

**ORIGINAL**Decision No. 72101

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates, rules, tariffs, contracts,  
practices, equipment, facilities  
and service of KENTWOOD IN THE  
PINES COMMUNITY ASSOCIATION, a  
corporation.

Case No. 8177

Irwin Gostin, for respondent.  
W. Paul Payne, for Golconda Utilities Company;  
Leland Featherman, for San Diego County  
Counsel; Harry Hargreaves and Margaret  
McNichols, for Whispering Pines Municipal  
Water District; Wilson W. Weid, for creditors  
of respondent; Curtis M. Brown, for himself;  
Ashley L. Bishop and Duane E. Wilson, for  
Title Insurance & Trust Company; Richard A.  
Peterson, Receiver in Bankruptcy of respond-  
ent, interested parties.  
B. A. Peeters, for the Commission staff.

INTERIM OPINION

The numerous difficulties, including pending bankruptcy proceedings, involving respondent Kentwood in the Pines Community Association have been discussed in previous decisions herein. At an adjourned hearing held before Examiner Catey, at Julian, on August 17, 1966, it appeared that a solution to many of the problems might be worked out by respondent in cooperation with the County of San Diego. Exhibit No. 4 was reserved for presentation of a proposed agreement between respondent and the county, together with data related thereto. That exhibit was received on February 23, 1967, and provides the basis for this interim opinion and order. The proceeding will not be discontinued at this time.

Formation of County Service Area

On January 17, 1966, the Local Agency Formation Commission of San Diego County considered a proposal to form a community services district for the purpose of acquiring, maintaining and operating a water distribution system in the Kentwood-in-the-Pines portion of respondent's service area. That commission recommended that the Board of Supervisors consider the formation of such a district, but that the district should be governed by the Board of Supervisors because of various local conflicts of interest. The proposed area of the district was later enlarged to include the remaining portion of respondent's service area, Whispering Pines.

On August 16, 1966, the Board of Supervisors adopted a resolution of intention to form County Service Area No. 4, Majestic Pines, to include both Kentwood-in-the-Pines and Whispering Pines. Public hearing on the proposal was held on September 6, 1966, following which, on September 13, 1966, the Board of Supervisors established the county service area. Of the 360 registered voters in the area, 53 signed a petition protesting the formation of the county service area, so the matter was placed on the ballot for a special election held on December 20, 1966. The results of this referendum were 76 in favor of, and 30 against, the formation of the county service area. On January 3, 1967, the Board of Supervisors reaffirmed its earlier resolution.

Operating Agreement

On February 21, 1967, respondent and the County of San Diego entered into an agreement, subject to the authorization of this Commission, whereby the county will maintain and operate the water systems under a one-year lease arrangement, with options to

renew the lease for six months and to purchase the water system under mutually agreeable terms.

The county agrees to operate in accordance with respondent's filed tariffs, including service area maps, rates and rules, to maintain respondent's books and records in conformity with the accounting procedures prescribed by this Commission and to file respondent's annual reports to this Commission.

The county will pay a token \$1 as consideration for the lease, renewal option and purchase option. It will pay all costs incurred in its operation of the systems and collect the fees and charges prescribed by respondent's present filed tariffs, with whatever revisions thereof are authorized from time to time by this Commission.

During the term of the agreement, the county will make a feasibility study and appraisal of the water systems to be used as a basis for negotiating the ultimate transfer agreement. Such transfer agreement is not yet before this Commission and, at an appropriate time, presumably will be presented in the form of an application by respondent for authority to transfer the system. This could avoid the necessity for reorganization of respondent if it is found to be bankrupt.

Findings and Conclusion

We find that:

1. Respondent and the county have agreed, subject to the authorization of this Commission, to the lease and operation of the water systems by the county, pending potential transfer of those systems to the county.

2. The terms and conditions of the proposed lease agreement are not adverse to the public interest.

The Commission concludes that respondent should be authorized to carry out the terms and conditions of the proposed lease agreement.

INTERIM ORDER

IT IS ORDERED that respondent Kentwood in the Pines Community Association is authorized to carry out the terms and conditions of its proposed lease agreement, dated February 21, 1967, with the County of San Diego, a copy of which agreement is part of Exhibit No. 4 herein.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of FEBRUARY, 1967.

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President  
*Mallory B. Bennett*

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*William J. ...*

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*Sheep P. ...*  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.