements owned by Pabst and by Minson would be fully acquired out of the gross sale price and become the obligations of California Consolidated for future refunding. California Consolidated Water Company, Inc., has not heretofore undertaken any operations, presently owns no properties and is without assets. The funds needed for financing its proposed operations are to come from its parent, Consolidated Water Company, a Delaware corporation.

Consolidated Water Company is a holding company, owning all of the outstanding stock of four utilities. It finances the purchase of the stock of its subsidiary companies by selling its own debt securities and preferred stock to institutional investors, primarily insurance companies, and by sale of its common stock to the public. Each of its subsidiary companies is a "domestic" corporation, incorporated in the state in which it operates. Consolidated Water Company has an Arizona holding company, Southwestern Consolidated Water Company, as an affiliate, the

latter owning two utility and one nonutility companies operating in Arizona. Eventual merger of Consolidated and Southwestern Consolidated is contemplated.

California Consolidated Water Company, Inc., will become a wholly owned subsidiary of Consolidated Water Company. The latter, while originally proposing a capitalization for California Consolidated of \$750,000 on a 60 percent debt to 40 percent equity ratio without considering the large balance of main extension agreements outstanding, has now agreed to purchase up to \$500,000 of California Consolidated's common stock, initially, and to provide \$400,000 as a short-term loan to consummate the purchase of the Miraflores-Oak Knoll system and to provide for the first year's construction requirements. Estimates of utility plant, together with the corresponding depreciation reserve, are as follows:

	<u>Utility Plant and Reserve</u>		
<u>Item</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>
Utility Plant:			
Beginning of Year	\$1,081,870	\$1,417,470	\$1,638,890
End of Year	1,417,470	1,638,890	1,776,080
Depreciation Reserve:			
Beginning of Year	92,920	133,710	183,520
End of Year	133,710	183,520	239,250

Insofar as capitalization of California Consolidated is involved (all parties are fully aware of the Commission's concern respecting the poor financial structure of Miraflores and the requirement that it be substantially strengthened) California Consolidated and its parent propose an approximate 60 percent debt to 40 percent equity ratio as a capital structure. To such end, they have committed themselves initially to issue and to accept common stock in an amount determined by this Commission to be appropriate.

The main extension advances associated with the Miraflores-Oak Knoll system which are owned by Pabst and Minson have an unpaid balance of approximately \$230,699. The system purchase price of \$500,223 includes \$320,000 for plant, \$273 for material and supplies, and \$179,950<sup>2/</sup> for main extension contracts owned by Pabst and by Minson. California Consolidated will assume the remainder of the outstanding advances for construction.

Because of the substantial cash drain occasioned by refunding of main extension advances, such advances must be considered in determining California Consolidated's capital structure. To neglect to so consider these advances would be tantamount to the creation of a near-future financial position as poor as that of Miraflores. California Consolidated's parent and its affiliate have capitalization ratios approaching approximately 60 percent debt to 40 percent equity. The construction advances held by the parent and the affiliate are nominal, however, whereas California Consolidated's construction advances will be substantial and will require a large and continuing cash pay out and drain on its resources. The 60/40 ratio, while not ideal, is acceptable. The Commission cannot agree, however, that the ratio of stock to debt (the latter including advances) should be any poorer for California Consolidated than for its parent or affiliate.

The record shows that estimated assets of California Consolidated as of December 31, 1963 and December 31, 1964 would be about as follows:

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<sup>2/</sup> The \$179,950 amount is the "present worth", plus accrued refunds of contracts having the unpaid balance of \$230,699.

<u>Item</u>	<u>Pro Forma Assets</u> <sup>3/</sup>	
	<u>Dec. 31, 1963</u>	<u>Dec. 31, 1964</u>
Utility Plant	\$1,417,500	\$1,638,900
Depreciation Reserve	133,700	133,500
Net Utility Plant	1,283,800	1,455,400
Working Capital	<u>9,000</u>	<u>9,000</u>
Total	\$1,292,800	\$1,464,400

In view of the evidence and recognizing the continued growth of plant, as illustrated by the foregoing tabulations, and the necessity of financing much of it by means of additional main extension agreements, the Commission finds that California Consolidated should issue \$500,000 in common stock by the end of 1964 if it is to attain, or closely approach, the desired capitalization ratio of 40 percent equity and not to exceed 60 percent debt. California Consolidated and its parent have a line of credit established for \$2,000,000. Its financial ability, considering both the capital structure and credit aspects, thus appears to be assured.

In view of the evidence, the Commission finds that the sale and transfer of Miraflores and Oak Knoll to California Consolidated will not be adverse to the public interest and should be authorized. Further, the Commission finds that the money, property or labor to be procured or paid for by the issuance of 50,000 shares of \$10 par value shares of stock hereinafter authorized, is reasonably required by California Consolidated for the purposes hereinabove stated, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

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<sup>3/</sup> Before adjustments to eliminate certain irregular fees recorded by Miraflores.

In connection with its investigation of the operations and practices of Miraflores the Commission has heretofore found <sup>4/</sup> that Miraflores' practices respecting fees should not be permitted to be reflected in the rates which may be charged to the public. Nothing in this record supports a different conclusion. To such end, therefore, the amounts involved will be excluded from the balances to be transferred to the primary plant accounts of the successor utility.

The agreements respecting sale and transfer of properties between the respective parties consist of (1) an agreement, dated February 20, 1963, for the sale of Oak Knoll to Miraflores, <sup>5/</sup> (2) an agreement, dated March 5, 1963, for the sale of Miraflores to California Consolidated <sup>6/</sup> and (3) escrow instructions, dated March 14, 1963, and April 16, 1963. <sup>7/</sup> In view of the evidence, the Commission finds that the respective parties should be authorized to carry out the terms and conditions thereof except that no mortgage, or other evidence of indebtedness, shall be issued as contemplated by paragraph 27 of the agreement of March 5, 1963, (Exhibit 10), without specific authority therefor having been first obtained.

Miraflores now holds a total of approximately \$450 in customers' deposits for the establishment of credit. The March 5, 1963, transfer agreement provides that such deposits will be transferred to California Consolidated and become its obligation for refunding when due. Such procedure will save the costs and

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<sup>4/</sup> Decision No. 64804.

<sup>5/</sup> Exhibit 11 in this record.

<sup>6/</sup> Exhibit 10 in this record.

<sup>7/</sup> Exhibits 12 and 13 in this record.

inconvenience of seller making refunds and purchaser immediately thereafter requiring their redeposit and is in the public interest.

Miraflores is presently under order of this Commission not to construct water facilities outside of the area actually being served.<sup>3/</sup> Tract developers and individuals have requested the extension of facilities to their properties and are awaiting termination of such prohibition. In view of the evidence, the Commission finds that the prohibition may be lifted immediately and the order herein will so provide.

All parties to these proceedings have requested expeditious handling of these matters and the principals have waived their rights of petition for rehearing and have urged that the order herein be made effective immediately. In view of such pleas, and in particular in view of the waiting public's desire for service, the order herein will be made effective on the date hereof.

The certificate issued herein is subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

California Consolidated and its shareholders are placed on notice that this Commission does not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return a utility should be allowed to earn

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<sup>3/</sup> Decision No. 64804, ordering paragraph 5.

on its investment in plant and that the action taken herein shall not be construed to be a finding of the value of its stock or properties nor as indicative of amounts to be included in a future rate base for the determination of just and reasonable rates. Further, notice is given that its relationship with its parent or any other associated companies will be closely scrutinized from time to time by this Commission.

The actions taken herein shall not be construed to be findings of the value of the properties herein authorized to be transferred.

O R D E R

Based upon the evidence and the findings contained in the foregoing opinion,

IT IS ORDERED as follows:

1. The prohibition against construction of facilities as set forth in ordering paragraph 5 of Decision No. 64304, issued January 17, 1963, is hereby terminated.

2. A certificate of public convenience and necessity is hereby granted to Miraflores Water Company, Inc., for the construction and operation of a public utility water system within and limited to that area delineated on Exhibit No. 1 in these proceedings.

3. Oak Knoll Water Company, Incorporated, is hereby authorized to sell and transfer its public utility water system to Miraflores Water Company, Inc., in accordance with the terms and conditions of those certain agreements contained in Exhibits Nos. 10, 11, 12 and 13 in these proceedings.

4. Miraflores Water Company, Inc., is hereby authorized to sell and transfer its public utility water system, together with the certificate of public convenience and necessity hereinabove granted, to California Consolidated Water Company, Inc., in accordance with the terms and conditions of those certain agreements contained in Exhibits Nos. 10, 11, 12 and 13 in these proceedings.

5. The terms and conditions of Exhibit No. 10, hereinabove referred to are hereby modified by adding to the last sentence of paragraph 27 thereof the words "after the parties have secured the authority of the Public Utilities Commission of the State of California therefor".

6. California Consolidated Water Company, Inc., on or after the date hereof and on or before December 31, 1964, may issue and sell not to exceed 50,000 shares of its common stock at not less than \$10 a share for the purposes hereinabove set forth and shall file with this Commission a report or reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part hereof.

7. Upon completion of the property transfers hereinabove authorized: (a) California Consolidated Water Company, Inc., shall within thirty days thereafter notify this Commission in writing of the date of such completion, and (b) Oak Knoll Water Company, Incorporated, and Miraflores Water Company, Inc., shall stand relieved of all further public utility obligations and liabilities in connection with the operation of the public utility properties transferred.

8. On or before the date of actual transfer, Oak Knoll Water Company, Incorporated, and Miraflores Water Company, Inc.,

shall transfer and deliver to California Consolidated Water Company, Inc., and the latter shall receive and preserve all records, memoranda and papers pertaining to the construction and operation of the properties to be transferred.

9. Within sixty days after transfer of the properties, California Consolidated Water Company, Inc., shall file in quadruplicate with this Commission and in conformance with the provisions of General Order No. 96-A, a complete set of tariffs (including tariff service area map, rules and rates) in its own name, such tariffs to contain no increases in rates or charges nor to contain no more restrictive rules or conditions than those now on file by Miraflores Water Company, Inc., and shall bear as an effective date the date of actual transfer of the properties. In the interim period, existing tariffs shall be continued in effect without modification.

10. By not later than four months following transfer of the properties, California Consolidated Water Company, Inc., shall file with this Commission four copies of a comprehensive map, drawn to an indicated scale not smaller than 400 feet to the inch, delineating by appropriate markings the various tracts of land and territory served; the principal production, storage, transmission and distribution facilities, and the location of the various water system properties, as they existed three months after the date of transfer.

11. California Consolidated Water Company, Inc., is authorized to acquire the main extension agreements owned by A. L. Pabst and by Minson Co. (enumerated on page 3 of Exhibit B attached to Application No. 45324) for an amount not exceeding \$179,949. Any difference between the unrefunded balance of the advances and the

present worth of the agreements shall be credited to Account 265, Contributions in Aid of Construction.

12. In recording the transfer on its books, California Consolidated Water Company, Inc., shall:

(a) Exclude from the balance transferred to primary accounts all amounts, included in Account 100-1 (Utility Plant in Service), representing engineering fees and equipment rental fees credited to A. L. Pabst.

(b) Exclude from the depreciation reserve account an amount representing the estimated depreciation accumulated on the engineering fees and equipment rental fees hereinabove excluded from the primary plant accounts.

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

Dated at San Francisco, California, this

16th day of July, 1963.

William W. Arnold  
President

Robert E. Hatcher  
Robert E. Hatcher

George H. Hoover

Frederick B. Hallock  
Commissioners