

Decision 88 11 015

NOV 9 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Donna M. Lewis, doing)
 business as Pierpoint Springs)
 Resort Water Co., to sell and)
 Michael J. Cahill and Ben M. Ray,)
 Michelle M. Ray to buy the water)
 system in Tulare County.)

Application 88-04-059
 (Filed April 22, 1988)

ORIGINAL

OPINION

This is an application in which Donna M. Lewis, Executrix of the Estate of John F. Lewis (executrix), seeks authority to sell the public utility water system known as Pierpoint Springs Water Co. (utility) to Michael J. Cahill (Cahill), Ben M. Ray (B. Ray) and Michelle M. Ray (M. Ray). The purchasers are sometimes collectively referred to as buyers.

Notice of the filing of the application was mailed to each of utility's customers on May 19, 1988. On June 2, 1988, the Commission's Water Utility Branch (Branch) held a public meeting with utility's customers at the Camp Nelson Fire Station. There are no protests. Branch recently prepared a report on the application which was served on all parties. It is designated as Exhibit 1.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The authority to construct and operate utility was granted to John F. Lewis now deceased and Elizabeth Lewis, his then wife, in Decision 60371 in Application 42004, dated July 5, 1960. On February 6, 1980, Ben M. and Lorna M. Ray, husband and wife as joint tenants, and Michael J. and Linda M. Cahill, husband and wife

as joint tenants purported to acquire utility. Subsequently, both marriages were dissolved and the men compensated their former wives by agreement compensated for their part ownership of utility. Afterwards, Ben M. Ray married Michelle.

3. Utility is located in the Pierpoint Springs Resort Subdivision which is about 33 miles east of the City of Porterville and approximately one mile southwest of Camp Nelson, a summer resort in Tulare County. It has 76 customers of which only 17 customers are full-time residents. Most of the full-time residents are retired people.

4. Utility's water source consists of one well located within the service area. The well is approximately 120 feet deep with a standing water level of about 80 feet. A 5-HP submersible pump delivers approximately 37 g.p.m. directly into an 18,000-gallon galvanized steel tank (Old Upper) and a 22,000 gallon coated steel tank (New Upper) simultaneously, then the water is fed into a 17,000-gallon steel tank (Old Lower) through transmission and distribution main. The filling of the tanks is controlled by automatic sensing devices. Each tank is interconnected to the distribution mains.

In addition to the one existing well, utility has four artesian springs at its disposal within its service area with the following estimated capacities:

Pierpoint Springs	60 g.p.m.
Original Source of Supply Spring	25 g.p.m.
Cedar Lane Springs	35 g.p.m.
Cedar Creek Springs	<u>40 g.p.m.</u>
Total Capacity	160 g.p.m.

None of the above springs has the appropriate devices for water extraction to feed the system.

The system's water pressure varies between 36 p.s.i.g. and 90 p.s.i.g. There are three pressure regulators. The existing water pipelines consist of 400 feet of 4-inch plastic mains, 7,865 feet of 2-1/2-inch to 3-1/2-inch cement-asbestos mains, and

425 feet of 2-inch and under plastic lines - a total of 8,690 feet of mains and distribution lines. The service lines consist of 3/4-inch and 1-inch pipelines. There are 18 public fire hydrants located in the service area.

5. The parties have entered into an agreement in which executrix agrees to sell utility to buyers for \$15,000, which is to be secured by a note and deed of trust payable over 15 years with interest at 9% per annum. Executrix is a retired person who wishes to move from the area and have nothing to do with managing a water system.

6. When buyers took defacto possession of the system, the original cost less depreciation of utility's plant was \$12,430.

7. Since the purported agreement, buyers have managed and operated the water system for about eight years. In 1985, they spent \$8,387 for the installation of an additional water tank in compliance with the local fire department fire-flow requirements. B. Ray is a contractor by profession and also a volunteer assistant fire chief. Cahill is an established real estate broker in Pierpoint, known as a resort area. Both men are willing to learn more about public utility operations, and have done a reasonable job in running the water system. The buyers' financial statements as of January 1, 1988, show that Cahill and B. Ray have estimated net worths of about \$725,500 and \$572,850, respectively, consisting of real estate, money certificates, annual incomes, and others.

8. Buyers have the ability, including financial ability to acquire and continue to operate utility.

9. The proposed sale and transfer of utility from executrix to buyers would not be adverse to the public interest.

10. The issuance of a promissory note as a part of the purchase transaction requires a certificate by the Commission, pursuant to PU Code § 816 et seq. and the payment of fees pursuant to PU Code § 1904(b).

11. The proposed security issue is for lawful purposes and the money, property, or labor to be obtained by it are required for these purposes. Proceeds from the security issue may not be charged to operating expenses or income.

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

Conclusions of Law

1. The application should be granted.
2. Buyers should be authorized to issue a promissory note for \$15,000.

This authorization is not a finding of the value of the rights and properties to be transferred.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, Donna M. Lewis, Executrix of the Estate of John F. Lewis (seller), may transfer the water system and other assets designated in the application to Michael J. Cahill, Ben M. Ray and Michelle M. Ray (buyers) in accordance with the terms set forth in the application.
2. As a condition of this grant of authority, buyers shall assume the public utility obligations of seller, shall assume liability for refunds of all existing customer deposits, and shall notify the affected customers.
3. Within 10 days after transfer, buyers shall write the Commission, stating the date of transfer and the date the requirements of paragraph 2 were completed.
4. Buyers shall either file a statement adopting seller's tariffs or refile those tariffs under their own name as prescribed in General Order Series 96. Rates shall not be increased unless authorized by this Commission.

5. Before the transfer occurs, seller shall deliver to buyer, and buyer shall keep, all records of the construction and operation of the water system.

6. Within 90 days after actual transfer, buyers shall file, in proper form, annual report on seller's operations from the first day of the current year through date of transfer.

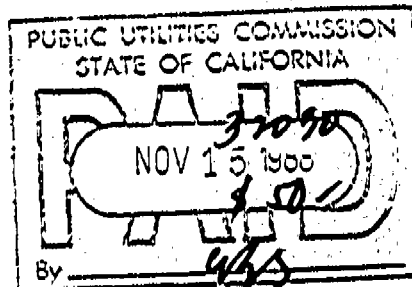
7. When this order has been complied with, the Estate of John F. Lewis shall have no further obligations in connection with this water system.

8. The authority granted by this order shall expire on December 31, 1989, if it has not been exercised by that date.

9. The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer pays \$50, set by PU Code § 1904(b).

In all other respects, this order is effective today.
Dated NOV 9 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 Weisser
Victor Weisser, Executive Director