

Decision No. 75890

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
RIDGECREST HEIGHTS LAND AND WATER
COMPANY to transfer, and of NORTHERN
MOJAVE LANDS, INC., to purchase, a
water system and assets, Kern County.

} Application No. 50786
(Filed December 30, 1968)

William I. Zidell and Frank R. Gonder, for Ridgecrest Heights Land and Water Co.; Wilbur H. and Mary Ruth Stark, for Northern Mojave Lands, Inc., applicants.
Fred H. Tripp, General Manager, for Ridgecrest County Water District, interested party.
Raymond E. Heytens and Jerry J. Levander, for the Commission staff.

O P I N I O N

This application was heard, after due notice, before Examiner Gregory, at Los Angeles on April 29 and submitted at the concluding hearing at Ridgecrest on May 1, 1969.

The evidence discloses that applicants, following negotiations beginning in July, 1967, entered into an agreement, dated June 7, 1968 (Application, Exhibit II) for the sale to Northern Mojave Lands, Inc. of the public utility water system assets of Ridgecrest Heights Land and Water Co., a corporation, located in northeastern Kern County, for the sum of \$10,000. Purchaser has deposited the sum of \$5,000 cash and proposes to issue a promissory note for the balance of \$5,000, repayable in monthly installments of \$100 including interest at the rate of 6-1/2 percent on the unpaid principal, secured by a deed of trust covering properties of the water system. (Application, Exhibit II-A, sample note and trust deed.)^{1/}

^{1/} Evidence received at the Ridgecrest hearing discloses that the parties, following adjournment of the Los Angeles session, discussed a possible additional sale to Northern Mojave, or its owners, of seller's corporate stock after excluding some non-utility assets. The price mentioned was an additional \$5,000, payable \$100 per month at 6-1/2 percent interest.

The evidence shows that the utility, since certification under its former name in 1950 (Rocket Town Water Co., Inc., Decision No. 43716, Application No. 30483, amended), has experienced supply and pressure deficiencies that have resulted in substandard service, especially at higher elevations and during peak summer months, to the utility's approximately 144 customers in its 2,700-lot service area located within and southwest of the City of Ridgecrest. Commission orders to improve service and transmit reports, and forbidding, without prior authority, attachment of new customers and extension of mains to new areas, have largely been ignored by the present owner (See Decision No. 56528, dated April 15, 1958, Application No. 39335; Decision No. 70929, dated July 1, 1966, Case No. 3418 - a complaint - modified by Decision No. 72170, dated March 21, 1967).

Seller's president, a gentleman of advanced age, maintains his home near the company's headquarters in Hollywood. His daughter, who is secretary-treasurer, owns all of the company's capital stock. Seller's resident manager, Frank R. Gonder, has made conscientious efforts to repair pipeline leaks promptly and to keep the system operating.

Purchaser, Northern Mojave Lands, Inc., is a corporation controlled by Wilbur H. and Mary R. Stark, husband and wife. Like seller, it is engaged in real estate development and related water service in the Ridgecrest area. The Starks, in 1967, were found to be operating a public utility water service in connection with their Lane Acres subdivision, located some four miles west of the City of Ridgecrest, and were ordered, among other things, to improve service (Decision No. 73263, dated October 27, 1967, Case No. 3626).

Although, following an informal complaint in July, 1968, they promptly remedied supply and pressure deficiencies, this record discloses that they have not yet fully complied with the Commission's several orders in Decision No. 73263. Also, though informally advised by the staff to do so, they have not yet applied for authority to transfer the proprietorship, Lane Acres Water Company, to Northern Mojave Lands, Inc., following their advice to the Commission, in November, 1967, that they had found it necessary to deed their water system to the corporation and to continue service under that ownership. The Starks, during the pendency of negotiations for acquisition of the Ridgecrest Heights system and pursuant to arrangements between the parties, installed about a mile of 6-inch asbestos-cement main in the Ridgecrest Heights service area along Mahan Avenue from Saratoga Drive to Vulcan Avenue. The new installations improved service to low pressure areas west of Mahan Avenue, along Sullivan and Burns Avenues; however, pressures were still found deficient in those areas during a subsequent investigation by a staff engineer on January 22, 1969. The evidence shows that numerous service interruptions have occurred in those areas for several years during peak loads.^{2/}

^{2/} Daily and monthly consumption data for Ridgecrest County Water District (Exhibits 4 and 5), a public agency that has recently annexed the Ridgecrest Heights service area within its boundaries and whose own service area borders the utility's on the north and east, indicate a morning peak daily demand by the District's customers occurs at about 10 a.m., with a higher peak at about 6 p.m., and that the monthly demand, from mid-May through October, rises in August to a peak of 1.7 times the average of total annual consumption. It can be inferred that the use of evaporation type cooling systems during high summer temperatures experienced in the Upper Mojave Desert would account for a substantial part of the demand.

Seller is providing water service in the area outlined in red on the map attached to the application as Exhibit 1, except for the unsubdivided area located north of Bowman Road and west of Guam Avenue.

The staff, which does not oppose the transfer provided certain service-related conditions are met, has concluded, in its report of a field investigation made during January and February, 1969 (Exhibit 3), that without additional water supplies further interruptions can be expected during the summer season.

Stark, with some reservations on certain details concerning the timing of improvements and amounts of water recommended by the staff, is in general agreement with the report's conclusions. He desires to proceed with what he has described as a "five-year program" for upgrading the system to meet present and additional customer demands, in connection with plans for developing low-cost housing in the Ridgecrest Heights area.

Purchaser's improvement plan, as described at the hearing, in substance calls for:

- (a) Replacement, with larger pipe, (including some 4-inch plastic distribution mains), of about 1 to 1-1/2 miles of transmission and distribution mains this year so as to circulate additional quantities of water to the low-pressure areas, aided, possibly, by installation of more meters in the high-pressure area (25 are now installed but are not being read). Also, existing but unused booster equipment would be connected and activated.
- (b) An additional well, to be completed before the second year after acquisition of the system, so as to provide, with the existing source of supply, 550 gpm of water for a continuous four-hour peak demand period, to meet staff recommendations for requirements of the approximately 150 existing customers, or 660 gpm if a total of 200 customers were connected.^{3/}

^{3/} The staff-recommended volumes for peak demands are slightly less than the average of maxima and minima calculated in accordance with General Order No. 103, Minimum Standards for Design and Construction of Water Systems.

- (c) Negotiation of a standby connection with the adjacent District's main in the east side of Downs Avenue, at Dolphin Avenue, adjacent to the eastern boundary of the utility's present service area. (The present District rate for a 4-inch standby connection is \$50 per month, which includes a minimum of 1,000 cu. ft. of water, with decreasing quantity rates per 100 cu. ft. for additional thousands of cubic feet.)

The evidence discloses, with respect to financing available for construction of improvements to the Ridgecrest Heights system, that purchaser's principal obligation, as of October 31, 1968, was an 8-1/2 percent one-year demand note to United California Bank in the amount of \$20,000, secured by assignment of an \$87,000 interest-free note payable to Northern Mojave Lands, Inc. from Deeter Improvement, Inc., secured by a trust deed and a personal guarantee by the Starks. The Deeter note is payable at the rate of \$22,500 per annum. The remaining balance on that note, as of October 31, 1968, was \$68,392. Stark has stated that the proceeds of that note (other than the \$20,000 plus interest) can be made available for construction of system improvements. The \$20,000 was used by Northern Mojave to install the previously described 5,300 feet of main in the Ridgecrest Heights system at a cost of \$20,984.

The chief issue presented by this application is whether or not the proposed transfer would be adverse to the public interest. From what the record shows concerning purchaser's past and present willingness and ability to improve both the Lane Acres and Ridgecrest Heights systems, and the seller's apparent inability, for financial or other reasons, to respond effectively to previous Commission orders to improve the still substandard Ridgecrest system, we conclude that the public interest would be better served if purchaser were authorized to acquire and operate the system.

Other issues relate to details and timing of improvements. Stark, for example, has questioned the staff's recommendations for both the volume and means of supplying (by prompt drilling of a new well) of additional quantities of water. He urges, instead, that transmission and distribution line replacements and activation of existing booster facilities be undertaken first, in order more efficiently to utilize the presently available supply and to equalize pressures throughout the system. Also, he pointed out that his plans call for the addition of one or two new wells, as needed, along with other improvements designed to bring the system up to standard. He modified his position to some extent, however, at the Ridgecrest session of the hearing, by stating that he could quickly drill a new well. Another, and somewhat minor, controversial point concerns purchaser's proposed use of 4-inch plastic pipe to replace portions of smaller distribution lines in the system (purchaser's plans, mentioned above, call for replacement of about 1 or 1-1/2 miles of transmission and distribution mains chiefly with 6 or 8-inch asbestos-cement pipe and 4-inch plastic pipe).

General Order No. 103 (Paragraphs III and IV) does not forbid the use of suitable non-metallic pipe in water systems, if prescribed standards are otherwise met for pipe installations. Purchaser's proposal, however, to use plastic pipe in portions of its distribution lines (from which, presumably, a standby connection to the District's main on Downs Avenue would be made), was questioned by the engineer who authored the staff report, in view of what he stated to be the specific disapproval of such pipe by the Water District. It would seem, however, that if a standby connection to the District's system were eventually to be negotiated, appropriate practical arrangements for the type of materials to be used on the utility's side of the connection could be worked out by parties.

The staff has offered a number of conclusions, some of which apply to the Lane Acres system, for the Commission's consideration. Those conclusions, or recommendations, are set forth in paragraphs 27 through 34 of its report and in certain recommended ordering paragraphs to be included in the decision herein. We have considered and weighed the staff's conclusions and recommendations in light of the testimony and evidence of record and conclude that they are reasonable and should be adopted for the purposes of this decision.

Summarized, the staff's conclusions are that:

- (a) The Starks should complete work on their Lane Acres System necessary for full compliance with Decision No. 73263, supra, and should apply for authority to transfer that system to Northern Mojave Lands, Inc.
- (b) The service requirements for the Ridgecrest Heights system, contained in Decision No. 70929, supra, as modified by Decision No. 72170, supra, which include immediate provision of an additional source of water supply, should be made applicable to purchaser herein. Those requirements, not complied with by seller, are set forth in paragraphs 15 and 16, on pages 3 and 4 of the staff report, Exhibit 3 herein.
- (c) Purchaser will need additional funds to make necessary system improvements and to offset expected operating losses.
- (d) No premises not previously supplied water by Ridgecrest should receive water service until:
(1) The system can supply at least 550 gpm for a continuous four-hour peak demand period to meet the requirements of its existing customers and for additional growth; (2) The system has been separated into two pressure zones, each supplying water within the pressure range required by General Order No. 103.
- (e) Purchaser should file revised tariff rules for the Ridgecrest Heights system to reflect up-to-date utility-customer relationships.

Findings of Fact

The Commission, on this record, finds that:

1. Transfer of the water utility assets of Ridgecrest Heights Land and Water Co., a corporation, (seller) to Northern Mojave Lands, Inc., a corporation, (purchaser) will not be adverse to the public interest.
2. The Ridgecrest Heights water system is located within and southwest of the City of Ridgecrest, in Northeastern Kern County, California. The system now is and for some years last past has been deficient in water supplies and in transmission, distribution and pressure facilities for the service of water to its existing customers and for expected growth.
3. Seller has not complied with the Commission's orders, heretofore issued in Decision No. 70929, supra, as modified by Decision No. 72170, supra, relating to improvements of service and filing reports in connection with the Ridgecrest Heights water system.
4. Northern Mojave Lands, Inc. is a California corporation controlled by Wilbur H. and Mary R. Stark, husband and wife. Said Starks, without prior authority from the Commission, about November, 1967, deeded their proprietorship public utility water system (Lane Acres Water Company) located some four miles southwest of the City of Ridgecrest, to Northern Mojave Lands, Inc.; thereafter, on November 29, 1967, tariff schedules in the name of Lane Acres Water Company were filed with the Commission.
5. Purchaser has not fully complied with the Commission's orders, heretofore issued in Decision No. 73263, supra, relating to improvement of service and filing reports in connection with said Lane Acres Water Company.

6. Purchaser has deposited the sum of \$5,000 cash for purchase of the Ridgecrest Heights water system assets and proposes to issue a promissory note, secured by a deed of trust, in the sum of \$5,000 for the balance of the purchase price. The money, property or labor to be procured or paid for by the issue of said note is reasonably required for the purpose specified herein, and such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

7. It is reasonable to require Northern Mojave Lands, Inc., in the event of consummation of the transfer proposed herein, to abide by and carry out the requirements for system improvements and reporting heretofore ordered by Decision No. 70929, supra, as modified by Decision No. 72170, supra, in connection with the Ridgecrest Heights water system and, whether such transfer is consummated or not, by Decision No. 73263, supra, in connection with the Lane Acres Water System.

8. The conclusions and recommendations of the Commission staff, as set forth in paragraphs 27 through 34 of its report, Exhibit 3 herein, are reasonable.

9. Purchaser's proposed plan for improvement of the Ridgecrest Heights water system, except as such plan may differ with the staff's recommendations for immediate provision of an additional source of water supply and for provision of more than 550 gallons per minute of water for a continuous four-hour peak demand period, is reasonable.

10. Seller is providing water service in the area outlined in red on the map attached to the application as Exhibit 1, except for the unsubdivided area located north of Bowman Road and west of Guam Avenue.

Conclusions

The Commission concludes that the application herein should be granted in accordance with the provisions of 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.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order, Ridgecrest Heights Land and Water Co. may sell and transfer, and Northern Mojave Lands, Inc. may purchase and acquire, the public utility water system facilities of the former subject to the conditions of this order, and the latter may operate the system under the name of Ridgecrest Heights Water Company.
2. Northern Mojave Lands, Inc., on or after the effective date hereof and on or before December 31, 1969, may execute a deed of trust and may issue a note in the principal amount of not exceeding \$5,000, such instruments to be executed and issued in the form, under the terms and for the purposes set forth in the application.
3. Northern Mojave Lands, 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.
4. On or before the date of actual transfer:
 - (a) Transferor 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 the transferee.

- (b) Transferor shall transfer and deliver to transferee all records, memoranda and papers pertaining to the construction and operation of the properties herein authorized to be transferred, and transferee shall receive and preserve the same.

5. If the authority herein granted to transfer properties is exercised, Northern Mojave Lands, Inc., within thirty days thereafter, shall notify the Commission, in writing, of the date of completion of such transfer, and shall also, within said thirty-day period, file a copy of the journal entries used to record the acquisition of the properties herein authorized to be transferred.

6. After the effective date of this order, and not less than five days before the planned date of transfer, purchaser, Northern Mojave Lands, Inc., shall file with the Commission a notice of adoption of the presently filed rates and rules of the transferor 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.

7. Within forty-five days after the completion of the transfer, Northern Mojave Lands, Inc. shall file a revised tariff service area map including the area outlined in red on the map attached to the application as Exhibit 1, except for the unsubdivided area located north of Bowman Road and west of Guam Avenue, together with appropriate general rules and sample copies of printed forms that are normally used in connection with customers' services. Such filing shall comply with General Order No. 96-A. The effective date of the revised tariff sheets shall be four days after the date of filing.

8. On or before the end of the third month after the date of actual transfer, Northern Mojave Lands, Inc. shall cause to be filed with the Commission, in such form as the Commission 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.

9. Northern Mojave Lands, Inc. shall connect no new services or activate any service which previously had not been an active service connection until the utility system is capable of providing more than 550 gallons per minute on a flat rate basis, as determined from Chart 2 attached to General Order No. 103 or computed in Section 2 on this Commission's form entitled "Water Supply Supplemental Questionnaire for Other Than Publicly-Owned or Mutual Utility," such that all customers will receive service within the pressure requirements of Section II.3.a of General Order No. 103.

10. Northern Mojave Lands, Inc. shall not extend facilities or furnish any service outside of its service area without further order of the Commission.

11. After the effective date of this order and upon compliance with ordering paragraphs 4, 5, and 6 hereof Ridgecrest Heights Land and Water Co. shall stand relieved of its public utility obligations in the area served by the transferred system.

12. Northern Mojave Lands, Inc. shall observe and comply with the orders contained in Decisions Nos. 70929, 72170 and 73263, referred to in the foregoing opinion and findings, concerning system improvements and reporting in connection with the Ridgecrest Heights and Lane Acres water systems.

13. Ordering paragraph No. 2 hereof shall become effective when Northern Mojave Lands, Inc. has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

14. The authority herein granted shall expire if completion of the transfer has not been effected by December 31, 1969.

In all other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this
8th day of JULY, 1969.

William S. Snyers, Jr.
President

Augusta
John P. Morrissey
[Signature]
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Commissioners

