

Decision No. 70774

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CITIZENS UTILITIES COMPANY OF CAL-)
 IFORNIA for an order authorizing)
 applicant to cancel certain tariff)
 sheets and to appropriately revise)
 others.)

Application No. 48285
 (Filed March 7, 1966;
 amended April 5, 1966)

OPINION AND ORDER

Applicant, alleging that its Conejo Valley District Water System (System), in Ventura County, was condemned on March 2, 1966 by Ventura County Waterworks District No. 6 (District), pursuant to an Agreement Implementing Stipulation for Entry of Interlocutory Judgment of Condemnation, executed on September 27, 1965 (Exhibit A of Amendment to Application), requests authority (a) to be relieved of the obligation to render public utility water service in the condemned area, effective March 2, 1966, and (b) authorizing certain cancellations of and revisions to applicant's existing tariff sheets, as specified in the original application, which relate to water service by applicant from the condemned system.

The agreement of September 27, 1965 provides in substance, among other matters, that: (a) the District, upon and after taking possession of the System, will serve water, without discrimination, under its rates and rules (Exhibit B, Amendment to Application), to all customers within the area wherein the company is then certificated to provide water service and will continue to serve all of such customers whether located within or without the territorial boundaries of the District; (b) disputed closing bills will be referred to the Commission for settlement and the first money

collected by the District from such customers shall accrue to the company and be applied first to arrears and then to the company's share of such closing billings; (c) the company will remain obligated to make refunds on main extension contracts entered into prior to the agreement date and the District agrees to furnish information needed by the company in order to fulfill its refunding obligations under such contracts; and (d) the District will assume all refunding obligations of the company under main extension contracts entered into by the company between the date of the agreement and the date the District takes possession of the water system.

Applicant alleges that all security deposits had been refunded, as of March 31, 1966, to customers of its Conejo Valley District system.

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 Conejo Valley 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 Conejo Valley District Water System, in accordance with the agreement dated September 27, 1965, hereinabove referred to, is not adverse to the public interest. We further find that applicant's proposed tariff amendments, as specified in Paragraphs V and VI of the original application herein, are appropriate. Therefore,

IT IS ORDERED that, upon filing of revised tariff sheets and service area maps which exclude the area served by the transferred properties, applicant shall stand relieved, as of March 2, 1966, of all public utility obligations in connection with its Conejo Valley District Water System, except remaining refund obligations under main extension contracts entered into by applicant prior to execution of its agreement with Ventura County Waterworks District No. 6, Exhibit A to the amendment to the application herein.

A public hearing is not necessary.

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

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

[Signature]

President
[Signature]

[Signature]

I will file a concurring opinion.
Frederic B. Holhoff
I will file a dissenting opinion.
George T. Grover

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

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CONCURRING OPINION OF COMMISSIONER HOLOBOFF

I concur in the findings and order.

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

Frederick B. Holoboff
Frederick B. Holoboff, Commissioner

San Francisco, California

May 24, 1966


Application No. 48285

~~THE~~ DISSENTING

CONCURREING OPINION OF COMMISSIONER GROVER

I would hold a public hearing. In view of our most recent findings with respect to the rate base of the Conejo system (Decision No. 68841, issued April 6, 1965, in Application No. 45442), and particularly in view of what Citizens appears to have paid for this system only three years ago, I believe we should explore more fully the award agreed upon in the condemnation proceedings.

Even if the application were to be granted, I agree with Commissioner Holoboff that this is not an appropriate proceeding in which to go into the exact basis of our jurisdiction.


George G. Grover, Commissioner

San Francisco, California

May 24, 1966