

Decision No. 78093

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GOLCONDA  
UTILITIES COMPANY, a  
California corporation.

Application No. 52237  
(Filed October 9, 1970)

O P I N I O N

W. E. Leonard, Trustee in Bankruptcy of the Golconda Utilities Company (Golconda), and City of San Bernardino (City) request authority for Trustee to transfer to City Golconda's Ersul water system located within City's boundaries, and for Trustee to be relieved of any public utility obligation which may have resulted because of his appointment as trustee.

On January 20, 1970, Golconda was duly adjudged a bankrupt upon a voluntary petition filed by it in the United States District Court, Central District of California.

On April 2, 1970, W. E. Leonard was appointed trustee of the said bankrupt by the United States District Court, Central District of California.

As Trustee appointed by the federal court, W. E. Leonard was ordered to take possession of the following assets of Golconda:

The Ersul System and utility plant consisting of water distribution facilities and equipment, located in the City of San Bernardino, and generally bounded by Tippecanoe Street on the west, Mill Street on the north and Central Avenue on the south, all right; title and interest to any real or personal properties in said Ersul System.

At the time of applicant's appointment by the federal court to serve as Trustee of Golconda's estate in bankruptcy, the bankrupt had no independent source of supply for its

customers. Under emergency conditions, the Water Department of the City of San Bernardino offered to supply water on a temporary wholesale basis from one of its master meters in the area, but served notice that such service, being contrary to the charter, and policies of the city, was temporary only and was to be discontinued. At the urgent request of Trustee and the federal referee, the Honorable Norman W. Neukom, the City of San Bernardino continued to supply water to protect the health, safety, and welfare of the residents of the Ersul Tract within the certificated service area of Golconda. When Trustee was appointed, Golconda had failed to pay the City of San Bernardino for waters delivered for use by its consumers in the Ersul Tract, and Trustee found that the amount of such unpaid bills for water was \$1,958.44, which sum remains unpaid. Following Golconda's adjudication as a bankrupt, during the period that Trustee has undertaken the management of the bankrupt, under the jurisdiction of the federal court, payment has been made for all deliveries of water from the city on a current basis. Payment has not been required as part of the post-adjudication costs of administration to any other utility because all deliveries of water have come from the city, which has paid all expenses of producing the water within the scope of the municipal operations, including charges for power. During the period of bankruptcy, none of Golconda's wells have been capable of producing any water, and all supplies have been made from city facilities.

After Trustee filed his petition for authority to sell the Ersul System, the federal court scheduled a public auction on the 23rd day of September, 1970, pursuant to an order of said

court entered on the 3rd day of September, 1970, which directed that the said property was to be sold free and clear of all liens and encumbrances. At the hearing, whereof due notice of said hearing was given to all creditors of the bankrupt by mail and said meeting of creditors having thereupon been held on the day aforementioned, and no objection to said confirmation having been made at said hearing by any creditor or other person, and at which no adverse interest was represented, the court ordered that the sale of the said property be confirmed and approved with the exception of certain personal properties, facilities and equipment consisting of the pressure tank, a storage tank, and a pump and motor, to which title shall remain in Trustee for sale.

The federal court approved said sale of the Ersul System to the Water Department of the City of San Bernardino for the consideration of five hundred dollars and the release of the bankruptcy estate from water supplied of the total value of \$3,438.60 during the period of bankruptcy pursuant to order of the federal court, which said amount constituted administrative costs of the bankruptcy.

The federal court has ordered that upon the receipt by Trustee of the balance of the consideration for said sale, Trustee shall execute and deliver a proper instrument of conveyance and assignment to the Water Department of the City of San Bernardino conveying said property free and clear of the aforesaid liens.

The Water Department of the City of San Bernardino is ready, willing and able to provide continuing service to all users within the Ersul Tract upon terms, conditions and rates which are

applied to all residents of the City of San Bernardino who are similarly situated to residents of Ersul Tract.

We find that:

1. City has the ability to acquire and operate Golconda's Ersul water system without interruption in service.

2. Upon the consummation of the proposed transfer, Trustee and Golconda, in the area involved in this proceeding, will be no longer performing public utility service.

3. The proposed transfer will not be adverse to the public interest.

4. A public hearing is not necessary.

We conclude that the application should be granted as provided in 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. Within one year after the effective date of this order, W. E. Leonard, Trustee in Bankruptcy of the Golconda Utilities Company, may transfer to the Water Department of the City of San Bernardino the properties referred to herein, but subject to the conditions of this order.

2. Within ten days after the date of actual transfer, W. E. Leonard shall file in this proceeding a true copy of the instrument or instruments of transfer.

3. Upon compliance with all conditions of this order, W. E. Leonard and Golconda Utilities Company shall stand relieved

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of their public utility obligations in the area served by the transferred system and may discontinue service concurrently with the rendering of service by the Water Department of the City of San Bernardino.

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

Dated at San Francisco, California, this  
15th day of DECEMBER, 1970.

*W. H. H. H. H.*  
Chairman  
*A. J. J. J.*  
*William J. J. J.*  
*W. J. J. J.*  
*Vernon L. Sturgeon*  
Commissioners