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ORIGINAL

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint)
 Application of Stirling Bluffs)
 Corporation, a California)
 corporation, Diamond International)
 Corporation, a Delaware corporation,)
 DIA Holdings (International) B.V.,)
 a Netherlands company, and DIA)
 Holdings (Netherlands) B.V., a)
 Netherlands company, for authority)
 to transfer all of the capital)
 stock of Stirling Bluffs Corporation)
 to DIA Holdings (Overseas) B.V., a)
 Netherlands company. (U-62-W))

Application 87-12-027
(Filed December 17, 1987)

OPINION

The joint application of Stirling Bluffs Corporation, a California corporation, Diamond International Corporation, a Delaware corporation, DIA Holdings (International) B.V., a Netherlands company, and DIA Holdings (Netherlands) B.V., a Netherlands company, seeks authority to transfer all of the capital stock of Stirling Bluffs Corporation to DIA Holdings (Overseas) B.V., a Netherlands company.

Stirling Bluffs Corporation is engaged in business in Butte County, California, as a public utility water company regulated by the California Public Utilities Commission (CPUC). Prior to September 1983, all of the outstanding capital stock of Stirling Bluffs Corporation was owned by Diamond International Corporation. At such time, all of the stock of Diamond International Corporation was owned by Diamond (USA) Inc. and Diamond (USA) Inc. in turn was owned by two Dutch companies, DIA Holdings (International) B.V. and DIA Holdings (Netherlands) B.V. In September, 1983, Diamond International Corporation was merged with Diamond (USA) Inc. with the surviving corporation being

Diamond International Corporation; all of the stock of that corporation continued to be owned by the two Dutch companies.

In June 1984, Diamond International Corporation was sold to General Occidentale S.A., a corporation, and as part of the transaction, ownership of all outstanding shares of stock of Stirling Bluffs Corporation was distributed pro-rata to DIA Holdings (International) B.V. and DIA Holdings (Netherlands) B.V.

In April 1987, Stirling Bluffs Corporation filed Application (A.) 87-04-002 with the CPUC for a general rate increase. That application was heard in Stirling Bluffs, California, before Administrative Law Judge John C. Gilman on September 24, 1987.

In connection with the rate proceeding, the staff of the Water Utilities Branch of the Commission filed its "Report on Stirling Bluffs Corporation Results of Operation Test Year 1987 Present and Proposed Rates" which declared in part:

"Diamond International, who is currently recognized by the Commission as the parent of Applicant, was sold in June 1984. Branch records indicate that this transfer of controlling interest of the applicant was never authorized by the Commission. The Branch has advised the applicant of this violation and applicant has stated that it will take appropriate action at the hearing to rectify this situation." (Chapter 10 of Exhibit No. 1 in CPUC A.87-04-002.)

The applicant in the rate case proceeding introduced a 1984 letter from the attorneys for Diamond International Corporation to a financial examiner in the Commission Advisory and Compliance Division (CACD) explaining the circumstances pursuant to which the transfer of stock of the utility corporation was made to the Dutch companies. That letter expressed the belief of counsel that because ultimate ownership and control of the utility remained unchanged, no request to the Commission had been made (under § 854 of the Public Utilities (PU) Code) seeking authority to transfer

the ownership of the stock of the utility to the present corporate stockholders.

Applicants DIA Holdings (International) B.V. and DIA Holdings (Netherlands) B.V. now desire to transfer all of the stock of Stirling Bluffs Corporation to their parent corporation, DIA Holdings (Overseas) B.V., a Netherlands company. All applicants in this proceeding believe that such a transfer is not within the scope of the provisions of § 854 of the PU Code (which requires prior Commission authorization for acquisition of a controlling interest in any public utility doing business in this state). However, in view of the question which has been raised by the Commission staff in A.87-04-002 as to the propriety of the prior transfer of the stock of Stirling Bluffs Corporation, applicants in this proceeding seek an order from the Commission expressly approving such transaction.

In order to avoid potentially detrimental tax consequences, applicants desire to consummate the transfer of all shares of stock of Stirling Bluffs Corporation to DIA Holdings (Overseas) B.V. by no later than December 31, 1987. The transfer of stock ownership will not affect any of the rates, practices, or procedures presently adopted and/or followed by Stirling Bluffs Corporation and/or such rates, practices, and/or procedures which may be authorized for the utility by the Commission in any decision in pending A.87-04-002.

Because the proposed transfers of stock will not affect the operation of Stirling Bluffs Corporation, the authority requested is not contrary to the public interest and there is no need to set this application for hearing.

The various transfers of ownership referred to in this decision have not changed the ultimate control of Stirling Bluffs; they have merely reduced the layers of subsidiaries between the operating company, Stirling Bluffs, and its true parent DIA Holdings (Overseas) B.V. Applicants assert that they have filed

this application as a consequence of questions raised by the Commission staff, not because they believe Section 854 applies. Because we would grant the application in any event, we need not determine if Section 854 applies; we will assume it does.

Findings of Fact

1. Stirling Bluffs Corporation is a public utility organized and doing business in California.

2. It is in the public interest to approve the transfer of all of the capital stock of Stirling Bluffs Corporation to DIA Holdings (Overseas) B.V., a Netherlands company.

3. The transfer of stock ownership will not affect any of the rate, practices, or procedure presently adopted by Stirling Bluffs Corporation, nor any which may be authorized in A.87-04-002.

4. The transfer of stock ownership will not affect the capitalization, rate base, or rate of return of Stirling Bluffs Corporation.

5. A public hearing is not necessary.

6. This matter did not appear on the public agenda as required by the Government Code; however, because of the potential adverse tax consequences, we find sufficient emergency to act today without such public agenda notice under Public Utilities Code § 306(b)

Conclusion of Law

The application should be granted. To permit the parties to avoid potentially detrimental tax consequences this order should be effective on the date signed.

ORDER

IT IS ORDERED that:

1. DIA Holdings (International) B.V. and DIA Holdings (Netherlands) B.V. are authorized to transfer all of the stock of Stirling Bluffs Corporation to DIA Holdings (Overseas) B.V., a Netherlands company.

2. DIA Holdings (Overseas) B.V., a Netherlands company, is authorized to control Stirling Bluffs Corporation, a California corporation.

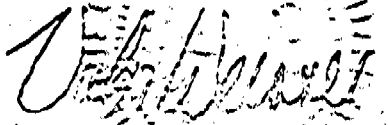
This order is effective today.

Dated DEC 22 1987, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Victor Weissor, Executive Director