

ORIGINAL

Decision No. 67185

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

DUARTE WATER COMPANY, A CORPORATION,
and CALIFORNIA WATER & TELEPHONE
COMPANY, A CORPORATION, for an
Order authorizing:

- A. Duarte Water Company to sell and California Water & Telephone Company to buy all of the assets of Duarte Water Company; and
- B. Duarte Water Company to withdraw from the water utility business; and
- C. California Water & Telephone Company to engage in and carry on the water utility business of Duarte Water Company; and
- D. California Water & Telephone Company to assume obligations of Duarte Water Company as a part of the purchase price of the assets of Duarte Water Company; and
- E. California Water & Telephone Company to issue and deliver to Duarte Water Company 64,006 shares of the \$6.25 par value common stock of California Water & Telephone Company as a part of the purchase price of the assets of Duarte Water Company.

Application No. 46144
Filed January 23, 1964

Bacigalupi, Elkus & Salinger, by Warren A. Palmer,
for applicants.

O P I N I O N

This is an application for an order of the Commission
(1) authorizing Duarte Water Company to sell and transfer all of

its assets and to withdraw from the water utility business; (2) authorizing California Water & Telephone Company to acquire said assets and to continue the water utility business of Duarte Water Company; and (3) authorizing California Water & Telephone Company, in acquiring said assets, to assume obligations and to issue 64,006 shares of its \$6.25 par value common stock at a price of \$20.75 per share.

A public hearing on this matter was held in Los Angeles before Examiner Donovan on April 23, 1964, at which time the matter was taken under submission. The Commission has received no protests in the proceeding.

By Decision No. 57234, dated August 26, 1958, in Application No. 40162, the Commission authorized the merger of Duarte Domestic Water Company, a public utility, into Duarte Mutual Water Company, a mutual water company. Duarte Mutual Water Company, a California corporation, the surviving corporation of the merger and renamed Duarte Water Company, has continued the operations formerly conducted by the utility and the mutual irrigation company in and around the City of Duarte, Los Angeles County. As of December 31, 1963, its reported number of active service connections totaled 5,964, including 81 irrigation and 387 fire protection connections.

California Water & Telephone Company, a California corporation, is a public utility engaged in rendering telephone service in portions of southern California and providing water service in portions of San Diego and Monterey Counties and in

parts of Los Angeles County, including areas near the City of Duarte. It proposes to purchase all the assets of Duarte Water Company by assuming such company's liabilities and obligations and by paying the sum of \$1,330,124.50, said sum to be payable \$2,000 in cash and the balance of \$1,328,124.50 by the issue of 64,006 shares of common stock valued for such purpose at \$20.75 per share, which was the bid price on August 19, 1963, the date the agreement regarding the acquisition of Duarte Water Company's properties by California Water & Telephone Company was entered into. It is also noted that the quoted over-the-counter market price of California Water & Telephone Company's common stock was approximately \$20.75 per share at the time the application was filed. Additional expenses have been, or will be, incurred for commissions, fees and interest directly related to the acquisition.

About 86% of the outstanding capital stock of Duarte Water Company is owned by Western Utilities Corporation. This corporation is also the principal single stockholder in California Water & Telephone Company, owning about 10% of the outstanding shares of said company. The remaining 14% of the outstanding shares of Duarte Water Company, a total of 2,983 shares, is owned by 1,067 shareholders. Of this number 1,022 stockholders holding 2,149 shares individually own from one to five shares, 40 stockholders holding 431 shares individually own in excess of five but less than 25 shares, and five stockholders holding 403 shares individually own 25 or more shares. Of the five shareholders holding 25 shares or more of Duarte

Water Company only one owns shares in California Water & Telephone Company, and this shareholder owns only 58 shares, or twenty-eight hundredths of 1%, of the outstanding shares of Duarte Water Company.

Exhibit B, attached to the application, shows that as of September 30, 1963, the net assets of Duarte Water Company, after deduction of the depreciation reserve, amounted to \$2,493,136.58, that outstanding liabilities totaled \$652,543.89, and that common stock equity and contributions in aid of construction were \$1,743,962.45 and \$96,630.24, respectively. For the nine-month period ended September 30, 1963, the company reports operating revenues of \$281,355.72 and net income of \$48,557.81.

In recording the acquisition of the net assets of Duarte Water Company the purchaser, California Water & Telephone Company, proposes to utilize the book balances shown on Duarte's books except for the elimination of a \$96,630.24 balance in the contributions in aid of construction account and the balances in the capital stock and surplus accounts. Included in the fixed asset account balances of Duarte is a \$789,791.23 balance for water rights. Such balance is in excess of the \$321,008.00 which this Commission in Decision No. 62481, dated August 29, 1961, found as representing a reasonable estimate of the original cost of Duarte's water rights for rate-making purposes. In the order which follows California Water & Telephone Company, in recording the

acquisition of Duarte's net assets, will be required to include on its books the balance in the contributions in aid of construction account as shown on the books of Duarte and will be restricted from capitalizing as the investment in water rights any amount in excess of the estimated original cost of such water rights.

Applicants allege that the proposed sale and acquisition will be mutually advantageous to the public and to the two corporations inasmuch as consolidation of the operations will achieve economies in financing, maintenance and accounting.

The Commission has considered this matter and finds that: (1) there will be no change in rates as a result of the transfer; (2) the sale and transfer to California Water & Telephone Company of the water utility business and related assets of Duarte Water Company will not be adverse to the public interest; (3) the money, property or labor to be procured or paid for by the issue of the shares of stock herein authorized is reasonably required for the purpose specified herein; (4) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; and (5) the request of California Water & Telephone Company for authority to pay certain costs, expenses and fees to Western Utilities Corporation in connection with the proposed acquisition is neither necessary nor proper for consideration in this proceeding.

On the basis of the foregoing findings we conclude that:
(a) the application should be dismissed insofar as it relates to a request for authority to pay certain costs, expenses and fees, and (b) in all other respects the application should be granted. In issuing our order herein, we place California Water & Telephone Company and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares, nor the dividends paid as measuring the return said corporation should be allowed to earn on its investment in plant and that the approval herein given is not to be construed as a finding of value of said corporation's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. Duarte Water Company may sell and transfer to California Water & Telephone Company its public utility water business and related assets.
2. California Water & Telephone Company may purchase and acquire said public utility water business and related assets and, in part payment, may assume outstanding liabilities and may issue not to exceed 64,006 shares of its \$6.25 par value common stock at a price of \$20.75 per share.

3. California Water & Telephone Company shall account for the acquisition of the properties herein authorized to be transferred, in accordance with (a) the requirements of Plant Instruction 4 of the Uniform System of Accounts for Water Utilities (Class A, Class B and Class C), and (b) the comments in the foregoing opinion. Within sixty days after the consummation of the transfer, it shall file with the Commission a copy of each journal entry used to record the transfer on its books of account.

4. California Water & Telephone Company shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. On or before the date of actual transfer, Duarte Water Company shall refund all deposits, if any, which customers are entitled to have refunded. Any unrefunded deposits shall be transferred to and shall become the obligation for refund of California Water & Telephone Company.

6. On or before the date of actual transfer, Duarte Water Company shall transfer all advances for construction held by it to California Water & Telephone Company and the latter shall assume the obligation for repayment of such advances. Applicants, within fifteen days after the date of transfer, shall jointly file with this Commission a certified copy of an appropriate instrument showing the names of all persons or corporations in whose favor such obligations exist and the amounts thereof.

7. On or before the date of actual transfer, Duarte Water Company shall transfer and deliver to California Water & Telephone Company all records, memoranda and papers pertaining to the construction and operation of the properties herein authorized to be transferred and the latter shall receive and preserve such records, memoranda and papers.

8. If the authority herein granted to transfer properties is exercised, California Water & Telephone Company, within thirty days thereafter, shall notify the Commission, in writing, of the date of completion of such transfer.

9. California Water & Telephone Company shall file, within five days after the effective date of the transfer, a notice of adoption of the presently filed tariff schedules of Duarte Water Company.

10. The rates, rules and regulations of Duarte Water Company now on file with the Commission shall be refiled within thirty days after the effective date of the transfer, under the name of California Water & Telephone Company, in accordance with the requirements of General Order No. 96-A, except that California Water & Telephone Company may withdraw such of Duarte Water Company's rules and standard forms as are substantially identical with California Water & Telephone Company's rules and standard forms, and withdrawal of which will not result in increases or more restrictive conditions in the presently filed tariff schedules of Duarte Water Company.

11. On or before the end of the third month after the consummation of the transfer as herein authorized, California Water & Telephone Company shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, of Duarte Water Company covering the period commencing with the first day of the current year to and including the effective date of the transfer.

12. Upon compliance with the terms and conditions of the transfer, Duarte Water Company shall stand relieved of all further public utility obligations in connection with the operations of the public utility water system herein authorized to be transferred and, effective upon consummation of said transfer, it is hereby declared to be a nonutility company exempt from the jurisdiction of this Commission.

13. This application, insofar as it seeks authority for California Water & Telephone Company to pay certain costs, expenses and fees to Western Utilities Corporation, is dismissed.

14. The effective date of this order is the date hereof. Any authority herein granted and not exercised will expire on September 30, 1964.

Dated at San Francisco, California, this 12th day of May, 1964.

William B. Bennett
President
Robert W. Keage
George H. Grover

Commissioners