

Decision No. 86006

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SIERRA LAKES WATER COMPANY and
LINTON E. FORRESTER and ELEANOR
FORRESTER, for an order authorizing
the sale and transfer to LINTON E.
FORRESTER and ELEANOR FORRESTER of
the water distribution system and
certificate of public convenience
and necessity.

Application No. 56264
(Filed February 9, 1976)

In the Matter of the Application of
RAYMOND WATER WORKS and LINTON E.
FORRESTER and ELEANOR FORRESTER,
for an order authorizing the sale
and transfer to LINTON E. FORRESTER
and ELEANOR FORRESTER of the water
distribution system and certificate
of public convenience and necessity.

Application No. 56266
(Filed February 9, 1976)

In the Matter of the Application of
ROYAL OAKS WATER SYSTEM and LINTON E.
FORRESTER and ELEANOR FORRESTER, for
an order authorizing the sale and
transfer to LINTON E. FORRESTER and
ELEANOR FORRESTER of the water
distribution system and certificate
of public convenience and necessity.

Application No. 56267
(Filed February 9, 1976)

Linton E. Forrester and Joseph C. Smyth, for
themselves, applicants.
Sam Kusic, for himself, interested party.
Leslie D. Hay, for the Commission staff.

O P I N I O N

Sierra Lakes Water Company (Sierra), Raymond Water Works
(Raymond), and Royal Oaks Water System (Royal Oaks), each being a

partnership composed of Joseph C. Smyth (Smyth) and Victor D. Kliwer (sellers), request authority to sell and Linton E. Forrester (Forrester) and Eleanor Forrester (buyers) request authority to buy Sierra, Raymond, and Royal Oaks which are located near the unincorporated town of Oakhurst, Madera County. The three applications were consolidated for hearing which was held at Oakhurst on March 18, 1976 before Examiner Pilling.

Buyers have agreed in writing with sellers to purchase the water systems and real properties of Sierra, Raymond, and Royal Oaks for cash in the amount of \$5,000, \$2,500, and \$5,000, respectively, and the assumption of the liabilities of the respective companies of \$9,328, \$1,896, and \$28,193. The Commission staff witness who investigated the three companies presented the following comparisons as of December 31, 1974 based on figures given to him by the three companies which would result from a consummation of the transaction:

Comparison of Purchase Prices
And Rate Bases

<u>Item</u>	<u>Raymond</u>	<u>Royal Oaks</u>	<u>Sierra Lakes</u>	<u>Total</u>
<u>Purchase Price</u>				
Accounts Payable	\$ 1,896.02	\$ 6,193.86	\$ 2,128.60	\$ 10,218.48
Long-Term Debt	-	22,000.00	7,200.00	29,200.00
Subtotal	<u>1,896.02</u>	<u>28,193.86</u>	<u>9,328.60</u>	<u>39,418.48</u>
Cash Transfer	<u>2,500.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>12,500.00</u>
Purchase Price	4,396.02	33,193.86	14,328.60	51,918.48
<u>Rate Base (at 12-31-74)</u>				
Utility Plant	17,989.89	53,921.85	45,167.00	117,078.74
Depreciation Reserve	<u>14,493.89</u>	<u>13,156.77</u>	<u>13,633.97</u>	<u>41,284.63</u>
Subtotal	<u>3,496.00</u>	<u>40,765.08</u>	<u>31,533.03</u>	<u>75,794.11</u>
Advances for Constr.	-	-	3,950.00	3,950.00
Subtotal	<u>3,496.00</u>	<u>40,765.08</u>	<u>27,583.03</u>	<u>71,844.11</u>
Contributions in Aid of Constr.	-	<u>37,731.35</u>	-	<u>37,731.35</u>
Rate Base	3,496.00	3,033.73	27,583.03	34,112.76

The staff witness stated that the rate base data presented for the Raymond system does not reflect recorded figures at December 31, 1974 as the information is not available. The last annual report filed for Raymond was for the year 1966. For the purpose of the above comparisons the utility plant and depreciation reserve were updated but plant installations and corresponding depreciation expense for the years 1967 through 1974, inclusive, were not included as no information is available.

Sierra has 43 customers and 100 inactive connections. Raymond has 33 customers and Royal Oaks 60 customers. Sierra was established in 1967, Raymond in 1909, and Royal Oaks in 1965. The systems are not connected. Smyth testified that the Raymond system is antiquated, the mains are undersized, the water supply is sporadic and erratic, and it has inadequate storage capacity. He stated it would take \$100,000 to upgrade the system and that it would take an "expenditure of tens of thousands of dollars" to upgrade the Royal Oaks system. Water pressures in the Royal Oaks system get as low as 15 pounds and sometimes 8 pounds. Smyth testified that sellers had bought the systems as a long-range investment, had consistently lost money in their operation, and wanted out.

Buyers introduced an unaudited balance sheet which shows buyers to be worth in excess of a half a million dollars with the ratio of current assets to current liabilities a little better than 2:1. Buyers own Hillview Estates Water Company, which includes Sunnydale water system and Goldside Estates water system, which are public utility water systems. Buyers have lived in the area for some 25 years. Forrester is presently operating Sierra, Raymond, and Royal Oaks. Forrester testified he intends to operate Royal Oaks in connection with Hillview Estates Water Company and rectify the low pressure in parts of Royal Oaks by building a 500,000 gallon reservoir at an elevation that will result in Royal Oaks' having sufficient pressure. The reservoir will draw from and serve the combined

Royal Oaks and Hillview systems with enough water left over to permit future expansion into Oakhurst. Forrester testified that he intends to bring on line another source of supply for the Raymond system and over the years will generally upgrade the three systems under purchase. Forrester is confident that the area in and around all the water systems he will own will show steady, but not spectacular growth, and he wants to be in a position of capitalizing on that growth. He testified that arrangements have been made with the Crocker National Bank at Fresno to secure the financing for the purchase of the three systems. Forrester stated that the \$22,000 long-term debt of Royal Oaks is payable to Maurice Smith, Attorney at Law, Fresno, and that Smith had agreed to wait for payment until Forrester's next land development is completed. Smith has been Forrester's attorney since 1958.

After part of the Royal Oaks system was installed and operating, a contiguous subdivision, Hidden Oaks, opened up complete with water system but no water source. Testimony at the hearing showed that Madera County required the Hidden Oaks system be joined to the Royal Oaks system, which was accomplished in 1966, and thereafter Royal Oaks supplied water to the Hidden Oaks system. The tariffs of Royal Oaks show that by Advice Letter No. 3 dated August 11, 1966, the previous owner of Royal Oaks, one Nan M. DeVaney, amended the service area of Royal Oaks to take in the Hidden Oaks subdivision. The subdivider of Hidden Oaks and original owner of the Hidden Oaks water system was one Mr. Schwabenland (spelled Zlobelan in the transcript). Forrester testified that Schwabenland told him that it cost Schwabenland \$14,000 to build the Hidden Oaks system, that Schwabenland had an oral understanding with DeVaney that the two would enter into a main extension agreement under which Schwabenland would receive back 40 percent of the Hidden Oaks water system construction costs, that the agreement was reduced to writing and sent to the Commission which returned it because it lacked certain

essential information, and that Schwabenland has never received the 40 percent refund. (The Commission takes official notice that its files contain no record of the receipt of the main extension agreement nor of its return.) Forrester testified that he would be willing to pay Schwabenland the 40 percent refund upon transfer of the Royal Oaks system, including the Hidden Oaks system, to Forrester if Schwabenland brought the Hidden Oaks portion into conformity with representations he made to the county when he built the subdivision. Forrester testified that the entire Hidden Oaks portion of the Royal Oaks system has been covered up, including the shut-off valves, blowoff-valves, and other facilities. Forrester testified that in order to locate the buried Hidden Oaks facilities it would be necessary to use a jackhammer and backhoe and dig up the streets in the Hidden Oaks subdivision. Forrester testified that he believes Schwabenland had title to the Hidden Oaks portion of the Royal Oaks system, but Smyth testified that Smyth had title. Payments of water bills by customers in the Hidden Oaks subdivision are made to Royal Oaks.

A witness claiming to speak on behalf of the customers of Royal Oaks stated the customers would prefer to have the buyers own and operate the system in place of the sellers and a Hidden Oaks system customer testified that he would personally like to see the transfer go through. Other customers of the systems appeared and complained about the quality of present service, made statements, and examined witness, and while some of the customers were apprehensive of the proposed transfer none voiced objection to the transfer.

The representative of the Commission's staff stated that the staff recommends that the proposed transfer be approved; that the depreciation reserve accounts records be updated or that the buyers make an historical cost appraisal and depreciation reserve requirement study for the period subsequent to 1966 for Raymond Water Works, and

file the data with the Commission within thirty days after the effective date of the order in this proceeding; that within thirty days after the effective date of the order herein, buyers should review the depreciation rates of each of the utilities and file such review with the Commission; that the buyers should flush all dead-end mains and install blowoff valves; and that the buyers should increase the water pressure in the Royal Oaks system by constructing the storage tank as they proposed or installing a booster pump, or both.

Findings

1. Sierra, Raymond, and Royal Oaks are each a water corporation as defined in Section 241 of the Public Utilities Code and are owned by sellers.

2. Buyers and sellers have entered into a written contract for the sale and transfer of the three systems to buyers.

3. Buyers are experienced in the operation of public utility water systems and in the operation of Sierra, Raymond, and Royal Oaks.

4. Buyers intend to construct a 500,000-gallon storage tank and/or install a pressure pump to increase the water pressure to at least 40 pounds in the Royal Oaks system, which now has unacceptably low pressure at some points in the system.

5. Buyers intend to join the Royal Oaks system to the water systems they now own which will enhance the quality and efficiency of the Royal Oaks system, and intend to expand the joint system to serve other customers in the Oakhurst area. Sufficient water exists in the combined systems for such expansion.

6. Buyers intend to gradually upgrade all three systems under purchase.

7. Physical deficiencies of the three systems which call for quick correction are increasing the water pressure throughout the Royal Oaks system to at least 40 psi at all connections, flushing dead-end mains, and installing blowoff valves.

8. Buyers are financially able to improve the three systems.

9. The owner of the water system within Hidden Oaks turned the system over to Royal Oaks for use in the latter's public utility water service, and the Hidden Oaks system is dedicated within the Royal Oaks public utility water service area.

10. Buyers should take whatever action is necessary and reasonable to secure written title to the water system within the Hidden Oaks subdivision used by Royal Oaks to serve its customers there.

Conclusions

1. The proposed sale and transfer will not be adverse to the public interest.

2. The applications should be granted subject to the conditions in the following order which will allow 180 days for historical cost and depreciation studies and increasing water pressure in the system.

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

Linton E. Forrester and Eleanor Forrester are placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holders a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before October 1, 1976, Joseph C. Smyth and Victor D. Kliwer may sell and transfer the water systems and other assets referred to in the applications to Linton E. Forrester and Eleanor Forrester.

2. As a condition of this grant of authority, purchasers shall assume the public utility obligations of sellers within the area served by the water systems being transferred and shall assume liability for refunds of all existing customer deposits and advances pertaining to the water system being transferred.

3. Within ten days after completion of the transfer purchasers shall notify the Commission, in writing, of the date of completion and of the assumption of the obligations set forth in paragraph 2 of this order.

4. Purchasers shall either file a statement adopting the tariffs of sellers now on file with this Commission or refile under their own names those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates shall be made unless authorized by this Commission.

5. On or before the date of actual transfer, sellers shall deliver to purchasers, and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water systems authorized to be transferred.

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

7. Linton E. Forrester and Eleanor Forrester shall update the reserve accounts records or make historical cost appraisal and depreciation reserve requirement study for the period subsequent to 1966 for Raymond Water Works, and file the data with the Commission within thirty days after completion of the sale; shall review the depreciation rates of each of the utilities and file such review with the Commission within thirty days after the completion of the sale; shall cause to be flushed all dead-end mains and install blowoff valves

on dead-end mains of the three utilities within sixty days from the completion of the sale; and shall cause the water pressure in the Royal Oaks system to be increased to at least 40 psi at each connection within one hundred eighty days by constructing a storage tank or installing a booster pump, or both, as they have represented.

8. Upon compliance with all of the terms and conditions of paragraphs 1 through 5 of this order, sellers shall be relieved of their public utility obligations in connection with the water systems transferred.

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

Dated at San Francisco, California, this 29th
day of JUNE, 1976.

William S. S. S. President
Verion L. Sturgeon
Leonard Ross
Robert Bateman
Commissioners

*I concur in part
and dissent in part
I will file a written
opinion - Robert Bateman*

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

A. 56264
A. 56266
A. 56267
D. 86006

COMMISSIONER BATINOVICH, DISSENTING IN PART:

The time of transfer of a small water company seems like the ideal time for this Commission to take meaningful action to settle service problems. Maybe next time it will.

June 29, 1976
San Francisco, California

A handwritten signature in dark ink, appearing to read "Robert Batinovich", written over a horizontal line.

Robert Batinovich
Commissioner