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Decision June 6, 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Little Lake County Water District to modify Decision 92921 by ordering Pacific Gas & Electric Company to reconvey the timber revenues and profits to the Company in conformity with a comprehensive plan approved by the Commission.

ORIGINAL

Application 83-07-48 (Filed July 25, 1983)

ORDER OF DISMISSAL

Statement of Facts

The water system serving the City of Willits and environs for years was owned by Pacific Gas and Electric Company (PG&E). In 1980 the Commission determined that the proceeds of a timber harvest on the system water shed were utility property to be applied as operating income to offset operating expenses of the utility. In June of 1981, being dissatisfied with the results of an attempt to increase its level of return following a long period during which it had allowed rates to remain static, and consequently having determined to dispose of the system, PG&E, under authority granted by this Commission, sold the utility to Mr. and Mrs. Clifford V. Horn, who thereafter operated it as a sole proprietorship. However, in consummating the sale and transfer, the Horns and PG&E departed from the terms which the Commission had been led to understand would be the basis for the financing of the transaction, and applied the prospective 10-year timber revenues against the note that the Horns were to give PG&E as partial payment for the system, thereby substantially lessening the mortgage.

As apparent consequences of substantially less water revenues and much higher administrative and general expenses claimed than forecast, severe storm damage, etc.. all worsened in effect by loss of the timber revenues from PG&E, the system encountered serious financial difficulties. As matters deteriorated, the Horns sought

relief by filing Application 82-10-47 seeking a 269 percent rate increase. Strong local opposition immediately developed. One focal point of the opposition centered in the Little Lake County Water District (District), a County water district organized pursuant to Section 3000 of the California Water Code. The District early signified its intention of intervening in the hearings being set on Horn's application.

In addition, in July 1983 the District filed this petition, alleging that PG&E was holding the timber revenues in direct violation of Commission Decisions (D) 92192 and 92921, and Public Utilities Code Section 851. In its petition the District asked that the Commission rescind D.92921 which had authorized the sale and transfer to the Horns, and reopen the matter for further hearing; or in the alternative, modify D.92921 by ordering PG&E to reconvey the "timber revenues and profits" in conformity with a new comprehensive plan to be developed by the Commission to improve and operate the system.

The Administrative Law Judge (ALJ) assigned to both proceedings determined against consolidation of the District's petition with the rate proceeding, concluding that because of the diverse interests of the parties involved and the complexity of the issues involved in each type proceeding, consolidation would likely merely lead to consumption of additional hearing time and could prejudice rights.

Meanwhile the rate proceeding went forward through 6 days of hearing during which it became increasingly apparent that it would be to the best interests of all were the City of Willits, a party to that proceeding, to acquire and operate the water system. The District actively and aggressively participated throughout the hearings. On November 23, 1983 the rate proceeding was submitted subject to briefing after receipt of transcripts. However, before

briefs were filed, the City and Horn, with the cooperation and participation of PG&E, were successful in working out an agreement by which the City would acquire the system at a purchase price and under conditions acceptable to the Horns. On January 26, 1984 the City commenced an action in Mendocino County Superior Court with the City and the Horns stipulating to entry of judgment in condemnation pursuant to their agreement.¹

On March 26, 1984 the District filed with The Commission a stipulation signed by all the parties to the rate proceeding, asking that the rate proceeding "be stayed in its entirety until March 30, 1984 to allow the City of Willits to negotiate with Clifford Horn for the purchase of the Little Lake Water Company." The stipulation further provided that should the escrow set up between the City and the Horns close on or before March 30, 1984, and the City acquire ownership of the system, the District would consent to its petition (Application 83-07-48) before the Commission being dismissed with prejudice.

On March 29, 1984, Judge Arthur B. Broaddus of the Mendocino County Superior Court signed a Final Order of Condemnation (No. 48706) in the eminent domain action. The city recorded this order immediately, taking title to the water system the same day. As requested by District's stipulation the District's Application 83-07-48 will be dismissed with prejudice. As the escrow is closed, the Horns no longer own or operate the system, and the system is a municipally owned and operated system now being beyond our jurisdiction.

The Commission finds and concludes that the application should be dismissed with prejudice.

¹ On January 10, 1984, having been kept appraised of progress in the City-Horn-PG&E negotiations, ALJ Weiss suspended the briefing schedule in the rate proceeding until further notice.

A.83-07-48 ALJ/ra

IT IS ORDERED that Application 83-07-48 is dismissed with prejudice.

This order is effective today.

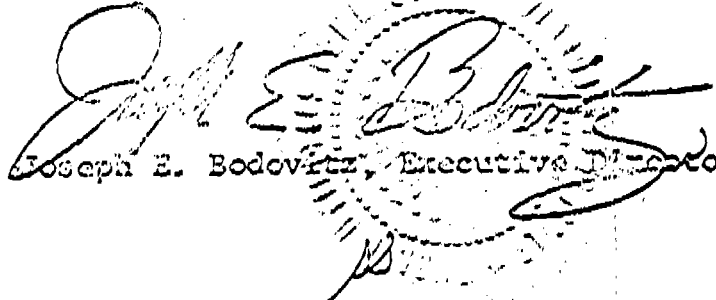
Dated JUN 6 1984, at San Francisco, California.

LEONARD M. CRIMES, JR.
President

VICTOR CALVO
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

Commissioner Priscilla C. Crow,
being necessarily absent, did
not participate

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

Decision 84 06 086

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ORIGINAL

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