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ORIGINAL

Decision No. 72579

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the joint
 application of CALIFORNIA-PACIFIC
 UTILITIES COMPANY and CITY OF
 NAPA for an order authorizing
 California-Pacific Utilities
 Company to sell its Napa Junction
 Water System to the City and to
 discontinue its public utility
 service in the County of Napa.

Application No. 45761

FOURTH SUPPLEMENTAL ORDER

This is a petition by California-Pacific Utilities Company (hereinafter referred to as California-Pacific), the City of Napa (hereinafter referred to as City) and American Canyon County Water District (hereinafter referred to as District). Petitioners seek a modification of Decisions Nos. 68010, 68108 and 71812 whereby California-Pacific would be authorized to sell its Napa Junction water system to District instead of City.

Decision No. 68010 entered on October 13, 1964, authorized City to purchase California-Pacific's Napa Junction water system under terms and conditions specified therein. District was one of the protestants at the hearing resulting in that decision. Decision No. 68010 was modified by Decisions Nos. 68108 and 71812, but no substantial changes were made. The transfer between California-Pacific and City has never been consummated because of various petitions for review or appeals taken by District and legal proceedings instituted by it in the Superior Court. The Commission has, from time to time, extended the period in which the parties may consummate the transfer. Presently, they have until January 8, 1968 to do so.

A. 45761 SK

Decision No. 68010 found that ". . . the probability of American Canyon being able to acquire the Napa Junction system in the next few years is highly speculative and conjectural. The Commission is of the opinion that such a remote possibility should not be permitted to defeat the transfer here under consideration."

However, Decision No. 68010 also stated:

"Although this decision does not rely on this point, it should be noted that at the hearing City indicated that the present policy of the City is that at such time as American Canyon or an incorporated city in the Napa Junction area had an adequate separate water source and financial ability to purchase the system, City would favorably consider selling it to such purchaser."

The record discloses that District's voters have authorized the sale of \$370,000 in revenue bonds, and that if these bonds are sold District will have sufficient funds to acquire the Napa Junction system under the same terms and conditions as were offered to City.

Petitioners have entered into an agreement, subject to appropriate authorization by this Commission, whereby City has assigned to District its rights to purchase the Napa Junction system until December 31, 1967. The agreement also adjusts certain matters relating to water supply and the use of mains between City and District if the requested authority is granted, but does not alter the terms of the transfer of the system. California-Pacific is a party to the agreement and supports the requested relief. The Commission notes that, at the public hearing on this matter, all the protestants took the position that American Canyon should be the entity to acquire the Napa Junction system. All the protestants are not parties to the present petition. However, in the light of the requested relief and previous position of the parties, no useful purpose would be served by requiring a hearing on the petition.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The proposed substitution of District for City as the entity to acquire the Napa Junction system would not be adverse to the public interest, provided the transfer is consummated on or before December 31, 1967.

Conclusion of Law

1. District should be authorized to acquire the Napa Junction system in accordance with the terms of the original agreement between City and California-Pacific, which is attached to the petition as Exhibit A, the Assignment and Assumption Agreement, which is attached to the petition as Attachment A, and ordering paragraphs 2, 3 and 4 of Decision No. 68010.

2. If the transfer between California-Pacific and District is not consummated on or before December 31, 1967, the authority granted herein should expire and the provisions of Decisions Nos. 68010, 68108 and 71812 should have their original force and effect.

IT IS ORDERED that:

1. Decisions Nos. 68010, 68108 and 71812 are hereby modified insofar as they may be inconsistent with the provisions of this order.

2. On or before December 31, 1967, California-Pacific Utilities Company may sell and transfer its Napa Junction Water System to the American Canyon County Water District in accordance with (1) the Assignment and Assumption Agreement which is attached to the Petition for Modification as Attachment A, (2) the Contract of Purchase, which is attached to the Petition for Modification as Exhibit A and (3) ordering paragraphs 2, 3 and 4 of Decision No. 68010.

A. 45761 SK

3. If the transfer authorized in ordering paragraph 2 of this order is not consummated on or before December 31, 1967, then, in such event, all the provisions of Decisions Nos. 68010, 68108 and 71812 shall continue in effect unmodified and ordering paragraphs 1 and 2 of this order shall have no further effect.

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

Dated at San Francisco, California, this 9th
day of JUNE, 1967.

[Signature]
President

[Signature]

[Signature]
Commissioners

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

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