

JUL 12 1988

Decision 88 07 026 JUL 8 1988**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint)
 Application of THOMAS H. PORTER)
 and PEGGY A. PORTER, husband and)
 wife, doing business as)
 "GRIZZLY PARK WATER COMPANY" and)
 GRIZZLY FLATS COMMUNITY SERVICES)
 DISTRICT, a public district for an)
 order authorizing THOMAS H. PORTER)
 and PEGGY A. PORTER to transfer)
 all of their property and rights)
 comprising GRIZZLY PARK WATER)
 COMPANY to said District (U-140-W).)

Application 88-03-062
 (Filed March 29, 1988)

OPINION

This is an application in which Thomas H. Porter and Peggy A. Porter (Porters) doing business as Grizzly Park Water Company (Company) seek authority to transfer their public utility water system to Grizzly Flats Community Service District (District).

Notice of filing of the application was served on all Company customers on May 27, 1988. The time to file comments or protests expired on June 16, 1988. There are no protests.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The Porters own and operate a public utility water system (Company) in a portion of El Dorado County, which operation was authorized by a certificate of public convenience and necessity granted in Decision (D.) 67748.

Company's system serves 268 residential customers in an area generally lying south and east of Placerville in El Dorado County. The primary source of water for the system is water

intercepted by Eagle Ditch, a 16,000-foot long open trench which carries water originating at Bendorf Springs (and other intercepting channels along the route of the ditch) to a 10-million gallon reservoir located at the head of the water system's distribution center. Water from the reservoir is conveyed in a closed pipe system to a filter and chlorinator and thence to a holding tank prior to entering the distribution system. The system includes three covered storage tanks with a total capacity of 400,000 gallons. Water service is provided at elevations of between 3,770 feet and 4,160 feet above sea level. Electrical centrifugal booster pumps discharge to hydropneumatic pressure tanks at the site of the storage tanks to maintain required delivery capacity and pressures in pressure zones.

Approximately one half of Porters' customers are charged at a flat rate and approximately one half are metered.

3. District is a community services district which was formed on October 27, 1987 by the Board of Supervisors of El Dorado County under applicable provisions of the California Community Services District Law. District was formed for the purpose of supplying inhabitants of the district with water for domestic, irrigation, sanitation, industrial, and recreational uses, and for fire protection. The geographic boundaries of District are larger than the service area boundaries of Company. All of Company's service area lies within the boundaries of District.

4. Company was created by the Porters to provide water service to lots in a number of residential subdivision units which they (directly and/or through their wholly owned California corporations, the Deerwood Corporation and Mountain Retreat Incorporated) were subdividing in the community of Grizzly Flats. Said residential subdivision units are commonly known as Grizzly Park. From 1966-1985, the Porters operated Company under rates that had been established by the Commission in 1966 by D.67748. In D.85-06-021 in Application (A.) 83-09-63 dated June 5, 1985, the

Commission authorized the Porters to substantially increase their rates for both metered and flat rate water service. On November 25, 1987, in D.87-11-057 in A.86-11-025, the Commission authorized the Porters to increase their rates, once again, to the following levels:

For Metered Service

<u>Service Charge</u>	<u>Per Meter Per Month</u>
For 3/4-Inch Meter	\$12.12
1-Inch Meter	16.53
1-1/2-Inch Meter	22.04
2-Inch Meter	29.75
3-Inch Meter	55.10
4-Inch Meter	74.93

Quantity Rates

All water per 100 cubic feet	\$2.83
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For Flat Rate Service

	<u>Per Month</u>
For a single-family residential unit including premises	\$26.30
For each additional single-family residential unit on the premises and service from the same service connection	\$13.15

5. Some of Company's customers decided to take steps to secure lower water rates. On May 4, 1987, the Porters wrote to the citizens committee whose members were working toward the creation of a local community services district in Grizzly Flats expressing their willingness to donate to a local community services district the properties and rights (including water rights) presently owned by them and used and useful in the operation of Company.

The offer to donate was made subject to a number of express conditions, including the following:

- "1) That (the District) will provide all domestic water service needed to all privately-owned properties in the Grizzly Park Water Company service area and to the 40 acre parcel therein which forms a part of the El Dorado National Forest;
- "2) That all public water service by the District within the boundaries of the Grizzly Park Water company service area will be furnished to all applicants requesting service therein (including the owners and/or occupants of all lots and parcels in said service area which may be currently unimproved) at reasonable and uniform rates and without discrimination among or between customers receiving the same grade of service; and
- "3) That the district will not charge hook-up charges and/or other special assessments to the owners and/or occupants of parcels within the subject service area as a condition to the initiation of water service to such properties."

On June 10, 1987, the Porters advised the citizens committee that their offer to donate the system was subject to two additional conditions:

"That the proposed Community Services District will adopt and expeditiously implement all recommendations and directives of the California Department of Health Services in so far as such recommendations and directives involve the installation and operation of a new pipeline in Eagle Ditch and construction of new water treatment equipment including, but not limited to, a coagulator, a flocculator, and associated filters; and

"That the District must employ Mr. Fred Strauss to manage the water system on the terms and conditions of the Employment Contract existing between Mr. Strauss and Mr. and Mrs. Porter. In that regard, the District must also secure the complete release of Mr. and Mrs. Porter

from all liability to employ Mr. Strauss as manager after the District takes title to the facilities."

The Porters agreed to also include in the transfer lot 155 in Grizzly Park Unit #4.

6. After the formation of District in October 1987, its board of directors agreed, by unanimous resolution, to meet each and all of the conditions upon which the Porters were willing to donate their water system to District.

7. In June 1982, the Porters filed an application with the California Department of Water Resources (DWR) for a loan under the Safe Drinking Water Bond Act of 1976 for the purpose of making improvements to their water system in accordance with directives from the California Department of Health Services (DHS). The project to be constructed to meet DHS requirements included the construction of a gravity flow transmission main from a point on Eagle Ditch below Berdorf Springs to the water company's main storage reservoir in Grizzly Park and installation of certain water treatment and filtering facilities. In D.87-11-057 in A.86-11-025, the Commission approved the request by the Porters to borrow \$340,000 for the project. Loan funds have not as yet been drawn by the Porters but the loan commitment from DWR is still operative. As a public agency, District may be able to qualify for governmental funding of the project from governmental agencies (including DWR) not otherwise available to the Porters as private owners. District's board of directors believes that the total cost of the project required to meet all directives of DHS may be less than that heretofore estimated by the Porters. That is because a public agency may be able to qualify for governmental loans at lower interest rates than are available to private sector borrowers and by reason of the further fact that certain customers of Company and the owners of property within the boundaries District have

offered to volunteer their labor to District in order to construct said project.

The Porters have received a letter from DWR expressing its willingness to transfer the loan commitment to District to the extent that District may require financial assistance from DWR under the Safe Drinking Water Bond Act of 1976.

8. On April 22, 1987, District filed an application with the DWR for a loan under the Water Conservation and Water Quality Bond Law of 1986. The loan was requested for the purpose of making improvements in accordance with directives from DHS to the water system upon its transfer to District. On December 1, 1987, District was informed by the DWR that its application had been forwarded to the Economic Review Section of the DWR and that a formal response to its application would be issued within two months. DWR further stated that the application was being viewed favorably and that the loan should be "fundable" in time for a project commencement date of on or about May 1, 1988.

9. On August 4, 1986, the Porters signed an agreement to employ Mr. Fred Strauss (Strauss) as general manager of Company for three years. Strauss has been a licensed engineer in California for over 35 years. He originally designed Company's water system for the Porters and has acted as an engineering consultant to them for the operation of the system since its inception. Strauss possesses expertise and knowledge of the layout and operation of Company's water system which are of considerable value to anyone operating said system. District has agreed to continue to employ Strauss to manage the water system subject to the terms and conditions of the existing employment agreement between the Porters and Strauss.

10. D.85-06-021 dated June 5, 1985, the Commission directed that, commencing 90 days thereafter, the Porters should refund on a monthly basis over an ensuing three-year period certain initial service connection fees they had charged a number of customers

between 1978 and 1983. The Porters have been complying with the directions for such refunds. To date, all refunds on account of the service connection charges have been refunded to the appropriate customers; except that no refunds have been made to former customers who could not be found after diligent search.

11. There are no outstanding amounts due and/or owing from the Porters to anyone on account of Advances-in-aid-of-Construction.

12. A number of customers of Company have made deposits with the Porters as security for payment of their water bills. As of December 1, 1987, these deposits totalled approximately \$1,200. The Porters will refund all of said deposits to the appropriate persons prior to transfer of their water system to District. If any persons entitled to such refunds cannot be located by the Porters by the time they donate their water system to District, the deposits made by such persons will be transferred by the Porters to District and District will refund these deposits if and when the persons properly entitled to receive the same have been identified and located.

13. The Porters and District acknowledge that Public Utilities Code (PU Code) Section 431 authorizes the Commission to annually determine a fee to be paid to the Commission by each water public utility that provides water service directly to customers and that the Commission has set the fee for 1987 and 1988 for each such utility at 1.5% of all collected water sales. The Porters propose to close their books as soon after the donation of their water system to District as possible. They further intend to remit to the Commission the fee prescribed by PU Code § 431 based upon collections and accounts of all water sales by them between January 1, 1987 and the date of transfer of the water system to District. These payments will be made as soon as practicable following completion of transfer of the water system.

14. The charges for water service which District proposes to put into effect following its acquisition of Company are less than the charges currently authorized by the Commission. The Directors of District have expressly agreed to furnish water service to all present customers of Company and to all owners and/or occupants of any lots and/or parcels within the service area of Company without discrimination among or between such persons. The Directors have further agreed not to charge hookup fees and/or other special assessments to owners and/or occupants of any lots and/or parcels within the service area of Company as a condition to the initiation of water service to such properties. The Directors have also agreed to pursue all steps required to meet the aforementioned directives of DHS so as to ensure an adequate and reliable supply of potable water to the public.

15. The proposed transfer of Company by the Porters to District is not adverse to the public interest.

16. Because the public interest would best be served by having the transfer take place expeditiously, the ensuing order should be made effective on the date of issuance.

Conclusion of Law

The application should be granted as hereafter provided.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, Thomas H. Porter and Peggy A. Porter (Porters) may transfer their public utility water system known as Grizzly Park Water Company (Company) to Grizzly Flats Community Service District (District) in accordance with the terms set forth in the application.

2. Within 30 days of the sale and transfer hereby authorized, the Porters shall notify the Commission in writing of that fact.

3. Within 30 days of the sale and transfer of the assets of Company to District, District shall notify the Commission in writing of that fact and within such period shall file with the Commission a true copy of each instrument by which such transaction has been accomplished.

4. The foregoing authority is conditioned upon District's assuming liability for all unrefunded customer deposits held by Company. District shall provide the Commission with satisfactory proof of such assumptions within 30 days of the acquisition.

5. Upon compliance with all of the conditions of this order, including the payment of the fee provided in PU Code § 411 for years 1987 and 1988, and such other period as may occur until the sale and transfer are consummated, the Porters shall stand relieved of their public utility obligations and may discontinue service concurrent with the commencement of service by District as contemplated in the agreement between the parties.

6. The authority granted in Ordering Paragraph 1 shall expire on June 30, 1989 if it has not been exercised by that date. This order is effective today.

Dated JUL 8 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did not
participate.

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

Victor Weiss
Victor Weiss, Executive Director