

ORIGINALDecision No. 66353

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 the Executor of the Estate of
 James A. Harris, Jr. dba Monterey Bay
 Water Co. for authority to transfer
 interest to the various heirs.

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)
) Application No. 45837
) (Filed October 4, 1963)
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O P I N I O N

Francis M. Harris, Executor of the Estate of James A. Harris, Jr., alleging that he is operating the "Monterey Bay Water Company" as a proprietorship public utility serving several communities in central Santa Cruz County, seeks authority to transfer the interest of the Estate to the distributees, who join in the application. Authority is also sought to carry out the terms of an "Agreement of Sale and Transfer", executed May 31, 1963, whereby Margaret Dodge Harris, the surviving spouse, sold her interest to James A. Harris, III, Francis M. Harris and Marina Harris Magee, children of the decedent, in return for a life annuity.

Copies of two judgments of the Superior Court in Santa Cruz County and of the Agreement of Sale and Transfer, in which the interests of the respective distributees are set forth, are appended to the application (Exhibits "A", "B" and "C"). Also attached to the application is a copy of the balance sheet and income statement of "Monterey Bay Water Company" and an associated company, La Selva Beach Water Company, a corporation, for the year 1962 (Exhibit "D").

The properties involved are described in the application as:

" . . . all of the assets of Monterey Bay Water Company including land, pumps, tanks, pipelines, hydrants, services, meters, automotive and office equipment, plus cash, other physical property, accounts receivable, and materials and supplies, as they appear in the annual report to the Public Utilities Commission for the calendar year 1962."

The above description of assets does not include four certificates of public convenience and necessity acquired several years ago by "Monterey Bay Water Company" with the properties of other water companies which have been operated as divisions of the system for more than ten years at presently identical rates.^{1/} The utility's manager, James A. Harris, III, has advised the Commission, in writing, that the failure to mention those certificates in the description of assets was inadvertent. He asks that a single certificate be issued in this proceeding covering the several operating rights. The transfer authorizations herein will apply not only to those certificates but also to other intangible utility assets, such as franchises, licenses and permits, as includable in the term "all of the assets of Monterey Bay Water Company", whether in connection with distribution of the Estate of James A. Harris, Jr., or as may be pertinent to the "Agreement of Sale and Transfer" among the distributees. Should the transferees desire to secure from the Commission a single certificate, coextensive with existing operations, an appropriate application may be filed therefor after completion of the transfers herein authorized.

1/ The four certificates were acquired pursuant to the following authorizations:

<u>Decision No.</u>	<u>Application No.</u>	<u>From</u>
35803	25153	Aptos Water Company
36848	25917	Opal Water Works
46742	33013	Seacliff Water Works
36758	25836	Coast Counties Gas & Electric Company

We find that the proposed transfers are not adverse to the public interest and conclude that they should be authorized in accordance with the ensuing order.

The authorization herein granted shall not be construed to be a finding of the value of the properties herein authorized to be transferred. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. Francis M. Harris, Executor of the Estate of James A. Harris, Jr., after the effective date of this order, may transfer the interest of said Estate in and to all of the assets of the proprietorship public utility known as the "Monterey Bay Water Company", Santa Cruz County, California, substantially in accordance with and subject to the provisions of:

- (a) That certain judgment of the Superior Court of the State of California in and for the County of Santa Cruz rendered and entered the 29th day of October, 1962 in an action entitled "James A. Harris, III, Plaintiff, vs. Francis M. Harris, Executor of the Last Will and Testament of James A. Harris, Jr., deceased, Defendant," No. 33,373 of the records of said court.
- (b) That certain Judgment Settling First and Final Account and Judgment of Final Distribution of the Superior Court of the State of California in and for the County of Santa Cruz rendered and entered the 31st day of May, 1963 in a proceeding entitled "In the Matter of the Estate of James A. Harris, Jr., Deceased," No. 17,524 of the records of said court.

2. Margaret Dodge Harris, James A. Harris, III, Francis M. Harris and Marina Harris Magee, distributees of the Estate of James A. Harris, Jr., after the effective date of this order are authorized to carry out the terms and conditions of that certain "Agreement of Sale and Transfer" entered into by and between said parties the 31st day of May, 1963.

3. On or before the date of actual transfer, Francis M. Harris, as Executor and as operator of "Monterey Bay Water Company", shall refund all customer deposits for establishment of credit and all advances for construction, if any, which may be due to be refunded as of the date of transfer. Any unrefunded deposits and advances shall become the obligation of the transferees of the assets of said utility.

4. On or before the date of transfer, Francis M. Harris, Executor, shall transfer and deliver to the transferees, or to the agent authorized by them to operate or manage the "Monterey Bay Water Company", and said transferees or their agent so authorized shall receive and preserve all records, memoranda and papers pertaining to the construction and operation of the properties herein authorized to be transferred.

5. Within thirty days after the consummation of the transfers herein authorized, whether pursuant to distribution of the Estate of James A. Harris, Jr., or by virtue of the aforesaid Agreement of Sale and Transfer executed by the distributees, the transferees or their authorized agent shall notify the Commission, in writing, of such consummation and within said period shall file with the Commission a true copy of any bill of sale, agreement, or other instrument of transfer which may be executed to effect said transfers.

6. The transferees of the assets of the "Monterey Bay Water Company" or their authorized manager, within thirty days after the date of actual transfer, shall file an appropriate notice of adoption of the effective tariff schedules of "Monterey Bay Water Company", said notice to be submitted in the form of an advice letter pursuant to the provisions of Section III of General Order No. 96-A.

7. Upon completion of the transfers herein authorized and due compliance with all the conditions of this order, Francis M. Harris, as Executor of the Estate of James A. Harris, Jr., 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 the date hereof.

Dated at San Francisco, California, this 17th day of NOVEMBER, 1963.

William C. Bennett
 President

Eric M. ...

Robert ...

George H. Hoover

Frederick B. Hallock
 Commissioners