

Decision No. 70773

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CITIZENS UTILITIES COMPANY OF
CALIFORNIA for an order authorizing
applicant to withdraw from certain
public service and to file certain
Tariff Sheets.

Application No. 48156
(Filed December 29, 1965;
Amended April 5, 1966)

OPINION AND ORDER

Citizens Utilities Company of California seeks to be relieved of its obligation, as a public utility, to render water service in the area formerly served by its Boulder Creek District water system, acquired December 1, 1965 by San Lorenzo Valley County Water District in eminent domain proceedings.^{1/} Applicant also requests acceptance by the Commission of certain tariff filings specified in the original application, transmitted by Advice Letter No. 80 on December 20, 1965, for the purpose of excluding from applicant's service area the area served by the condemned system.

Applicant alleges that in accordance with an agreement with the District dated October 25, 1965 (Amendment to Application, Exhibit A), the District, upon taking possession of the system, will assume all of applicant's obligations to serve water to all customers within the area to which applicant is then certificated by the Commission and to continue such service without discrimination. (The District's Rates and Rules, adopted December 3, 1965, are annexed as Exhibit B to the amendment to the application.)

1/ During the eminent domain proceeding, Citizens acquired, by merger, the nearby Felton Water Company properties. Those properties were excluded from the condemnation decree and Citizens does not here seek to be relieved of any public utility obligations in connection therewith.

The agreement also provides for transfer to the District, in trust for the benefit of applicant's customers, any deposits which they previously may have made with applicant to secure payment of water bills and which may remain in possession of applicant on the date of transfer of possession of the water system. Applicant alleges that as of March 30, 1966 it had refunded all such deposits.

The agreement further provides that applicant will remain obligated to make refunds in accordance with any main extension contracts theretofore entered into pursuant to its Main Extension Rule, except that the District agrees to assume the company's obligations under any main extension contracts entered into by applicant between the date of the agreement and the time the District takes possession of the system. Applicant alleges that the District has undertaken to provide it with information it may need from time to time in order to fulfill its obligations under the main extension contracts which, pursuant to the agreement, remain the obligation of applicant.

Although applicant has not specifically referred to Section 851 of the Public Utilities Code as authority for seeking to be relieved of its public utility obligations in connection with disposal of its Boulder Creek District water system, we will treat this application, as amended, as falling within the purview of that section under applicant's prayer for such other order as may be proper.

Section 851 of the Public Utilities Code forbids, without prior Commission authorization, the sale, encumbrance, or other disposition of the whole or any part of a utility's system or other property necessary or useful in the performance of its duties to the public, and makes void any such sale, encumbrance, or other disposition of such properties other than in accordance with the Commission's authorization.

It appears, from the amended application herein, that the parties have, by their agreement, made reasonable provision for various obligations of the utility which normally would be of concern to the Commission in considering whether the public interest would be adversely affected by authorizing a disposition of utility properties and relieving the utility of its public utility obligations.

Accordingly, we find that the disposition by applicant of its Boulder Creek District water system, in accordance with the agreement dated October 25, 1965, hereinabove referred to, is not adverse to the public interest. A public hearing is not necessary. Therefore,

IT IS ORDERED that, concurrently with the refiling by applicant of revised tariff sheets, including tariff service area maps, to discontinue application of its present tariff schedules to the area served by the transferred properties, applicant shall stand relieved of all public utility obligations in connection with its Boulder Creek District water system, except the Felton water system and remaining obligations under main extension contracts entered into by applicant prior to execution of its agreement with San Lorenzo Valley County Water District, Exhibit A to the amendment to the application herein.

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

Dated at San Francisco, California, this 24th day of May, 1966.

We will file a concurring opinion.

*Fredrick B. Holcluff
George G. Grover*

[Signature]

President
[Signature]

Secretary

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

Application No. 48156

CONCURRING OPINION OF
COMMISSIONERS HOLOBOFF AND GROVER

We concur in the finding and order.

In the circumstances of this case, we do not think it necessary to include a discussion of the exact basis of our jurisdiction.

Frederick B. Holoboff
Frederick B. Holoboff, Commissioner

George G. Grover
George G. Grover, Commissioner

San Francisco, California

May 24, 1966