

**ORIGINAL**

Decision No. 68792

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 ELSIE K. BAYNE, of the City of )  
 Alturas, County of Modoc, Califor- )  
 nia, individually and as the sole )  
 heir of the Estate of DAVID J. )  
 BAYNE, Deceased, of the City of )  
 Alturas, County of Modoc, Califor- )  
 nia, to Clear Title to the Thomas )  
 and Bayne Ditch Company, a Class "D" )  
 Public Utility, to sell the same to )  
 ROBERT SCHULTER, of the City of )  
 Alturas, County of Modoc, Califor- )  
 nia, and a portion of the Real )  
 Property of said Company to BEDART )  
 BROS., INC., A corporation, )  
 licensed to do and doing business )  
 in the State of California. )

Application No. 47275  
 (Filed January 21, 1965)

O P I N I O N

This is an application for an order of the Commission (1) authorizing Elsie K. Bayne, doing business as Thomas and Bayne Ditch Company (seller), to sell and transfer her water system to Robert Schluter (purchaser), (2) authorizing Elsie K. Bayne to sell certain real property to Bidart Bros., Inc., a California corporation, and (3) authorizing Robert Schluter to issue a promissory note.

At the end of 1963, the water system proposed to be transferred provided service to six consumers located in the general area of Altura.

Pursuant to authority granted by Decision No. 55066, dated June 4, 1957, in Application No. 39022, David J. Bayne and Elsie K. Bayne, husband and wife, doing business as Thomas and Bayne Ditch Company, became owners of the system.

Subsequent to the death of David J. Bayne in 1962, seller became the sole owner of Thomas and Bayne Ditch Company. The annual

report to the Commission for the year ended December 31, 1963 shows total utility plant of \$33,000. The annual report shows no amounts for depreciation reserve, advances for construction, or contributions in aid of construction.

The reason given by seller for the proposed transfer is that she is elderly and must employ personnel to operate the company. Operation has been at a loss for the past several years.

Seller states that the real property described as Section 36, Township 44 North, Range 12 East, in the County of Modoc, is not necessary to the continued operation of the utility system and that Bidart Bros., Inc., has placed \$6,400 in escrow as the purchase price, subject to approval of this Commission.

Robert Schluter has agreed to purchase the water system for \$15,000. This sum is to be payable as follows: \$4,350 in cash and a promissory note in the amount of \$10,650 bearing interest at the rate of 7 percent per annum and payable within 10 years.

The Commission has considered this matter and finds that:

1. There will be no change in rates or service to the public as a result of the transfer.

2. The proposed sales and transfer 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 promissory note herein authorized is reasonably required for the purpose specified herein and such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. A public hearing is not necessary.

On the basis of the foregoing findings, we conclude the application should be granted.

The action taken herein shall not be construed to be a finding of the value of the public utility property herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date hereof, Elsie K. Bayne, doing business as Thomas and Bayne Ditch Company, may sell that certain nonoperative real property described as Section 36, Township 44 North, Range 12 East, in the County of Modoc, to Bidart Bros., Inc.

2. Within one year after the effective date hereof, Elsie K. Bayne, doing business as Thomas and Bayne Ditch Company (seller), may transfer and sell, and Robert Schluter (purchaser) may purchase and acquire the water system referred to in this application.

3. 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 seller's tariffs. Such filing shall comply with General Order No. 96-A. The notice of adoption shall become effective on the date of actual transfer.

4. On or before the date of actual transfer, seller 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, who shall be responsible for their refund when due.

5. On or before the date of actual transfer, seller 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.

6. Within thirty days after the date of actual transfer, seller 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 4 and 5.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission 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.

8. Within one year after the effective date hereof purchaser may issue a promissory note in the principal amount of not to exceed \$10,650 repayable within ten years and bearing interest at the rate of not to exceed seven percent per annum.

9. Purchaser shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order insofar as applicable is made a part of this order.

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

The authority herein granted to issue a promissory note will become effective when purchaser has paid the minimum fee

prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30<sup>th</sup> day of MARCH, 1965.

Frederick B. Halaloff  
President

John E. Mitchell

George F. Grover

Augusta

William H. Beaulieu  
Commissioners

