

ORIGINALDecision No. 68156

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 R. C. Soultz and Ethel V. Soultz
 doing business as Tulco Water Company,
 holding Decision No. 58886 to operate
 a public utility water system, request
 permission to transfer their Certifi-
 cate to Horace Nish and Lucille M.
 Nish doing business as Nish Water
 Company, 1211 Wren, Visalia, California.

Application No. 45989,
 Amended

R. C. Soultz, for Tulco Water Company
Horace D. Nish, for Nish Water System
Sidney J. Webb, for the Commission staff.

O P I N I O N

This application was heard and submitted before Examiner Gregory at Visalia on April 2, 1964, following stay of a previous transfer authorization granted without a hearing. That authorization was stayed when it appeared, as the result of information submitted by the prospective buyers prior to the effective date of the transfer authorization, that certain facts alleged in the original application were at variance with the actual proposals for acquisition of the water system. (See Decision No. 66742, dated February 4, 1964 and Order Staying Effective Date and Reopening Proceeding, dated February 18, 1964.) An amendment to the application, to conform to the evidence adduced at the hearing, was filed on April 28, 1964.

The amended application and the evidence developed at the hearing reveal that sellers, R. C. and Ethel Soultz, who own

and operate two other water systems in Tulare County, have arranged, subject to the Commission's authorization, to sell the Visalia system to Horace and Lucille M. Nish for the sum of \$49,000, pursuant to the terms of a conditional sales contract, rather than by a cash transaction as indicated in the original application herein. A copy of the contract is included in this record as Exhibit "A" of the amendment.

The system was installed about 1958 by Soultz, owner of a pump company, to service Tract No. 260, located about one mile north of Visalia (Decision No. 55878, dated December 3, 1957, Application No. 39352).

The record reveals that Nish and his wife moved to Visalia from Van Nuys in September, 1963, that he is in the carpet laying business and has had no previous experience with water systems. His brother-in-law, Martin Buhl, operates the Buhl Water System near Visalia. It was through this relationship that Nish became acquainted with Soultz, who was looking for a permanent local operator for the system which he had theretofore managed from Visalia with the help of a local man on call. Nish and his wife have actually been operating the system for Soultz since about October, 1963 and live in the tract in a home purchased on installments about December, 1963.

The issue presented by this record is whether the circumstances under which the parties have arranged for the purchase of the system are such that buyers can be expected to meet the substantial debt burden they have assumed without jeopardizing service to the public. The record, in that respect, leaves little doubt that the present arrangements are unsatisfactory.

The parties entered into their original agreement with the Tulare Branch of the Bank of America on October 10, 1963, after Nish's efforts to secure Small Business Administration and other bank financing for the cash sale price of \$49,000 had failed. The contract, written on a printed form for conditional sale of commercial vehicles and equipment (Exhibit 1), recites a cash price of \$49,000, with a contract balance of \$39,159, of which \$20,400 is to be paid by November 25, 1966, leaving a balance due, thereafter, of \$18,759. The bank has agreed to rewrite the balance for an additional 36-month period if satisfactory payments are made by Nish up to that date.

Nish's balance sheet (undated) as of the date of verification of the original application (August 20, 1963, while he was still living in Van Nuys), shows a net worth of \$39,414. His balance sheet, dated March 31, 1964, submitted as Exhibit "D" to the amended application, shows total assets of \$93,503.21 (including the water system and his new residence), total liabilities of \$62,762.34, including the contract payable to the Bank of America (\$36,759), advances for construction (\$13,603.34) and mortgages on his residence (\$12,400) payable at the rate of \$87.00 per month, with a resultant net worth of \$30,740.87^{1/}.

The amended application alleges--and Nish offered evidence purporting to show--that Nish's success in the carpet business for the past 20 years augered well for his ability to meet personal living expenses, payments on his residence and to have "some extra if needed to operate the water company." (Amended Application, par. IV.)

^{1/} A balance sheet of December 31, 1963 (Exhibit 5) indicates Nish's net worth at \$31,720.98.

The record shows that the system has a potential patronage, without new capital improvements, of about 240 customers and that the original service area was about two thirds built up at the time of the hearing. A further development, Tract 336, is under way in the vicinity for which refundable (22% of revenue) main extension contracts, totalling \$13,917.50, were executed in November, 1962 and August, 1963. Nish would assume the obligation to refund advances for construction under those contracts if the proposed transfer were authorized.

We have carefully reviewed this record and find that the proposed transfer would be adverse to the public interest. It seems evident that the parties, including the bank, have entered into their arrangements without a clear understanding of either the regulatory requirements of this Commission for long-term debt financing or the precarious situation that would confront the buyer if the burden of capital additions needed for expansion of the system were to be added to his existing financial commitments.

We recognize, however, the value of having a resident manager or operator for a water system of this size and which appears to be expanding its operations. It is possible that the parties could devise a plan whereby Nish, as a manager in the employ of Tulco Water Company, could still render the desired operational services without subjecting this relatively debt-free

utility to the long-term financial burdens contemplated by present arrangements.

The application, as amended, under the facts disclosed by this record should be denied without prejudice, and Decision No. 66742, hereinabove referred to, should be rescinded.

O R D E R

IT IS ORDERED that the application herein, as amended, is denied without prejudice and that Decision No. 66742 herein is rescinded.

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

Dated at San Francisco, California, this 2nd day of NOVEMBER, 1964.

Fredrick B. Hallock
President
Paul E. Smith
Walter D. Page
George H. Traver
William L. Burnett
Commissioners