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ORIGINAL

Decision No. 77653

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of GEORGE GARDNER, JR., to sell )  
George Gardner Water Company to )  
CALIMESA WATER DISTRICT, a )  
California Water District, under )  
Section 851 of the Public Utilities )  
Code. )

Application No. 52012  
(Filed July 2, 1970)

O P I N I O N

George Gardner, Jr. requests authority, pursuant to Section 851, Public Utilities Code, to sell the assets of his water system at Calimesa, Riverside County, to Calimesa Water District, a public agency, pursuant to an agreement dated June 22, 1970 (Appl., Exh. A). The assets, warranted to be lien-free, are described in an appraisal dated December 8, 1969 which accompanies and is incorporated in the application. The district, organized and existing pursuant to the California Water District Law (Calif. Water Code, Div. 13), has joined in the application only for the purpose of obtaining an order of the Commission authorizing the sale of the described assets. Total consideration for the transaction is stated to be \$250,000, of which \$50,000 is to be paid in cash and the balance by the District's general obligation bonds in the principal sum of \$200,000.

Gardner, alleging that his water system is subject to the jurisdiction of the Commission, also requests that he be authorized "to terminate his operation of a public utility water distribution system" upon consummation of the sale. The records of the Commission do not show that Gardner has ever sought or received

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a certificate of public convenience and necessity to construct or operate a public utility water system, or that he has ever filed tariff schedules therefor.

It does not appear that the public interest would be adversely affected by the proposed sale, inasmuch as the agreement - which recites that Gardner is presently engaged in the wholesale production of water for use by the District and other entities and is the District's sole supplier of water - provides that the District will continue service to all of Gardner's present customers. Specifically, the District has agreed: (a) to perpetually provide water service to lands within the boundaries of the District, and to those water users outside the District's boundaries who are Gardner's customers as of the date of execution of the purchase agreement; (b) to take all required action to protect water rights for the benefit of all water users of the District and Gardner; and (c) to assume and perform all of the duties and obligations of Gardner under the "Garden-Air Agreement" (App., Exh. "B") and the "Slack Agreement" (Appl., Exh. "C").<sup>1/</sup>

The parties allege that it is their belief that it is in the best interests of the water users in the area that the sale be consummated under the agreement, and that applicant Gardner believes that the purchase price as set forth in the agreement constitutes reasonable compensation for the water system.

The application states that no consumers' advances or deposits are held by either Gardner or the George Gardner Water Company.

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<sup>1/</sup> These agreements provide for deliveries of specific quantities of water from Gardner's production system to the other contracting parties. The Slack agreement, dated December 31, 1969, has been authorized by a decision issued this day in a complaint proceeding, Ellis v. Slack and Gardner, Case No. 8757.

After consideration, the Commission finds that the proposed sale and transfer of the assets of the George Gardner Water Company to the Calimesa Water District will not be adverse to the public interest.

The Commission, therefore, concludes that to the extent its authorization may be required for consummation of the proposed transfer, such authorization should be granted.

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

A public hearing is not necessary.

O R D E R

IT IS HEREBY ORDERED that:

1. George Gardner, Jr., after the effective date of this order may sell and transfer to Calimesa Water District the assets of George Gardner Water Company described in the application herein and in an appraisal of E. F. Dibble, dated December 8, 1969 incorporated therein, in accordance with the terms and conditions set forth in an agreement of said parties, dated June 22, 1970, attached to said application as Exhibit A. thereof.

2. George Gardner, Jr. is authorized, upon consummation of said sale, to terminate his operation of the water system assets

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herein authorized to be transferred, and shall, thereafter, stand relieved of any public utility obligations in connection with said properties.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of AUGUST, 1970.

[Signature]  
Chairman  
[Signature]  
William Sproule Jr.  
[Signature]  
[Signature]  
Commissioners