

Decision No. 84942

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Margo King, Executor for the estate of E. B. HICKS, dba HICKS WATER CO., for authority to sell all assets and liabilities of said Co., to E. B. Hicks Water Co., Inc. and for the latter to issue 1,000 shares of capital stock; and for Joseph P. Serra to purchase all authorized stock and control of the corporation.

Application No. 55779
(Filed June 26, 1975)

O P I N I O N

E. B. Hicks Water Company (Hicks), presently rendering public utility water service in Tracts Nos. 1348 and 1449 in Kern County, California, is a part of the estate of E. B. Hicks, and is presently being operated by Margo King, executrix of the estate, whose address is Orange, California, over 100 miles from the site of the utility operations. By this application Hicks requests authority to transfer all its assets and liabilities to the E. B. Hicks Water Co. Inc. (Hicks, Inc.) and, further, for Hicks, Inc. to issue 1,000 shares of capital stock and for Joseph P. Serra to purchase all authorized stock and control of Hicks, Inc.

Hicks, Inc. is a corporation organized and existing under the laws of the State of California. The primary purpose for which the corporation was formed was to own and operate a water company (Hicks) engaged primarily in supplying water to Tracts Nos. 1348 and 1449 in Kern County, California. Tract No. 1348 has 67 customers and is served from a 20-horsepower pump. Tract No. 1449 has 21 customers and is served by a 15-horsepower pump. In both systems water is pumped into a pressure tank and then to the customers through a system of pipes ranging in size from 3/4 to 4 inches in diameter.

Included with the application are the minutes of the first meeting of the incorporators and directors of Hicks, Inc, indicating the passage of a resolution authorizing the directors and officers of Hicks, Inc. to file this pending application with this Commission and to request required approvals from the Probate Court and Commissioner of Corporations to permit the sale of Hicks, Inc. to others.

Escrow instructions have been issued to the Title Insurance and Trust Company, P. O. Box 153, Bakersfield, CA 93302. These instructions provide that Joseph P. Serra purchase all stock in Hicks, Inc., including all its assets and liabilities; that Margo King pay all liabilities of the corporation with the exception of a debt of \$3,727.82 to Kern Pump Company which is to remain a liability of Hicks, Inc.; that Margo King will provide to escrow the approvals of the proposed transaction by Probate Court, this Commission, and the Corporation Commissioner of California; and that the stock of Hicks, Inc. be deposited into escrow and thereafter transferred to Joseph P. Serra upon receipt of these approvals.

Also, attached to the application was a financial statement of Hicks showing a net loss of \$4,014.11 for the 12 months ended September 30, 1974, a pro forma balance sheet for Hicks, Inc. indicating total assets of \$14,105 and a financial statement of Joseph P. Serra showing \$21,100 of assets and \$8,482.49 of liabilities.

It should be noted that this is the second attempt by Margo King to dispose the assets and liabilities of Hicks. Application No. 55072 was filed seeking authority to abandon the water systems by having the users in the two tracts buy the systems at a cost of \$100 per customer for a total of approximately \$10,500 for the two systems. At the public hearing on this abandonment

matter the customers indicated they were willing to take over the system were it to be given them but were unwilling to pay the requested amount of \$100 per lot. Upon receipt of this information Margo King requested the application be dismissed and Decision No. 84222 dated March 25, 1975 granted this request by dismissing the application without prejudice.

Subsequent to the filing of the application for abandonment and prior to the issuance of Decision No. 84222 eighty customers of Hicks filed a formal complaint, Case No. 9860, alleging that for the past summer they had to haul water because the water level in the well was too low to pump the water; that it was impossible to keep lawns or shrubbery because of lack of water; that during the summer months there is no water between 1:00 and 9:00 p.m.; that the mains are rusted, rotten, and filled with sediment; that there have been numerous shutdowns of long duration; and that Margo King, has done nothing to rectify the situation. At the public hearing on the matter an exhibit and testimony were presented into evidence by a utilities engineer in the Los Angeles Unit of the Hydraulic Branch. He recommended that Hicks be ordered to:

- A. Remove and repair or replace the pumping equipment in Doney Street well.
- B. Deepen both Doney Street and Nadeau Street wells and extend the pump columns to a sufficient depth that will assure an adequate water level above the pump bowls during peak water demands of each system.
- C. Install curb stops, or a similar shut-off device on all customer service lines so as to enable water service to be discontinued to any individual customer.
- D. Furnish a report to this Commission by systems which will set forth a schedule which the utility intends to follow relative to the replacement of all of the existing distribution pipe lines.
- E. Furnish this Commission with the names of the individuals and their responsibilities relative to the management, operation, and maintenance of the water systems.

In Decision No. 84887 dated September 10, 1975 on this matter, we found as follows:

"1. Service rendered by defendant is subject to outages and periods of inadequate pressures to a degree that it can reasonably be considered as unsatisfactory.

"2. The Doney Street Tract pump should be overhauled as soon as possible.

"3. A report should be furnished to this Commission setting forth a schedule of the corrective action to be undertaken to restore service to a satisfactory level.

"4. A local resident should be authorized to effect minor emergency repairs."

This proposed transfer of the water utility from the control of the defendant in Case No. 9860 to the complainant in that case has the practical effect of nullifying the complaint without in anyway obviating the necessity for providing positive remedial action to restore service to an acceptable level. Consequently, the order that follows requires the submission for Commission approval of a proposed plan and timetable for implementing corrective action.

Findings

1. The proposed acquisition of the assets and liabilities of Hicks by Hicks, Inc. as requested herein is not adverse to the public interest.

2. The proposed acquisition of the stock of Hicks, Inc. by Joseph P. Serra, in accordance with the terms of the purchase agreement, attached to the application, is not adverse to the public interest.

3. The transfer of the assets and liabilities of Hicks to Joseph P. Serra does not mitigate the necessity for the implementation of certain of the staff's recommended steps to restore service to a satisfactory level.

4. A report should be furnished for Commission approval setting forth a timetable for repairing or replacing the Doney Street pump for deepening the Doney and Nadeau Street wells, for installing suitable shut-off devices on customer service lines, and for replacing distribution pipe lines.

5. The proposed security issue is for proper purposes and the money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

6. A public hearing is not necessary.

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

The Commission concludes that the application should be granted subject to the conditions set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order E. B. Hicks Water Company (Hicks) may transfer all its assets and liabilities, including its certificate of public convenience and necessity, to the E. B. Hicks Water Co. Inc. (Hicks, Inc.), and Hicks, Inc. may issue not exceeding 1,000 shares of its common stock having a par value of \$10 per share.

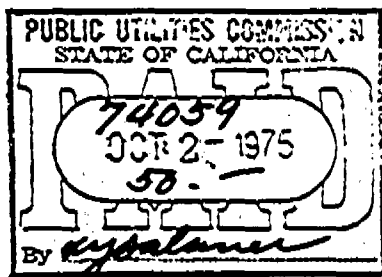
2. Joseph P. Serra is authorized to purchase the issued stock in accordance with the escrow instructions issued by the Title Insurance and Trust Company, P. O. Box 153, Bakersfield, CA 93302, covering this transaction.

3. After the effective date of this order, Hicks, Inc. is authorized to file revised tariff sheets including a revised tariff service area map to provide for the application of Hick's authorized tariffs to the customers of Hicks, Inc. 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.

4. Within sixty days after the transfer Hicks, Inc. shall file a report to this Commission setting forth a report as described in Finding 4.

The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of SEPTEMBER, 1975.



[Signature] President
William Lyons
[Signature] Secretary
[Signature] Commissioner
[Signature] Commissioners