

Decision No. 76704

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Louis J. Safranek and Merle R.
Hendrix doing business as
OUTINGDALE WATER COMPANY for the
transfer of Outingdale Water
Company to the El Dorado Irriga-
tion District..

Application No. 51142
(Filed June 6, 1969)

Louis J. Safranek, for Outingdale Water Company,
applicant.
Harry Dunlop, for El Dorado Irrigation District,
applicant.
Dennis Sweeney, for Outingdale Homeowners,
protestant.
James A. Pezzaglia, for Norris R. Pezzaglia and
Mildred H. Pezzaglia, protestants.
Ronald H. Jermstad, for W. Inman-Costa Dorado
Land and Investment Company, interested
party.
Gary L. Hall, for the Commission staff.

O P I N I O N

By this application, Louis J. Safranek and Merle R. Hendrix, doing business as Outingdale Water Company, a public utility, seek authority to transfer said water company to the El Dorado Irrigation District and to discontinue operations as a public utility.

A public hearing on this application was held before Examiner Gillanders at Placerville on September 12, 1969. Notice of the hearing was published, posted, and mailed in accordance with this Commission's rules of procedure. Applicants testified in support of their application. Testimony on behalf of protestants Pezzaglia was presented by a witness. Cross-examination of the various witnesses was conducted by the other parties. The

matter was submitted on October 21, 1969, upon receipt of a written statement of the Outingdale Homeowners.

The evidence shows that the value of the properties to be transferred, as shown by the Annual Report to the Commission for the year 1968, is \$11,719.42, with the net purchase price for such transfer to be \$13,500; that the transfer of this water system is in conjunction with other properties presently owned by Louis J. Safranek and Merle R. Hendrix which are being purchased by Wendell and Gertrude Inman; that the purchase price for the public utility water system is actually being borne by the Inmans, who are in turn transferring said system to the El Dorado Irrigation District because of the Inmans' desire not to operate a public utility water company; that, consequently, the Inmans, in respect to the transfer of the water utility system, are merely intermediaries, and the El Dorado Irrigation District is the ultimate transferee and will actually be the operator and owner of this system if approval is granted for this transfer.

After the taking of evidence, it was agreed by the parties that the staff would distribute to the parties in writing its recommendation regarding the application and the parties would have an opportunity to reply.

On September 30, 1969, the staff filed the following recommendation:

"RECOMMENDATION OF THE COMMISSION STAFF"

"It is the recommendation of the Commission staff that the transfer of the Outingdale Water Company to the El Dorado Irrigation District should be authorized pursuant to Section 851 of the Public Utilities Code, subject to the following conditions:

- "(a) Transferee shall be subject to all legal claims for water service which might have been enforced against transferor, including such claims as may exist in territory outside of the boundaries of purchaser.
- "(b) As to the rates, rules, and conditions of service which transferee will apply in the service area of the system herein authorized to be transferred, said transferee shall not discriminate between service rendered outside of the District's boundaries except insofar as said transferee may adjust such rates and charges to non-district customers to offset any reasonable and proper tax burden or other assessments sustained by the water users within the District boundaries in subsidizing the operation of transferee's water system which results in a benefit for non-district customers.
- "(c) All money and charges collected from non-district users shall be properly identified and segregated in such a manner that any excess of revenues over expenses received in the operation of the utility system from the non-district users shall be kept in a reserve for improvements on that part of the water system which provides the water service for the non-district users.

"The insertion of the above provisions subjecting the transfer of a public utility water system to a public entity to such provisions is within the jurisdiction of the Public Utilities Commission. (See Henderson v. Oroville-Wyandotte Irrigation District, 207 Cal. 215 (1929) and 213 Cal. 514 (1931); California-Pacific Utilities Company, 63 CPUC 439 (1964), writ of review denied in American Canyon County Water District v. Public Utilities Commission, S.F. No. 22015 (1965); Riverbank Water Co., Dec. No. 73691 in App. No. 49886 (1968).)"

By letter dated October 16, 1969, the El Dorado Irrigation District indicated that it had no objections to the conditions proposed by the Commission staff in its recommendation.

By letter dated October 18, 1969, the Outingdale Home-owners stated that they have no objection to the transfer being approved subject to the following conditions:

- "1. The Outingdale Water Company is to be operated as a separate entity with no financial responsibilities for any expenses outside Outingdale Subdivision #1 as described in the official records and maps of Eldorado County, California.
- "2. A. All monies and charges collected from the operation of this separate entity shall be properly identified and segregated in such a manner that any excess of revenues over expenses received in the operation of this separate entity be kept in a reserve for improvements or rate reduction.
B. Improvements to be those repairs necessary to provide service to the users. Major changes in the water system beyond normal repair and maintenance costs to be approved by vote of two thirds percent of the water users.
- "3. A guarantee of adequate water supply without discrimination in favor of outside areas.
- "4. Records kept for this separate entity be available for inspection by the users during any normal business hours."

The letter also stated that "Agreement on these points has been reached with the Eldorado Irrigation District at open hearing before the Commission at Placerville, California on August 12, 1969."

The Commission finds that the proposed transfer will not be adverse to the public interest.

The Commission concludes that the proposed transfer should be authorized, subject to the conditions set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date hereof, Louis J. Safranek and Merle R. Hendrix, doing business as Outingdale Water Company, may transfer and sell to the El Dorado Irrigation District their public utility water system located in El Dorado County, subject to the terms and conditions of this order.

2. The foregoing authority is subject to the following conditions:

- a. Transferee shall be subject to all legal claims for water service which have been enforced against transferor, including such claims as may exist in territory outside of the boundaries of purchaser.
- b. As to the rates, rules, and conditions of service which transferee will apply in the service area of the system herein authorized to be transferred, said transferee shall not discriminate between service rendered outside of the District's boundaries except insofar as said transferee may adjust such rates and charges to non-district customers to offset any reasonable and proper tax burden or other assessments sustained by the water users within the District boundaries in subsidizing the operation of transferee's water system which results in a benefit for non-district customers.
- c. All money and charges collected from non-district users shall be properly identified and segregated in such a manner that any excess of revenues over expenses received in the operation of the utility system from the non-district users shall be kept in a reserve for improvements on that part of the water system which provides the water service for the non-district users.
- d. Improvements to be those repairs necessary to provide service to the users. Major changes in the water system beyond normal repair and maintenance costs to be approved by vote of two-thirds percent of the water users.
- e. Records kept for the transferred system must be available for inspection by the users of said system during normal business hours of the El Dorado Irrigation District.

3. Within ten days after the date of actual transfer, applicants shall submit written notification to this Commission of the date of transfer, and the date upon which purchaser shall have assumed operation of the water system authorized herein to be transferred. A true copy of the instrument or instruments of transfer shall be attached to the written notification.

4. Upon compliance with the conditions of this order, Louis J. Safranek and Merle R. Hendrix shall stand relieved of all of their public utility obligations in the area served by the transferred system, and may discontinue service concurrently with the commencement of service by the El Dorado Irrigation District.

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

Dated at San Francisco, California, this 27th day of JANUARY, 1970.

William Lyons, Jr.
President

August
William

James L. Stinson
Commissioners