

ORIGINALDecision No. 67751

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 GEORGE I. BUMGARDNER and BETTY J.
 BRADLEY, doing business as GEORGE
 BUMGARDNER WATER COMPANY, for an
 order pursuant to Sections 851-853
 of the Public Utilities Code
 authorizing the sale of all prop-
 erties and franchise of GEORGE
 BUMGARDNER WATER COMPANY; and
 In the Matter of the Application of
 BUMGARDNER WATER CO., INC., a
 California corporation, for an
 order pursuant to Sections 816-830
 of the Public Utilities Code
 authorizing the issuance and sale
 of its capital stock and the
 assumption by it of a long term
 obligation in the sum of \$41,601.08
 plus interest at 6½% from May 28,
 1964; applicants.

Application No. 46812
 (Filed July 16, 1964)

O P I N I O N

George I. Bumgardner and Betty J. Bradley, doing business as George Bumgardner Water Company (sellers), seek authority to sell and transfer their public utility water system properties to Bumgardner Water Co., Inc., a corporation (purchaser), which joins in the application.

At the end of 1963, the water system proposed to be transferred provided service to consumers through 1,646 active service connections, exclusive of fire hydrants, located in and near the general area of the City of Modesto.

On September 27, 1949, George I. Bumgardner and Gladys N. Bumgardner, husband and wife, doing business as George Bumgardner Water Company, were granted a certificate of public convenience and

necessity to serve this area by Decision No. 43331, dated September 27, 1949, in Application No. 30276.

Subsequent to the death of Gladys N. Bumgardner in 1961, sellers became the sole owners of George Bumgardner Water Company. The company's annual report to the Commission for the year ended December 31, 1963 shows total utility plant of \$232,889.17 and a depreciation reserve of \$81,769.67, indicating a net utility plant of \$151,119.50. The annual report also shows advances for construction in the amount of \$1,039.60 and contributions in aid of construction of \$9,344.38. It appears that, as of June 1, 1964, the company owed The Bank of California, National Association, the sum of \$41,601.08 plus interest at 6½% per annum from May 28, 1964. Such indebtedness and a related mortgage of chattels and deed of trust were authorized previously by this Commission.

The reason given by sellers for the proposed transfer is that it is for the best interest and benefit of the public that the structure of the corporate entity, being more permanent in nature, provide service as a public utility.

Purchaser proposes to issue \$96,600 par value of its capital stock and to assume said bank indebtedness, for the purposes of acquiring sellers' water system and operative right.

After consideration, the Commission finds that the proposed sale will not be adverse to the public interest and that a public hearing is not necessary. The Commission further finds that the issue of the securities herein authorized is reasonably required for the purposes specified herein and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. We conclude that the application should be granted as set forth in the order to follow.

In issuing our order herein, we place Bumgardner Water Co., Inc. 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 the company should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of its 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. Within one year after the effective date hereof, George I. Bumgardner and Betty J. Bradley, doing business as George Bumgardner Water Company (sellers), may transfer and sell and Bumgardner Water Co., Inc., a corporation (purchaser), may purchase and acquire, all of the right, title and interest of sellers in and to the operating right and properties referred to in the application herein.
2. Within one year after the effective date hereof, purchaser, in payment for said public utility water business and related assets, may assume the balance due on the obligation to The Bank of California, National Association, and may issue not to exceed 966 shares of its \$100 par value common stock at not less than its par value.
3. Purchaser 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.

4. After the effective date of this order, and not less than five days before the date of actual transfer, purchaser shall file a notice of adoption of sellers' tariffs. Such filing shall comply with General Order No. 96-A. The notice of adoption shall become effective on the date of actual transfer.

5. On or before the date of actual transfer, sellers shall refund all customers' deposits and advances for construction, if any, which are due and payable as of the date of transfer. All unrefunded deposits and advances shall be transferred to purchaser, which shall be responsible for their refund when due.

6. On or before the date of actual transfer, sellers shall deliver to purchaser and purchaser shall receive and preserve, all records, memoranda and papers pertaining to the construction and operation of the properties authorized herein to be transferred.

7. Within five days after the date of actual transfer, sellers and purchaser jointly shall file in this proceeding a written statement, showing:

- (a) The date of transfer. A true copy of the instrument of transfer shall be attached to the statement.
- (b) The dates of compliance with the foregoing paragraphs 5 and 6.

8. Within sixty days after the date of actual transfer, purchaser shall file appropriate revised up-to-date rules. Such filing shall comply with General Order No. 96-A and the revised tariff sheets shall become effective on the fourth day after the date of filing.

9. On or before the end of the third month after the consummation of the transfer as herein authorized, Bumgardner

Water Co., Inc., shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the period commencing with the first day of the current year to and including the effective date of the transfer.

10. Upon compliance with all of the conditions of this order, sellers shall stand relieved of their public utility obligations in the area served by the transferred system and may discontinue service concurrently with the commencement of service by purchaser.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of AUGUST, 1964.

Fredrick B. Hohlhoff
 President

George H. Trover
 Commissioner

Valdemar Bennett
 Commissioners