

**ORIGINAL**

Decision No. 73361

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of C. WESLEY BIRD and JENNIE C.  
BIRD, husband and wife, for  
authority to sell to FRANCIS H.  
FERRARO all of their right, title  
and interest in the water systems  
now owned by C. Wesley Bird and  
Mrs. Jennie C. Bird, and known as  
the WESMILTON WATER SYSTEM, the  
HACIENDA HEIGHTS WATER SYSTEM, and  
the ANGOSH-VAN WATER SYSTEM, in the  
County of Fresno, State of California,  
and to transfer Certificates of  
public convenience and necessity.

Application No. 49665  
(Filed September 7, 1967)

O P I N I O N

C. Wesley Bird and Jennie C. Bird (sellers) seek authori-  
zation to transfer three public utility water systems in Fresno  
County to Francis H. Ferraro (buyer). Buyer is presently the owner  
and operator of one system in the same area. None of the four  
systems is contiguous to the others. Ferraro joins in the appli-  
cation.

Four exhibits will be included in the record. No. 1 is a  
report prepared by a financial examiner of the Commission's Finance  
and Accounts Division. No. 2 is a letter dated October 6, 1967 and  
signed by sellers and buyer. No. 3 is a revised form of "Note  
Secured By Deed Of Trust" intended as a replacement for and correction  
of Exhibit H to the application. No. 4 is an agreement relating to  
certain nonutility property that buyer purchased from sellers and  
is included in the record with the view that it might help to clear  
up possible confusion in the future.

The purchase price of the utility is agreed to be \$143,000. The terms are \$20,000 down and a note for \$123,000. The form of this note was revised in Exhibit No. 3 to conform to the application (which Exhibit H to the application did not). It provides for 4 percent interest payable in semiannual installments on June 1 and December 1. The principal payment is to be "Eighty percent (80%) of the annual net profits of the . . . (systems) . . . over and above the net profit of ten thousand dollars (\$10,000.00) per year . . . ."

It is alleged in the application that buyer owned and operated a water company in New Hampshire which has been acquired by the city he served. He is alleged to be an experienced water works operator.

Sellers, it appears, have made extensions which were not financed in accordance with their filed main extension rule. Buyer has been apprised of this by a member of the Commission staff and understands that it is possible that in the event of a rate increase application, not all sums appearing in the plant accounts properly would be includable in rate base.

The Commission finds that:

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

2. Francis H. Ferraro has the financial resources to acquire and operate the water systems known as the Wesmilton Water System, the Hacienda Heights Water System, and the Ancoosh-Van Water System.

3. C. Wesley Bird and Jennie C. Bird have extended their systems with financing which does not conform to their filed main extension rule.

4. The issue of the securities herein authorized is reasonably required for the purposes specified herein and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

5. A public hearing is not necessary.

The Commission concludes that the application should be granted as provided by the following order.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

Francis H. Ferraro is placed on notice that:

1. The certificates of public convenience and necessity that Ferraro is authorized to acquire by the order herein were and are subject to the following conditions:

"The Commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right. No contract for consolidation or lease shall be capitalized, nor shall any public utility issue any bonds, notes, or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger."

2. C. Wesley Bird and Jennie C. Bird have not financed extensions of their systems in conformance with their filed main extension rule. Accordingly, it is possible that main extension financing and theoretical advances may become an issue in future proceedings.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date of this order, C. Wesley Bird and Jennie C. Bird, husband and wife, may sell and

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transfer to Francis H. Ferraro the water systems referred to herein, substantially in accordance with the terms described in the agreement attached to the application herein as Exhibit B, provided, however, that the note executed by Francis H. Ferraro shall be in the form prescribed by Exhibit No. 3 and not in the form prescribed by Exhibit H to the application.

2. On or before the date of actual transfer, C. Wesley Bird and Jennie C. Bird shall refund all customers' deposits and all amounts under advances for construction agreements representing refunds due and payable as of the date of transfer.

3. After the effective date of this order, and not more than thirty days after the date of actual transfer, buyer shall file additional and revised tariff sheets, including tariff service area maps, clearly and accurately indicating the boundaries of the tariff areas established by the transfer, to provide for the application of sellers' present rates and rules to the service areas acquired by the transfer. Such filing shall comply with General Order No. 96-A.

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 or instruments of transfer shall be attached to the statement.
- b. The dates of compliance with the foregoing ordering paragraph 2.

5. Upon compliance with all of the conditions of this order, sellers shall stand relieved of their public utility obligations in the areas served by the transferred systems 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 operations of the sellers for the period commencing with the first day of the current year to and including the effective date of transfer.

7. Buyer shall apply composite depreciation rates to the original cost of depreciable plant as follows:

Wesmilton system	2.9 percent
Hacienda Heights system	2.8 "
Anoosh-Van system	2.5 "

Until reviews indicate otherwise, buyer shall continue to use these rates. Buyer shall review his depreciation rates at intervals of five years and whenever major changes in depreciable plant occur. Any revised depreciation rates shall be determined by (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant; (2) dividing the remainder by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant. The results of each review shall be submitted promptly to the Commission.

8. The authority herein granted to issue a note will become effective when buyer has paid the fee prescribed by Section 1904(b)

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of the Public Utilities Code, which fee is \$123. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of NOVEMBER, 1967.

[Signature]  
President

[Signature]  
William M. Bennett  
[Signature]  
Commissioners

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

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
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By [Signature]