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Decision No. 81743

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
COAST WATER COMPANY and SOUTHERN
CALIFORNIA WATER COMPANY for an order
or orders (a) authorizing the sale
of the public utility water system
property of Coast Water Company to
Southern California Water Company;
(b) authorizing Coast Water Company
to refund certain consumers' deposits;
(c) authorizing Southern California
Water Company to render water service
to the public in the territory served
by Coast Water Company at the rates
of Coast Water Company presently in
effect and authorizing Coast Water
Company to discontinue rendering
water service and relieving Coast
Water Company of further utility
obligations; (d) authorizing
Southern California Water Company
to assume certain liabilities of
Coast Water Company.

JEFFRIES TRUCK PARTS & EQUIPMENT, INC.,

Complainant,

vs.

COAST WATER COMPANY,

Defendant.

Application No. 52919
(Filed October 7, 1971)

Case No. 9421
(Filed August 11, 1972)

O'Melveny & Meyers, by Donn B. Miller, Attorney at Law, for Southern California Water Company, applicant.

Mervyn L. Hecht and Irving J. Levin, Attorneys at Law, and Mrs. Irene Brown, for Coast Water Company, applicant and defendant.

Jerry Kerns, for himself and for interested consumers, protestants.

Cass Strelinski, for Park Water Company, and Lee Roy Patterson, for himself, interested parties.

R. E. Jeffries, Jr., for complainant.

Robert C. Durkin, for the Commission staff.

O P I N I O N

Applicants filed this joint application on October 7, 1971. On March 9, 1972 the staff of this Commission distributed a "Report on Coast Water Company and Southern California Water Company". Hearing was held before Examiner Gillanders at Bell Gardens on April 13, 1972 and submitted subject to the receipt of briefs. On August 11, 1972 Case No. 9421 was filed by Jeffries Truck Parts & Equipment, Inc. On August 25, 1972 Coast Water Company filed a "Petition of Coast Water Company to Set Aside Submission and Reopen Proceedings". On September 7, 1972 Southern California Water Company filed a "Reply to Petition of Coast Water Company to Set Aside Submission and Reopen Proceedings". By Decision No. 80491 dated September 12, 1972 submission was set aside and reopened for further hearing. On October 11, 1972 Coast Water Company filed a "First Set of Interrogatories to Complainant". By notice mailed on November 10, 1972 further hearing in Application No. 52919 and original hearing on Case No. 9421 was set for December 6, 1972. Hearing was held on the matters at Bell Gardens on December 6, 1972 before Examiner Gillanders and submitted.

Case No. 9421

Complainant presented testimony that, in essence, it had experienced low water pressures in the past but that the pressure now was better and it hoped the pressure would continue to be good. It was cross-examined to a limited extent by defendant and staff. Defendant moved that because complainant had not answered the interrogatories, the matter be dismissed. Complainant stated that it had not answered the interrogatories "because it was too much trouble to type out the answers". It also relied upon casual advice from its attorney that it did not have to answer. It was willing, however, to answer the questions at the hearing. The presiding officer took the motion under submission.

Application No. 52919

At the hearing held on December 6, 1972, after having called an adverse witness, Coast Water Company formally withdrew from the application. The presiding officer then submitted the matter.

On July 17, 1973 applicants filed a "Joint Petition and Declaration of Applicants." The petition contains, among others, the following paragraphs:

"Following the December 6, 1972, hearing SCWC brought suit against Coast to enforce the Agreement. This litigation has now been terminated by the entry of a judgment of specific performance and permanent injunction and declaration of rights, a copy of which is attached hereto as Exhibit "A." The effect of the judgment is to require Coast to consummate the transaction described in the Agreement, provided the Commission issues its Order pursuant to Public Utilities Code § 851 approving the sale to SCWC of Coast's physical assets.

"II.

"Coast states:

"Coast once again joins in Application No. 52919, and desires that the Commission proceed to approve the Application and issue, as soon as possible, orders necessary to permit consummation of the Agreement.

"Coast has no present objection to the sale of its property to SCWC in accordance with the Agreement.

"III.

"The Applicants state:

"Both Coast and SCWC believe that the sale to SCWC of Coast's physical assets as provided in the Agreement is strongly in the public interest.

"Both Coast and SCWC believe that difficulties confronting Coast and its customers in the absence of a sale to SCWC are illustrated by recent actions which the Commission and its staff have taken in the public interest in relation to the Coast system. On December 19, 1972, the Commission issued its Order instituting an investigation into the operations of Coast. Following staff investigation and hearing, the Commission, on March 20, 1973, issued its Interim Opinion and Order. That Order required that Coast take a number of steps to remedy what the Commission found to be deficiencies in water quantity and system pressure at peak demand hours, and to institute an accelerated program of metering Coast's flat-rate customers. The Commission particularly recommended the establishment of an interconnection with SCWC at Florence Avenue and Eastern Avenue.

"Issuance of the Orders prayed for by Application No. 52919 will, the Applicants believe, provide assurance that the deficiencies noted in the Commission's March 20, 1973 Interim Opinion and Order will be remedied. As Application No. 52919 states, SCWC will provide an interconnection between the present Coast system and the SCWC Bell Gardens system. (See also Reporter's Transcript of Hearing, April 13, 1972, at 36-37) SCWC will quickly convert Coast's remaining flat-rate customers to metered service. (Transcript at 65) And SCWC will invest approximately \$77,000 in improvements in the Coast system as necessary to improve water pressure and water flow capability. (Transcript at 37)

"Two hearings have now been held on Application No. 52919. The parties submit that all information required for the Commission's determination is now before the Commission, and that no further hearings are necessary. It is, therefore, appropriate for the Commission to issue ex parte its further Orders in this matter.

"WHEREFORE, Applicants pray that the Commission now proceed to issue ex parte the Orders prayed for in Application No. 52919."

Findings

1. Water pressure at Jeffries Truck Parts & Equipment, Inc. at the time of hearing was satisfactory.
2. Complainant did not reply in writing to defendant's written interrogatories.
3. Applicant Coast Water Company withdrew its application on December 6, 1972.
4. Applicant Coast Water Company on July 17, 1973 reinstated its application.
5. Application No. 52919 is in the public interest.
6. No further public hearing is necessary.

The Commission concludes that Application No. 52919 should be granted and that Case No. 9421 is now moot as the condition complained of will be corrected; therefore, it can be dismissed.

The authority herein granted is subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right.

O R D E R

IT IS ORDERED that:

1. Coast Water Company, on or after the effective date hereof and on or before December 31, 1973, may sell and transfer, and Southern California Water Company may acquire, the certificate of public convenience and necessity and other assets referred to in this proceeding.

2. As a condition of the authority herein granted, buyer is hereby directed to continue the public utility responsibilities of seller with respect to the area served by the water system being transferred.

3. Within 60 days after the date of actual transfer, the tariffs of seller now on file with this Commission shall be refilled under the name of buyer, in accordance with the procedure prescribed in General Order No. 96-A, or, in lieu of such refiling, buyer may file within thirty days after the date of actual transfer, by advice letter, a notice of adoption of said presently filed tariffs. No increase in the presently filed tariffs shall be made unless authorized by this Commission.

4. Seller, on or before the date of actual transfer, shall refund all customers' deposits and advances which are subject to refund. Any unrefunded deposits and advances, if any, shall be transferred to and become the obligation for refund of buyer.

5. On or before the date of actual transfer of the specific properties herein authorized, seller shall transfer and deliver to buyer, and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water utility authorized to be transferred.

6. If the authority herein granted is exercised, buyer shall, within thirty days thereafter, notify the Commission, in writing, of the date of such completion of the property transfer herein authorized and of its compliance with the conditions hereof.

7. On or before the end of the third month after the date of actual transfer buyer shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

8. Buyer shall file monthly reports showing the status of all improvements it has pledged itself to complete.

9. Upon completion of the sale and transfer authorized by this order and upon compliance with all the terms and conditions of this order, seller shall be relieved of its public utility obligations in connection with the utility system transferred.

10. The complaint in Case No. 9421 is dismissed.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th
day of AUGUST, 1973.

Verano L. Sturgeon
President

[Signature]
[Signature]
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.