

ORIGINAL

Decision No. 73269

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Harry H. Gester and Gael C. Himmah,)
 business partners doing business as)
 Black Bear Creek Land Company, for)
 authority to sell to Harry H. Gester)
 all of their right, title and interest)
 in the water system now owned by)
 Harry H. Gester and Gael C. Himmah,)
 business partners doing business as)
 Black Bear Creek Land Company, and)
 known as the Shasta Retreat Water)
 System, in the City of Dunsmuir,)
 County of Siskiyou, State of)
 California, and to execute and)
 deliver necessary security documents)
 in connection therewith.)

Application No. 49620
(Filed August 21, 1967)

O P I N I O N

Harry H. Gester and Gael C. Himmah, partners doing business as Black Bear Creek Land Company (sellers) request authorization to transfer their water system known as the Shasta Retreat Water System to one of the partners, Harry H. Gester (buyer).

The water system serves the Shasta Vicino Camp, or Shasta Retreat, area in the City of Dunsmuir, Siskiyou County. Sellers, on December 31, 1966, had 65 active service connections by which they served water to residential customers at flat rates.

On August 16, 1967, sellers and buyer entered into an agreement, a copy of which is attached to the application as Exhibit A, providing for the sale of the water system and other assets. As payment of the purchase price buyer will deed to Gael C. Himmah, no later than January 1, 1975, 10 specified lots, and buyer will execute a note containing a title transfer acceleration clause. If said lots are not available on the agreed date, buyer

will give sellers the option of receiving 10 acres of undeveloped land as an alternative to receiving 10 developed lots. Upon execution of the agreement the partnership will be dissolved by mutual agreement. All bills payable will be paid by sellers on or before the date of close of escrow and buyer agrees to accept all responsibility for the Black Bear Creek Land Company and the Shasta Retreat Water System.

Sellers' annual report to this Commission for the year 1966, hereby incorporated as a part of this record by reference, shows as of the end of 1966 utility plant in service in the amount of \$9,270, a reserve for depreciation of utility plant of \$1,696, and no customer deposits, advances for construction or contributions in aid of construction.

The application states that each of the parties considers the sale and purchase of the water system to be fair and reasonable, that the reason for the sale is that one seller, Gael C. Himmah, is going to leave the United States for an extended period of time and thus will not be able to meet the duties and responsibilities of ownership of the water system, and that buyer desires to continue his activities in the water distribution business.

We find that:

1. Buyer has the ability to acquire and operate sellers' water system without interruption in service.
2. Upon the consummation of the proposed transfer sellers will no longer be performing public utility service.
3. Subject to the conditions set forth in the order which follows, the proposed sale and transfer will not be adverse to the public interest.

We conclude that the application should be granted as provided in the following order and that a public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of public utility operating rights and other public utility property herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date of this order, Harry H. Gester and Gael C. Himmah, partners doing business as Black Bear Creek Land Company, may sell and transfer to Harry H. Gester the operative rights and properties referred to herein, substantially in accordance with the terms described in the agreement attached to the application herein and designated as Exhibit A, but subject to the conditions of this order.
2. After the effective date of this order, and not less than five days before the date of actual transfer, buyer 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 the actual transfer.
3. On or before the date of actual transfer, sellers shall deliver to buyer, and buyer shall receive and preserve, all available records, memoranda and papers pertaining to the construction and operation of the properties authorized herein to be transferred.
4. Within five days after the date of actual transfer, sellers and buyer jointly shall file in this proceeding a written statement, showing:

- a. The date of transfer. A true copy of the instrument of transfer shall be attached to the statement.
- b. The date of compliance with the foregoing paragraph 3.

5. 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 buyer.

6. On or before the end of the third month after the date of actual transfer, buyer 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.

7. Buyer shall account for the acquisition of the properties herein authorized to be transferred in accordance with the instructions relating to water plant purchased contained in the Uniform System of Accounts for Class D Water Utilities.

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

Dated at San Francisco, California, this 27th day of OCTOBER, 1967.

R. E. ...
President

Stallman ...

Wagon

Neil P. ...
Commissioners

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