

Decision 88 05 060

MAY 25 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Vincent Bruce Anderson for authority)
 to transfer the Cobb Mountain Water)
 Company (U-70-W) in Gordon Springs)
 Subdivisions, Cobb, Lake County,)
 California from Arthur Lawrence)
 Anderson (deceased) to Vincent Bruce)
 Anderson.)

Application 87-08-034
(Filed August 20, 1987)

OPINION

Background

On April 30, 1952 with hopes and plans for subdividing certain lands, known as Gordon Springs Subdivision No. 1, in Section 3, Township 11 North, Range 8 West, Monte Diablo Base and Meridian (MDB&M) near the community of Cobb in Lake County California, Arthur L. Anderson (Arthur) and his wife Grace G. Anderson (Grace) filed Application (A.) 33371 with this Commission for a certificate of public convenience and necessity (CPCN) to establish and operate a water system to serve the proposed subdivision and the Cobb Valley School.

The application was heard and the Commission by Decision (D.) 47885 dated November 3, 1952 granted the CPCN to build the water system with the understanding that it would soon render water service to approximately 42 customers including the Cobb Valley School.

Water for the system was obtained from a spring, with an average summertime flow rate of about 50-60 gallons per minute¹ or about 80,000 gallons per day, located about 450 feet west of the Gordon Springs Subdivision No. 1. The spring was diverted to a concrete sump holding about 10,000 gallons and then pumped to two gravity storage tanks with a total capacity of nearly 25,000 gallons from which the subdivision was to be served. The tanks' location (elevation) was such that the subdivision would receive water at 40 to 60 pounds per square inch pressure, considered adequate for the service intended.

According to testimony by Arthur in 1952, the water system to serve the first subdivision would include 1,290 feet of 4-inch steel main and 2,560 feet of smaller steel pipe. He believed that the system was adequate to accommodate service to more than the initial subdivision in the future. He also testified that the spring water had been approved for public consumption by the Lake County authorities.

He estimated that the entire cost of the system including overheads, at that time, would be about \$17,400.

Arthur and Grace did construct and operate the water system until her death on September 20, 1966, and thereafter Arthur continued to operate the water system, with the help of his son, Vincent Bruce Anderson (Vincent and/or applicant). From the information available to this Commission, it appears that Grace's interest in the water system passed to Arthur at the time of her death.

¹ D.47885 included a statement that the average summertime spring flow was "...about 5 miner's inches of water (Page 2 mimeo.). A miner's inch represents different levels of flow in northern and southern California. For use in northern California a miner's inch represents a flow rate of 11.2 gallons per minute, therefore, 5 miner's inches of water would be 56 gallons per minute, or 80,640 gallons per day.

On April 1, 1987, Arthur died and in his will, dated May 17, 1983, he left all of his interest in the Cobb Mountain Water Company to one of his three sons, Vincent, who had assisted him in operating the water system prior to his death.

Current Application

On August 20, 1987 Vincent who had been named as executor of the estate in the will of his father Arthur, filed A.87-08-034 to transfer the Cobb Mountain Water Company to him in the orderly course of events, as provided for in his father's will.

The assigned Administrative Law Judge (ALJ) on August 26, 1987, notified applicant that this application would be held in abeyance until the receipt of the decree of distribution from the probate court. On March 21, 1988, applicant forwarded a copy of Court Order No. 8005 of the Superior Court of the State of California for the County of Lake, issued March 7, 1988, which provided for the final distribution of Arthur's estate. In that order the court distributed to Vincent Bruce Anderson (applicant) all of his father's (decedent's) interest in Cobb Mountain Water Company.

Recent Description of Water System

According to A.87-08-034 and the 1986 Annual Report data appended thereto, the Cobb Mountain Water Company serves 51 metered customers consisting of 50 residential consumers and one commercial customer, in the area known as Gordon Springs Subdivisions #1 and #2 in the Western 1/2 of Section 3, Township 11 North, Range 8 West MDB&M. The physical property involved in rendering this water service and which is proposed to be transferred consists of:

- o One Spring and Spring House
- o One Pumphouse with Sump
- o Two Pumps (Electrically Driven - 10 Horsepower Total Capacity)
- o One Ecodyne Chemical Feeder

- o Four Steel Tanks (39,424 Gallons Total Capacity)
- o 2,740 feet of Four-Inch Steel Mains
- o 3,760 feet of Two-Inch and Smaller Steel Pipe
- o Approximately 0.22 Acres of Land
- o 51 Water Meters
- o One 1965 Chevrolet Station Wagon

The 0.22 acres of land associated with the spring, pumphouse, and tank sites had an original book value of \$2,000 as set forth in the utility's 1986 annual report to the Commission and in applicant's letter to the Commission dated August 17, 1987.

Value of Utility Property

The Water Utilities Branch (Water Branch) of the Commission Advisory and Compliance Division on September 16, 1987 prepared a "Memorandum Report" regarding the proposed transfer of this water system. That memorandum report included an analysis of the 1986 Annual Report data relative to the then current value of the physical property, other than land, listed above as follows:

o Average Plant [in Service]	\$24,746
o Average Depreciation [Reserve]	15,183
o Advances [for Construction]	- o -
o Contributions [Contributed Plant]	<u>- o -</u>
Rate Base	\$ 9,563

The Water Branch report noted that the [Gross] Operating Revenues of Cobb Mountain Water Company for 1986 were \$2,379. The resultant net income after expenses set forth in the utility's 1986 annual report was a minor loss of \$136 during calendar 1986. Cobb Mountain Water Company's rates have not been changed since June 1,

1972, according to its currently filed "General Metered Service" tariff schedule appended to the Water Branch memorandum report, and there is no mention of any request for rate revisions in this application for transfer.

Applicant's Financial Statement

The Financial Statement appended to this application establishes that as of July 1, 1987 applicant, Vincent Bruce Anderson, is free of debt and has savings and other cash accounts totalling \$154,874. Also, he states that together with his wife Pamela he has in Joint Tenancy additional savings and cash accounts totalling \$12,360 and other real and personal property totalling \$72,500, and that they, together, have no outstanding debt. The aggregate of the separate and jointly held cash and other assets of the applicant and his wife total \$239,734, with no offsetting debts, as of July 1, 1987.

Recommendations of the Water Branch

The Water Branch memorandum report of September 16, 1987 recommends that the requested transfer of this water system from Arthur Lawrence Anderson to applicant be granted since applicant:

- o Is operating the system as he has done in recent years, and
- o Is a state licensed Grade I Water Treatment Operator.

The report also notes that:

- o The water system was found to be in good condition in 1972 when it was inspected by a staff engineer in connection with the last general rate increase.
- o There are no outstanding Commission orders requiring compliance by Cobb Mountain Water Company.
- o There have been no formal or informal complaints against this utility during the

last three years, and none are pending now,
and

- o The Lake County Health Department advises that the applicant, son of the deceased owner, is operating the water system properly at the present time [September 16, 1987] and should be considered qualified as the new owner for the future.

Discussion

The application before us, made pursuant to Public Utilities (PU) Code §§ 851-854, asks us to authorize the transfer of Cobb Mountain Water Company as provided for in the Will of Arthur Lawrence Anderson to his heir Vincent Bruce Anderson.

PU Code § 851, as relevant here, provides:

Section 851: "No public utility...shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its... line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, ...without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing it is void. . . ."

In the instant situation the holders of the CPCN (Arthur and Grace) are both deceased and, available records and statements also show that applicant, in recent years, provided the day-to-day operational guidance, and was the individual most familiar with the facilities. In addition, according to the Water Branch memorandum report, applicant is a state licensed Grade I Water Treatment Operator. Therefore, it is clear that he has the technical qualifications to continue the operations of Cobb Mountain Water Company.

According to the financial statement appended to the application applicant, as noted earlier, has no outstanding debts

and sufficient cash and other financial resources to effectively carry on the operations of this water utility.

The public's interest is served by having ownership of utilities subject to as few divergent interests as possible.

Here the issue of Vincent's acquisition of sole control is now before us. As a consequence of the March 7, 1988 decree of distribution in connection with probate of Arthur's will, Vincent has succeeded to all of his deceased father's interests in the utility, and this gives him the sole legal title to water system property. In cases such as these, should the successor's interest appear to the Commission inconsistent with, or prove adverse to the public interest, this Commission always can, after notice and hearing, cancel, revoke, or suspend the inherited interest.

There is no indication that this particular transfer would in any way be inconsistent with or adverse to the public interest. Applicant has since April 1987 continued operating the utility and proposes to continue the operation in the future. Given these circumstances, it appears that this is a matter in which a public hearing on the transfer is unnecessary.

Accordingly, this application to transfer Arthur Lawrence Anderson's interest in the authority to operate the utility to applicant, under PU Code § 851, should be granted.

Findings of Fact

1. By D.47885 dated November 3, 1952 in A.33371, Arthur L. and Grace G. Anderson were authorized to operate a public utility water system known as the Cobb Mountain Water Company to serve Gordon Springs subdivisions in Lake County, California.

2. From 1952 until his death on April 1, 1987 the Cobb Mountain Water Company provided public utility water service to residents of Gordon Springs subdivisions and the Cobb Valley School, under the supervision of Arthur with the assistance of Vincent in recent years.

3. It appears that on September 20, 1966 upon the death of Grace G. Anderson, her interest in the water system passed to her husband Arthur.

4. On April 1, 1987, upon Arthur's death, his ownership interest in the property and equipment of Cobb Mountain Water Company succeeded, as provided in his will, by operation of law to his son Vincent.

5. Since Arthur's death, Vincent has continuously operated the utility water system providing all the necessary day-to-day operational requirements.

6. On August 20, 1987 Vincent Bruce Anderson filed A.87-08-034 to transfer the Cobb Mountain Water Company to him as provided for in his father's will.

7. On March 7, 1988, the Superior Court of the State of California for the County of Lake issued Court Order No. 8005. providing for the final distribution of Arthur Lawrence Anderson's estate, and which distributed all interest in the Cobb Mountain Water Company to Vincent Bruce Anderson (applicant).

8. On September 16, 1987 the Water Branch prepared a memorandum report which among other things recommended the transfer of Cobb Mountain Water Company to applicant.

9. There appears to be no reason of public interest not to grant Commission authorization for the transfer of the interests of the deceased Arthur in Cobb Mountain Water Company to his son Vincent in accord with PU Code § 851.

10. The lands and depreciated utility plant (rate base) being transferred herein have a book value of \$2,000 and \$9,563 respectively as developed from the utility's 1986 annual report to the Commission.

11. This application seeks no authority to increase or otherwise modify the existing rates of Cobb Mountain Water Company.

12. No name change for Cobb Mountain Water Company is suggested or contemplated, at this time, under the proposed transfer.

13. Cobb Mountain Water Company will continue to use water utility identification number U-70-W in all formal matters filed before this Commission.

14. A public hearing is not necessary.

Conclusions of Law

1. The water services rendered by Cobb Mountain Water Company which were and continue to be provided for consideration to customers in or around Gordon Springs Subdivisions No. 1 and 2 in Lake County, California were public utility services which subject the utility to the continued jurisdiction, control and regulation of this Commission.

2. The transfer of the Cobb Mountain Water Company, sought herein is in the public interest and should be granted under PU Code § 851, due to death of the utility owner, Arthur Lawrence Anderson, and subsequent distribution of this property by the probate court in accordance with his last will.

3. Vincent Bruce Anderson (applicant) has the technical expertise, financial resources, and day-to-day operating experience to effectively carry on the utility operations of Cobb Mountain Water Company and therefore, in the absence of any indication that a transfer of the interests of the deceased Arthur, to his son, heir, and distributee, Vincent, would be inconsistent with the public interest, the transfer requested in this application should be granted.

4. There were no timely protests to this application, and there is no need for a public hearing regarding the transfer issues which result in settling the ownership and control of the Cobb Mountain Water Company in Vincent Bruce Anderson.

5. Vincent Bruce Anderson is placed on notice that only \$2,000 in original value of lands and \$9,563, the 1986 depreciated

original cost of the utility property devoted to public service, plus only the original costs of any additions or betterments since 1986 may be used for rate fixing determinations. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at anytime.

6. Cobb Mountain Water Company's tariff schedules for General Metered Service effective June 1, 1972, should continue, as presently in effect, under the new ownership of applicant, and need not be refiled since no change in the utility's name is contemplated under applicant's ownership.

O R D E R

IT IS ORDERED that:

1. The interests and operating authority formerly held by the deceased Arthur Lawrence Anderson in the Cobb Mountain Water Company are hereby transferred pursuant to PU Code § 851 to Vincent Bruce Anderson, son, heir, and distributee of the deceased Arthur, and present operator of the utility. This transfer is in the public interest, is consistent with the probate distribution of Arthur's estate, and leaves Vincent the sole owner of the certificate of public convenience and necessity which initially granted authority, by D.47885 in November 3, 1952, to establish and operate a public utility water system in the vicinity of Gordon Springs Subdivision in Lake County, California.

2. This authorization granted shall limit the finding of value as \$2,000 for lands and \$9,563 of depreciated rate base as earlier discussed herein, for rate fixing determinations of Cobb Mountain Water Company.

3. Cobb Mountain Water Company's tariff schedules including its General Metered Service rate schedule, effective June 1, 1972 will continue to be effective and need not be refiled, since no

change in the utility's name is contemplated under applicant's ownership.

4. Cobb Mountain Water Company's water utility identification number U-70-W shall continue to be included in the caption of all original filings with the Commission and in the titles of other pleadings filed in existing cases.

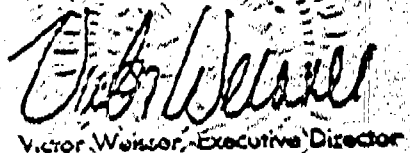
This order becomes effective 30 days from today.

Dated MAY 25 1988, 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 Weisler, Executive Director

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14. A public hearing is not necessary.

Conclusions of Law

1. The water services rendered by Cobb Mountain Water Company which were and continue to be provided for consideration to customers in or around Gordon Springs Subdivisions No. 1 and 2 in Lake County, California were public utility services which subject the utility to the continued jurisdiction, control and regulation of this Commission.

2. The transfer of the Cobb Mountain Water Company, sought herein is in the public interest and should be granted under PU Code § 851, due to death of the utility owner, Arthur Lawrence Anderson, and subsequent distribution of this property by the probate court in accordance with his last will.

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ORDER

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