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ORIGINAL

Decision No. 74296

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of JAMES and THERESA CARPIGNANO,)
d.b.a. WEST SAN MARTIN WATER)
WORKS, for authority to sell)
their public utility water)
business and properties to)
WEST SAN MARTIN WATER WORKS,)
INC., a California corporation)

Application No. 50225
Filed May 8, 1968

In the Matter of the Application)
of WEST SAN MARTIN WATER WORKS,)
INC., for Authority to Issue)
1,200 Shares of its Common Stock,)
Par Value \$10.00 per Share, and)
for Authority to Issue Its Note)
Secured by a Security Agreement)
and Deed of Trust on Property to)
be Acquired From James and)
Theresa Carpignano, d.b.a. West)
San Martin Water Works.)

Application No. 50274
Filed May 28, 1968

O P I N I O N

These are applications for orders of the Commission authorizing James and Theresa Carpignano, doing business as West San Martin Water Works, to sell and transfer their public utility water system to West San Martin Water Works, Inc., and authorizing the latter (1) to execute a Security Agreement and a Deed of Trust, and (2) to issue a \$40,000 note and 1,200 shares of its \$10 par value capital stock.

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James and Theresa Carpignano operate the public utility water system known as West San Martin Water Works pursuant to authority granted by Decision No. 65286, dated May 1, 1963, in Application No. 43450. Service is provided to approximately 60 customers located in a portion of the town of San Martin, Santa Clara County. For the year ended December 31, 1967, the owners report total operating revenues and net income of \$5,889 and \$1,520, respectively, and net utility plant of \$38,571 after deducting accumulated depreciation.

West San Martin Water Works, Inc. is a California corporation organized on or about November 28, 1967 for the specific purpose of acquiring and operating the water system facilities of James and Theresa Carpignano. It plans to become a wholly owned subsidiary of Lucky Livestock Company, a California corporation having a reported net worth exceeding \$4,900,000 as of February 29, 1968.

The applications show that James and Theresa Carpignano have arranged to sell and transfer their water utility business and properties, including operative rights and good will, to West San Martin Water Works, Inc. for a price of \$46,000, consisting of \$6,000 cash and a \$40,000 note payable in four annual installments of \$10,000 or more. Said note will bear interest at the rate of 5% per annum, and will be secured by a Deed of Trust and a Security Agreement.

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West San Martin Water Works, Inc. proposes to issue 1,200 shares of its \$10 par value capital stock for \$12,000 cash, of which it would use \$2,000 for working capital and \$10,000 for meeting the first installment on principal of said note. Lucky Livestock Company will make a capital contribution to West San Martin Water Works, Inc., which contribution will be in the form of \$6,000 cash for the initial payment on said purchase price, together with a \$30,000 non-negotiable 5% note whereby the latter will receive funds to meet the second, third and fourth installments of the previously mentioned note.

A pro forma balance sheet of West San Martin Water Works, Inc. as of December 31, 1967, giving effect to the proposed acquisition and financing, is summarized as follows:

<u>Assets</u>	
Net utility plant	\$38,571
Acquisition adjustments	7,429
Cash	12,000
Note receivable	<u>30,000</u>
Total	<u>\$88,000</u>
<u>Liabilities</u>	
Long-term debt	\$40,000
Common stock	12,000
Capital surplus	<u>36,000</u>
Total	<u>\$88,000</u>

After consideration the Commission finds that: (1) the proposed transactions will not be adverse to the public interest; (2) the money, property or labor to be procured or

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paid for by the issue of the stock and note herein authorized is reasonably required for the purposes set forth in the applications; and (3) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the applications should be granted. A public hearing is not necessary.

In issuing our order herein we place West San Martin Water Works, Inc. and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return the corporation should be allowed to earn on its investment in plant, and that the authorization herein granted is not to be construed as a finding of the value of its stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. James and Theresa Carpignano, on or after the effective date hereof and on or before December 31, 1968, may sell and transfer, and West San Martin Water Works, Inc. may purchase and acquire, the public utility water system and other assets referred to in Application No. 50225.

2. West San Martin Water Works, Inc., for the purposes specified in Application No. 50274, may issue not exceeding 1,200 shares of its \$10 par value capital stock.

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3. Conditioned upon Lucky Livestock Company making the capital contribution contemplated by Application No. 50274, West San Martin Water Works, Inc., for the purposes specified in said application, may execute and deliver a Deed of Trust and a Security Agreement, and may issue a note in the principal amount of not exceeding \$40,000. Said documents shall be in the same form, or in substantially the same form, as those attached to Application No. 50274.

4. Within sixty days after the consummation of the transfer, West San Martin Water Works, Inc. shall file with the Commission a copy of each journal entry used to record the transfer and related financing transactions on its books of account.

5. West San Martin Water Works, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

6. On or before the date of actual transfer -

- a. Sellers shall refund all customers' deposits and all advances for construction, if any, which are due to be refunded at the date of transfer. Any unrefunded deposits and advances shall be transferred to and shall become the obligation for refund of West San Martin Water Works, Inc.
- b. Sellers shall transfer and deliver to purchaser all records, memoranda and papers pertaining to the construction and operation of the properties herein authorized to be transferred, and purchaser shall receive and preserve the same.

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7. If the authority herein granted to transfer properties is exercised, West San Martin Water Works, Inc., within thirty days thereafter, shall notify the Commission, in writing, of the date of completion of such transfer.

8. After the effective date of this order, and not less than five days before the date of actual transfer, West San Martin Water Works, Inc. shall file with the Commission a notice of adoption of the presently filed rates and rules of the water system known as West San Martin Water Works in accordance with the procedure prescribed by General Order No. 96-A. The effective date of the notice of adoption shall be concurrent with the date of actual transfer. No increases in presently filed rates shall be made unless authorized by this Commission.

9. On or before the end of the third month after the consummation of the transfer as herein authorized, West San Martin Water Works, Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the sellers for the period commencing with the first day of the current year to and including the effective date of the transfer.

10. Upon compliance with all of the conditions of this order, James and Theresa Carpignano shall stand relieved of all further public utility obligations pertaining to the operations of the public utility water system herein authorized to be transferred.

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11. This order shall become effective when West San Martin Water Works, Inc. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$40.

Dated at San Francisco, California,
this 25th day of JUNE, 1968.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

