

Decision No. 86238

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 C. WESLEY BIRD AND JENNIE C. BIRD
 doing business as WESMILTON WATER
 SYSTEM and ANOOSH-VAN WATER SYSTEM,
 for an order authorizing the sale
 and transfer to JAMES H. KITCHEN and
 BERNICE K. KITCHEN of the water
 distribution systems and certifi-
 cates of public convenience and
 necessity.

Application No. 56436
 (Filed April 27, 1976)

O P I N I O N

C. Wesley Bird and Jennie C. Bird (sellers) seek authority to transfer two public utility water systems in Fresno County to James H. Kitchen and Bernice K. Kitchen (buyers). Buyers are not presently engaged in any type of public utility or water supply operations, but Kitchen's half brother, with whom he is closely associated, is currently manager of Malaga District Waterworks and will be available to assist them. The buyers wish to diversify their interests. They reside nearer to the two companies and have family members on whom they can depend and therefore can more efficiently handle the problems that arise than can sellers.

Anoosh-Van Water System was granted a rate increase effective December 1, 1975 by Commission Resolution No. W-1827 in response to the utility's Advice Letter No. 10. In the advice letter a rate base for the year 1975 estimated of \$16,450 was utilized. Likewise, a rate increase was granted to Wesmilton Water System effective December 1, 1975 by Commission Resolution No. W-1832 in response to the utility's Advice Letter No. 16. In the Advice Letter a rate base for the year 1975 estimated of \$73,700 was utilized. These totals correlate with figures shown in the respective 1975 annual reports filed with the Commission.

It can thus be concluded that the total rate base for the two utilities would be in the general range of \$90,150 if such a rate base were to be established today. When compared with the agreed upon purchase price of \$130,000 there results a difference of \$39,850. Buyers have been advised by the Commission staff both by telephone and by a letter that the purchase price is greater than the rate base and that no return will be allowed on the difference. The application alleges that the Commission has previously made a finding on the estimated fair market value after depreciation of the two systems. This is not correct. We have not in the past, nor will we in this proceeding make such a finding.

The terms for payment of the \$130,000 purchase price are \$15,000 down and a note for \$115,000. The form of the note is included as Exhibit D to the Application. It provides for 8 percent interest payable with the principal at various amounts. The first three years a minimum of \$800 per month is to be paid. The fourth and fifth years payments are to be \$850 per month. Monthly payments for the sixth through tenth years are to be \$900 and \$950 for the eleventh through fifteenth year. From that time on monthly payments are to be \$1,000 until the note is paid. If minimum payments are paid each month as required the indebtedness will be paid off in approximately 24 or 25 years. There is a provision, however which allows payments in excess of the minimum amounts. These would decrease the length of time of indebtedness.

Buyers have another business from which they derive their living. It is assumed they could make improvements from these funds if necessary. In addition, the advice letter filings indicate net revenues for an estimated test year should approximate \$6,480 and depreciation expense an additional \$4,040. These combined items should provide adequate resources for monthly payments as well as necessary improvements to the facilities.

Sellers have reached the age where operation of the facilities has become a burden upon them. In addition, they reside some distance away from the service areas, a fact which creates further hardship.

According to the 1975 annual report for Wesmilton, there are 261 customers and 21 fire hydrants being served on a flat rate basis. There are three wells at two locations within the system. The three lineshaft deep well turbine pumps are 25, 30 and 30 horsepower, respectively. The system contains approximately 25,950 feet of mains.

The 1975 annual report for Anoosh-Van indicates there are 37 customers and four fire hydrants being served on a flat rate basis. Water is provided by two lineshaft deep well turbine pumps of 10 and 15 horsepower, respectively. Approximately 3,540 feet of mains serve the system.

Recent investigations of this utility were made by the Commission's staff in connection with the advice letter rate increases. The facilities were found to be adequate. No major additions or improvements are necessary at the present time.

The 1975 Annual Reports for Wesmilton and Anoosh-Van as filed with the Commission indicate that there are no Advances for Construction, Contributions in Aid of Construction or Customers Deposits for either utility. However, the application indicates that all customers' Credit Deposits will be transferred to buyers for refunds at the proper time.

On July 20, 1976, sellers sent a notice to each customer of the two utilities advising them of the impending transfers. Customer response was invited. No letters were received.

Findings

1. Wesmilton and Anoosh-Van are partnerships owned by C. Wesley and Jennie C. Bird and are water corporations as defined in Section 241 of the Public Utilities Code.

2. Buyers and sellers have entered into a written contract for the sale and transfer of the two systems to buyers.
3. Buyers are husband and wife who are able to replace facilities should the need arise and who are related to the manager of a water district to whom they can turn for advice.
4. Buyers have been advised there is a great disparity between the purchase price and the depreciated rate base and they will not be allowed to earn on the difference.
5. The transfer of the properties and public utility operating rights of sellers to buyers would not be adverse to the public interest.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
7. We find that the systems are adequate and that no replacements or improvements are required at the present time.

Conclusions

1. The proposed sale and transfer will not be adverse to the public interest.
2. Application No. 56436 should be granted in accordance with the order that follows. ✓

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

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1976, C. Wesley Bird and Jennie C. Bird may sell and transfer to James H. Kitchen and Bernice K. Kitchen the property referred to in this proceeding in accordance with the agreement attached to the application as Exhibit D.

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 system being transferred and shall assume liability for refunds of all existing customer deposits and advances pertaining to the water system being transferred. Purchasers shall send notice of the assumption of liability for refunds to all customers affected.

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

8. Within sixty days after completion of the transfer purchasers shall file with the Commission a copy of each journal entry used to record the acquisition on its books of account.

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

Dated at San Francisco, California this 10th
AUGUST day of _____, 1976.

 President
William S. ...

...

 Commissioners

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

Commissioner Robert Batovich, being necessarily absent, did not participate in the disposition of this proceeding.