

ORIGINALDecision No. 70962

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JACK P. FITZPATRICK, ADOLPH MEHAK)
 and EDWARD STAHL for authority to)
 sell and of ERNEST O. OLSEN,)
 DOROTHEA A. OLSEN, his wife,)
 WILLIAM F. HECOMOVICH, DARLENE E.)
 HECOMOVICH, his wife, and ERNEST O.)
 OLSEN Trustee for PAULA C. DICKINSON)
 and MARVIN DICKINSON, her husband,)
 to buy a public utilities water)
 system, BONANZA SPRINGS WATER COMPANY.)

Application No. 48472
 (Filed May 13, 1966)

O P I N I O N

Jack Fitzpatrick,^{1/} Adolph Mehak and Edward Stahl (sellers)
 and Ernest O. Olsen, Dorothea A. Olsen, William F. Hecomovich,
 Darlene E. Hecomovich, and Ernest O. Olsen as Trustee for Paula G.
 Dickinson and Marvin Dickinson (buyers) seek authority for the
 transfer of a water system.

Service Area and Water System

Decision No. 53139, dated May 28, 1956, in Application
 No. 37455, granted sellers a certificate to construct a water system
 to serve two subdivisions with a total of 43 lots, located in
 unincorporated territory known as Bonanza Springs, approximately
 three-quarters of a mile west of Siegler Springs and two and one-
 half miles east of Loch Lomond, in Lake County.

The water system properties consist primarily of a 2.3-acre
 site (for the spring and pump), Lot 7 in Block 1 of Bonanza Springs
 Subdivision No. 1 and another 1.0-acre site (for the storage tanks),
 and 2,176 lineal feet of right-of-way of five-foot width (for the
 pipelines), together with a spring, pump, tank, pipelines and
 meters.

1/ Also known as Jack P. Fitzpatrick.

Rates and Rules

The original rates and rules authorized in 1956 are still in effect. Flat rate service is offered at \$42 per year. The minimum charge for service through a 5/8 x 3/4-inch meter is \$36 per year, with additional charges for use in excess of 400 cubic feet per month. Buyers propose to adopt sellers' rates and rules.

Unauthorized Transfer

On January 15, 1958, the subject water utility properties were deeded to Bonanza Springs Water Company, a California corporation formed by sellers. Inasmuch as the transfer was not authorized by this Commission, we find that it is a void transaction under Section 851 of the Public Utilities Code. Sellers propose, however, to record another grant deed from the inactive corporation to buyers, in addition to the deed from sellers to buyers. To avoid future confusion regarding the void transaction, it appears preferable for the corporation to execute a quitclaim deed, citing the Commission's finding herein that the previous purported transfer is void.

Proposed Transfer

Sellers were also the subdividers of land within the water utility service area. They have sold off all of their subdivision property and, as is all too frequently the case, are now unable or unwilling to continue effectively to operate the water system which made the subdivision lots marketable. Their recent request for authority to abandon the system was denied by Decision No. 70436, dated March 8, 1966, in Application No. 47994, because, among other things, no definite provision was made for alternative service to sellers' customers. Such provision is made by the transfer now proposed.

Two of the buyers are the owners and operators of the nearby Siegler Springs Resort and are year-round residents of Lake

County. They employ in excess of fifty people during the year at the resort. They allege that the management and operation of the Bonanza Springs water system would present no personnel or financial problem whatsoever. Their financial condition is shown by their financial statement, Exhibit "B" to the application.

Sellers and buyers propose to transfer the water system without monetary consideration. They allege there are no customers' deposits nor unrefunded advances for construction. The utility's balance sheet, Exhibit "A" to the application, shows \$16,397 of utility plant and \$5,962 of depreciation reserve.

Buyers propose immediately to (1) install a cover on the tank, (2) establish a flushing and cleaning program, and (3) fence, clear, cover and protect the spring source. No estimate was presented as to the investment and expense involved in those improvements.

Findings and Conclusions

The Commission finds that:

1.a. The proposed transfer will not be adverse to the public interest.

b. Buyers have the financial ability to acquire, improve and operate the water system.

2. Buyers' proposal to adopt sellers' tariffs is reasonable.

3. Sellers' records, memoranda and papers pertaining to the construction and operation of the water system will be needed by buyers upon transfer of the system.

4. A public hearing is not necessary.

The Commission concludes that the application should be granted as provided in the order which follows. The action taken herein does not constitute a finding as to the value or original cost of the properties authorized to be transferred. In order to

permit buyers to make needed improvements without delay, the order herein will be made effective immediately.

O R D E R

IT IS ORDERED that:

1.a. Within one year after the effective date of this order, Jack Fitzpatrick, Adolph Mehak and Edward Stahl (sellers) may transfer to Ernest O. Olsen, Dorothea A. Olsen, William F. Hecomovich, Darlene E. Hecomovich, and Ernest O. Olsen as Trustee for Paula C. Dickinson and Marvin Dickinson (buyers) the water system referred to herein, substantially in accordance with the terms discussed herein.

b. Within five days after the date of actual transfer, sellers and buyers jointly shall file in this proceeding:

- (1) A statement showing the date of transfer.
- (2) A true copy of the instrument or instruments of transfer.

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

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

b. Within five days after the date of actual transfer, sellers and buyers jointly shall file in this proceeding a written statement showing the date of compliance with the foregoing subparagraph 3.a.

c. On or before the end of the third month after the date of actual transfer, buyers shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the period from the first day of the current year to and including the effective date of the transfer.

4. 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 buyers.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 15th day of JULY, 1966.

Peter E. Mitchell
President

Frederick B. Holmbeck

Augustus

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

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