

ORIGINAL

Decision No. 67668

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF

M. OSTERBERG, doing business as the OSTERBERG WATER COMPANY, a sole proprietorship, and DEL ESTE WATER COMPANY, a corporation,

For an order confirming and approving the transfer to M. OSTERBERG by the ESTATE OF WILLIAM OSTERBERG, DECEASED, of an undivided one-half interest in the assets and properties of the OSTERBERG WATER COMPANY, and

For an order authorizing (1) the sale and transfer to DEL ESTE WATER COMPANY of the water system of OSTERBERG WATER COMPANY, (2) the discontinuance of service by the OSTERBERG WATER COMPANY in that portion of the County of Stanislaus now served by the OSTERBERG WATER COMPANY, and (3) the extension of service into said territory by DEL ESTE WATER COMPANY.

Application No. 46778
Filed July 7, 1964

O P I N I O N

This is an application for an order of the Commission (1) authorizing transfer by the Estate of William Osterberg, Deceased, of an undivided one-half interest in the public utility water system known as Osterberg Water Company to the surviving partner, M. Osterberg; (2) authorizing M. Osterberg, an individual doing business as Osterberg Water Company, to sell and transfer his water utility facilities and certain related assets and to withdraw from the utility business; and (3) authorizing

Del Este Water Company to acquire said assets and to continue the public utility operations of M. Osterberg, doing business as Osterberg Water Company.

William Osterberg, an individual doing business as Osterberg Water Company, was first granted a certificate of public convenience and necessity relating to a water system in a portion of Stanislaus County by Decision No. 41008, dated December 17, 1947, in Application No. 28407. He was granted another certificate of public convenience and necessity by Decision No. 56604, dated April 29, 1958, in Application No. 38857, which relates to additional areas in Stanislaus County. Pursuant to authority granted by Decision No. 57624, dated November 25, 1958, in Application No. 40405, William Osterberg transferred an undivided one-half interest in the public utility water system to his brother, M. Osterberg, for the purpose of continuing the operations as a copartnership. Subsequent to his death in 1960, William Osterberg's undivided one-half interest in the enterprise was distributed to the surviving partner in accordance with a Decree for Final Distribution dated December 5, 1961, a copy of which is attached to the application. Inasmuch as a request has not been made heretofore for an order from this Commission authorizing the transfer of the deceased partner's interest, M. Osterberg now seeks such an order in this proceeding.

The application shows that M. Osterberg, doing business as Osterberg Water Company, provides water service for domestic

purposes to several tracts situated in portions of Stanislaus County. The balance sheet, attached to the application as Exhibit I, indicates that as of December 31, 1963 the net utility plant amounted to \$76,887.21, after deduction of the depreciation reserve and that the balance of the assets consisted of current assets totaling \$19,419.12, resulting in total assets of \$96,306.33, offset for the most part by proprietary capital of \$92,634.37. For the year 1963, the utility's annual report shows operating revenues of \$35,047.76, net income of \$6,914.27, and year-end active service connections totaling 952, exclusive of fire hydrants.

Del Este Water Company is a California corporation engaged in business as a public utility in the sale and distribution of water for domestic and industrial purposes in portions of Stanislaus County. In this application, it proposes to purchase the plant facilities and other assets of M. Osterberg, doing business as Osterberg Water Company, exclusive of cash and accounts receivable. Under the terms of an Agreement of Sale entered into on May 26, 1964, a copy of which is attached to the application as Exhibit III, the purchaser agrees to pay a cash consideration of \$90,000 and to assume payment of all liabilities except refundable customers' deposits, which will be paid by the seller.

The application shows that the seller desires to retire from active participation in the water utility business and that the purchaser is in a position to accommodate the customers presently being served by the seller.

The Commission has considered this matter and finds that: (1) the transfer by a Decree for Final Distribution dated December 5, 1961, relating to the acquisition by M. Osterberg from the Estate of William Osterberg, Deceased, of an undivided one-half interest in the Osterberg Water Company, is not adverse to the public interest; (2) the sale and transfer to Del Este Water Company of the water utility business and related assets of M. Osterberg, doing business as Osterberg Water Company, will not be adverse to the public interest; and (3) there will be no change in rates as a result of the transfer. On the basis of these findings, we conclude that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed to be a finding of the value of the properties authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. The transfer of an undivided one-half interest in the public utility water system known as Osterberg Water Company from the Estate of William Osterberg, Deceased, to M. Osterberg is hereby authorized.

2. M. Osterberg, doing business as Osterberg Water Company, may sell and transfer to Del Este Water Company the public utility water business, together with related assets referred to in the application.

3. Del Este Water Company may purchase and acquire said water utility business and related assets pursuant to terms of the Agreement of Sale, a copy of which is attached to the application.

4. Del Este Water Company shall account for the acquisition of the properties herein authorized to be transferred in accordance with the requirements of Plant Instruction 4 of the Uniform System of Accounts for Water Utilities (Class A, Class B and Class C). 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.

5. On or before the date of actual transfer M. Osterberg, doing business as Osterberg Water Company, shall transfer and deliver to Del Este Water 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.

6. Del Este Water Company may operate the facilities known as Osterberg Water Company as a separate system.

7. If the authority herein granted to transfer properties is exercised, Del Este Water Company, within thirty days thereafter, shall notify the Commission, in writing, of the date of completion of such transfer.

8. Del Este Water Company shall file, within five days after the effective date of the transfer, a notice of adoption of the presently filed tariff schedules of Osterberg Water Company.

9. The rates and rules of Osterberg 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 Del Este Water Company, in accordance with the requirements of General Order No. 96-A, except that Del Este Water Company may withdraw such rules and standard forms of Osterberg Water Company as are substantially identical with the rules and standard forms of Del Este Water Company, and withdrawal of which will not result in increases or more restrictive conditions in the presently filed tariff schedules.

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

11. Upon compliance with the terms and conditions of the transfer, M. Osterberg, doing business as Osterberg 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.

12. The effective date of this order is the date hereof. Any authority herein granted and not exercised will expire on December 31, 1964.

Dated at San Francisco, California,
11th day of AUGUST, 1964.

Frederick B. Holoboff
President
John E. Mitchell
George A. ...
George H. ...

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.