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FEB 8 1989

Decision 89-02-004 February 8, 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of G. Perry Manley,)
doing business as Argonaut Heights)
Sewer Co., as grantor and the City)
of Jackson, as grantee/receiver of)
the sewer system in Amador County.)

ORIGINAL
Application 88-08-057
(Filed August 25, 1988)

O P I N I O N

This is an application in which G. Perry Manley (Manley), doing business as Argonaut Heights Sewer Co. (System), seeks authority to donate System to the City of Jackson (City).

The Commission makes the following findings and conclusions.

Findings of Fact

1. Manley operates a sewer system as defined in Public Utilities § 230.5 subject to the jurisdiction of the Commission. System serves 71 customers. System consisted of approximately 5,950 l.f. of collection system mains, a 50,000 GPD package plant with aeration and settling ponds, constructed in 1959 on a 1-1/4 acre parcel. The plant has been removed and System connected to the existing City plant and sewer system.

2. City is a general law city which operates a municipal sewer system.

3. In May, 1985, the parties entered into an agreement not to extend beyond two years under which System would be connected to City's sewer system and Manley would operate System in accordance with the terms of the agreement. About the same time, Manley executed a grant deed purporting to convey the system to City. When the agreement expired in May, 1987, City took over de facto operations of System. City has been charging System's customers the rates established by the Commission.

4. Manley desires to dispose of System because he does not want to be in the sewer business. City wants to acquire System so it can provide a municipal service consistent with its ordinances and requirements.

5. Notice of the filing of the application appeared in the Commission's Daily Calendar on August 30, 1988. System's customers have been aware that City has been operating it since May, 1987.

6. A public hearing is not necessary in this matter.

7. City has the ability, including financial ability, to acquire System and continue service to System's customers.

8. System holds no customer deposits to establish credit.

9. Sections 851 and 853 of the Public Utilities Code provide in part as follows:

"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, nor by any means whatsoever, directly or indirectly, merge or consolidate its...line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, 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. . . ."

"853. . . . "(b) The Commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from this article if it finds that the application thereof with respect to the public utility or class of public utility is not necessary in the public interest. The commission may establish rules or impose requirements deemed necessary to protect the interest of the customers or subscribers of the public utility or class of public utility

exempted under this subdivision. These rules or requirements may include, but are not limited to, notification of a proposed sale or transfer of assets or stock and provision for refunds or credits to customers or subscribers."

10. Under the particular facts in this proceeding, it is reasonable to exempt the transactions between Manley and City from the provisions of Public Utilities Code § 851 and approve the transfer of System to City.

11. Because the public interest would best be served by having the transfer of System ratified expeditiously, the ensuing order should be made effective on the date of issuance.

Conclusions of Law

1. The grant deed from Manley to City which transferred System to City, should be exempted from the provisions of Public Utilities Code § 851.

2. The application should be granted.

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

ORDER

IT IS ORDERED that:

1. The "Grant Deed with Declaration of Covenants for Land and Sewer Facilities" executed by G. Perry Manley (Manley) as grantor to the City of Jackson (City) as grantee on April 22, 1985 and recorded in the Office of the County Recorder of Amador County on May 2, 1985 is exempt from the provisions of § 851 of the Public Utilities Code.

2. City is authorized to continue ownership, operation and control of the public utility sewer system formerly owned by Manley, known as the Argonaut Heights Sewer Co., in accordance with the terms set forth in the application.

3. Manley is relieved of his public utility obligations with respect to the sewer system acquired by City.

This order is effective today.

Dated FEB 8 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DODA
STANLEY W. HULETT
JOHN B. OCHANIAN
Commissioners

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


Victor Weisser, Executive Director

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