

Decision No. 86365

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CITIZENS UTILITIES
COMPANY OF CALIFORNIA for an Order
approving the disposition of certain
property within its Niles-Decoto
service area in Alameda County
and authorizing Applicant to withdraw
from certain public service in said
service area.

Application No. 56622
(Filed July 16, 1976)

O P I N I O N

Citizens Utilities Company of California (Citizens) seeks (a) to sell and transfer the property in its Niles-Decoto Water System to Alameda County Water District (ACWD),^{1/} (b) to cancel its present tariff schedules applicable to its Niles-Decoto Water District and to be relieved of all public utility obligations in connection with that service; and (c) to have the order herein made effective simultaneously with the exchange and signing of documents at the closing of the sale of the water system. The application alleges as follows: On February 28, 1973, ACWD filed a complaint in eminent domain against Citizens in the Superior Court of the State of California in and for the County of Alameda (Action No. H-26637) pursuant to the provisions of Title VII, Part III, of the California Code of Civil Procedure seeking to acquire the water works system owned by Citizens in its Niles-Decoto District. On June 20, 1975, a verdict was rendered in Action No. H-26637 in which the value of Citizens' Niles-Decoto water system was determined to be \$3,941,987. On September 3, 1975, the Superior Court issued a Judgement Notwithstanding the Verdict, by which the value of Citizens' Niles-Decoto water system was determined to be \$5,040,000. ACWD has

^{1/} ACWD is a public corporation existing under and by virtue of Division 12, Part 2, of the California Water Code.

appealed to the Court of Appeals from both the \$3,941,987 verdict and the \$5,040,000 Judgement Notwithstanding the Verdict.

On March 24, 1976, in order to resolve the above litigation, Citizens agreed to sell and ACWD agreed to buy all the wells, pumps, storage, mains, services, meters, related land and land rights, and related property constituting the water system in Citizen's Niles-Decoto District for the sum of \$3,678,000 subject to the voter passage of a bond issue, which passage occurred on June 8, 1976.

The letter agreement for the sale is dated March 24, 1976 and is hereby made part of the record as Exhibit 1. Pursuant to this agreement, it is the intention of the parties to prepare, execute, and exchange detailed documents to effect transfer of the ownership of the water system from Citizens to ACWD. The closing of the transaction is presently planned for a date in July or early August 1976.

Citizens will advise the Commission of the exact date of closing when it becomes known and provide to the Commission copies of all documents by which said transfer of ownership is accomplished when they become available. The aforementioned documents will provide that ACWD will assume all of Citizens' obligations to serve water to all customers in the Niles-Decoto Water District and to continue such service without discrimination.

Citizens will refund all customer deposits maintained by it on the date of the closing referred to above for customers in its Niles-Decoto service area. Citizens will continue to make all refunds of advances as and when required under existing main extension agreements, and ACWD will continue to provide all information necessary for Citizens to do so. Refund percentages will be based upon ACWD revenues after transfer. As of July 31, 1976 the unrefunded balance of line extension agreement advances is \$263,535.84, and there are no customer deposits. Citizens has submitted a balance sheet as of the latest available date and an income statement covering the period from the

close of the last year for which an annual report has been filed with the Commission to the date of said balance sheet (Exhibit 3).

Citizens asserts that public hearing is unnecessary for the relief sought by this application.

Findings

1. Public convenience and necessity require that Citizens be authorized to sell and transfer its Niles-Decoto water system to ACWD pursuant to the terms of the agreement between said parties reached on March 24, 1976 (Exhibit 1), and the contract of purchase to be filed in this proceeding.

2. Existing customers of the system transferred will continue to receive water service from ACWD after the transfer of the system at rates assessed by ACWD in schedules to be made part of the record herein. ACWD rates are for bimonthly billing, with 6,000 cubic feet in the first step. Compared on the average residential customer's monthly usage of 1,600 cubic feet, for a 5/8-inch meter, the present Citizens monthly bill would be \$9.46, while ACWD billing would be \$7.56 for customers inside the District, and \$9.45 for those outside the District.

3. Upon completion of the transfer, Citizens should be relieved of its public utility water corporation obligations with respect to the system transferred.

4. Upon completion of the transfer, Citizens should discharge its obligations relative to customer advances and deposits.

5. A public hearing is not necessary.

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.

The Commission concludes that the application should be granted and that the effective date of this order should be the date on which it is issued so that the authority may be promptly exercised.

O R D E R

IT IS ORDERED that:

1. On or before March 31, 1977, Citizens Utilities Company of California (Citizens) may sell and transfer its Niles-Decoto water system to Alameda County Water District (ACWD) pursuant to the agreement between said parties reached on March 24, 1976 as set forth in Exhibit 1.
2. Within thirty days of the closing date of the transfer authorized in Ordering Paragraph 1, Citizens shall file with the Commission a true copy of the instrument(s) effecting the transfer.
3. Within ten days of the closing date of the transfer, Citizens shall return to customers all refundable deposits. Customers' advances shall be refunded by Citizens as and when required under existing main extension contracts, based on information to be supplied to it by ACWD.
4. Effective concurrently with the completion of the sale of its Niles-Decoto water system, Citizens is relieved of its public utility obligations with respect to that system, and tariff schedules for that system on file with this Commission are canceled. Citizens' public utility obligations shall continue as to its remaining systems.

5. Within thirty days after the completion of the transfer, Citizens shall file with the Commission a balance sheet as of the latest available date and an income statement concerning the period from the close of the last year for which an annual report has been filed to the date of said balance sheet.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th
day of SEPTEMBER, 1976.

I abstain
William Synovus, Jr.

[Signature]
President

[Signature]
Commissioners

[Signature]
Commissioners