

ORIGINALDecision No. 71814

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ANGORA WATER CO., a corporation, for)
 an order authorizing the issuance of)
 stock and assumption of obligations.)

Application No. 48114
 (Filed December 10, 1965;
 amended September 26, 1966)

Scott Elder, for Angora Water Co., applicant.
John J. Gibbons, J. D. Reader and L. L. Thornd,
 for the Commission staff.

O P I N I O N

Angora Water Co. (Angora), a corporation, is a public utility furnishing water service in unincorporated areas in El Dorado County known as Mountain View Estates, Country Club Heights, Country Club Estates and Rolling Wood Heights under certificates of public convenience and necessity granted in Decision No. 59271, dated November 17, 1959, in Application No. 41249, and Decision No. 60328, dated June 28, 1960, in Applications Nos. 41414, 41868 and 42036.

The application states that the water systems from which applicant provides its water service were installed and constructed by Martin Bros., a copartnership, which is now owner of the systems. The application also states that since about January 1, 1964, the completion date of the systems, Martin Bros. has allowed applicant to use the systems without charge.

Applicant seeks authority to issue to Martin Bros. not to exceed 792,487 shares of its capital stock of the par value of \$1 per share, having an aggregate par value of \$792,487, in exchange for the transfer of said water systems to applicant by Martin Bros. The exact number of shares proposed to be issued assertedly will be of a

value equal to the original cost of said water systems, less depreciation accrued at time of conveyance, and less certain obligations of Martin Bros. secured by encumbrances having a total unpaid balance of \$8,146.20.

Public hearing was held before Examiner Gillanders at South Lake Tahoe on September 15 and 16, 1966, and at San Francisco on September 19 and 26, 1966. The matter was submitted upon receipt of a late-filed exhibit on October 4, 1966.

Evidence was presented on behalf of applicant by its vice president, a certified public accountant, two land developers whose properties are located within applicant's service area, and the county engineer and the county bond counsel of El Dorado County.

A financial examiner of the Commission's Finance and Accounts Division presented a report covering the operations of Angora. This study states that although the application requests permission to transfer the water systems involved herein from Martin Bros. to Angora, it was not clear at the time the staff study was made whether Martin Bros. had title to certain of the water systems or title to these systems was vested in Angora. Such statement was based on the witness's review of county resolutions approving the formation of special assessment districts which provided funds for the construction of certain of the water systems involved herein.

The staff report also raised the question whether the water systems, if transferred to Angora, should be considered as contributions in aid of construction or advances for construction, rather than plant upon which applicant should be given an opportunity to earn a return. The staff report points out that the cost of material materials for the water system in Country Club Heights Units 1 and 2 was paid for by the developers and donated to Martin Bros.; that the

in-tract water facilities in most of the remaining tracts were financed by special assessment bonds to be assumed by the purchasers of the lots; that one of the purposes of said assessment bonds was to pay for the in-tract water facilities; and that county records indicated that a portion of the proceeds from said bonds was used by the county to pay contractors for construction of the in-tract water facilities.

Following receipt of the staff report, the County of El Dorado was requested by the Commission's Secretary to furnish information relative to the contractors responsible for the construction of the water systems in 10 assessment districts which embrace certain of the water systems sought to be transferred herein. The county was also requested to advise the Commission what entity would be the owner-operator of said systems after they were completed.

The county bond counsel and the county engineer of El Dorado County were called by applicant to clarify procedures of the county with respect to the water systems constructed through the use of assessment bond funds. Their testimony showed the following: Assessment districts were formed for the purpose of providing funds to be generated through sale of assessment bonds. Said funds were to be used for constructing or acquiring improvements within several of the subdivisions involved herein. The improvements included the construction or acquisition of in-tract water systems, in addition to streets and other improvements. The County of El Dorado contracted for the construction or acquisition of the water systems. Resolutions of the Board of Supervisors initiating the assessment districts or resolutions of intention to establish the assessment districts specified the names of the contractors who would construct the water systems, the estimated costs thereof, and the entity which

would provide water service to the property owners when the systems were constructed. For several of the subdivisions, said resolutions specified that Angora Water Co. was the contractor and that Angora Water Co. would provide water service when the systems were constructed. Neither of the county witnesses could testify of his own knowledge as to whether Angora actually constructed the in-tract water facilities in question, or as to whether legal title to said water systems was transferred by the county to Angora upon completion of the contracts for construction and sale of the assessment bonds. No determination of actual construction costs was made by the county engineer upon the completion of the construction projects, as provided for in the enabling resolutions of the Board of Supervisors.

Discussion, Findings and Conclusions

The record in this proceeding does not establish that Martin Bros. now owns all of the water systems sought to be transferred to Angora; there is prima facie evidence to the contrary with respect to those water systems constructed under contract with the County of El Dorado. With respect to the requested transfer of the water systems involved herein, we find that there is doubt ownership of the water systems now rests with Martin Bros., the alleged transferor. Other deficiencies also appear. The application cannot be granted.

Applicant has not presented sufficient evidence to determine the costs of the water systems proposed to be transferred. The Commission staff report points out that accurate information as to actual construction costs of the water systems is difficult to obtain because adequate records of labor and equipment are not available.

The Commission staff report contains a tabulation showing the water systems in the various tracts financed by special assessment bonds and the amount actually paid to Martin Bros. for construction of water systems in these tracts. The staff report also indicates that the amount actually paid to Martin Bros. was substantially less than the estimated construction costs set forth in the enabling resolutions of the Board of Supervisors, upon which the bond issues were based.

We find that an accurate determination of the cost of the water systems sought to be transferred cannot be determined from this record. Moreover, no determination can be made on this record whether the water systems constructed with assessment bond funds should be considered as contributions in aid of construction or advances for construction, rather than plant on which Angora would be entitled to earn a return.

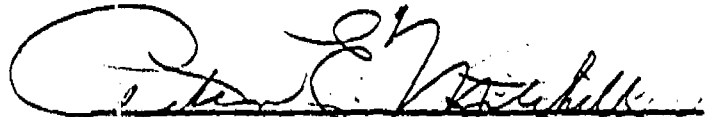
We conclude that the application should be denied.

On September 19, 1966, applicant petitioned for a proposed examiner's report. In the circumstances, an examiner's proposed report would serve no useful purpose, and the request therefor is denied.

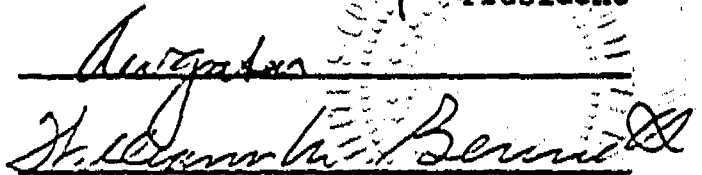
ORDER

IT IS ORDERED that Application No. 48114 is hereby denied.
The effective date of this order shall be twenty days
after the date hereof.

Dated at San Francisco, California, this 17th
day of JANUARY, 1967.



President



Commissioners

Commissioners