

Decision 89 04 079

APR 26 1989

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Southern California Water Company )  
for Authority pursuant to Public )  
Utilities Code Section 851 to Sell )  
and, if necessary, Lease Back its )  
Headquarters Property in Los Angeles, )  
California. (U-133-M) )

APR 27 1989

Application 88-12-020  
(Filed December 7, 1988)INTERIM OPINIONSummary of Decision

This decision authorizes Southern California Water Company (SoCalWater) to sell and lease back its headquarters property in Los Angeles. The authorization does not constitute a finding that the sale or eventual terms of sale are reasonable, and all ratemaking consequences flowing from such sale, leaseback, and associated activities, including gain from sale, will be considered in the next phase of the proceeding.

Background

On December 7, 1988, SoCalWater filed Application (A.) 88-12-020 seeking authority, under Public Utilities (PU) Code § 851, to sell and lease back for a limited time its headquarters property in the mid-Wilshire area of Los Angeles, California.

SoCalWater plans to construct a new headquarters facility at the site of its present Production Department in San Dimas, California, after relocating that Production Department facility to land it owns approximately one mile from the existing site.

Since SoCalWater's new headquarters will not be available for some time, SoCalWater plans to lease back its present headquarters from the purchaser until its new headquarters is available for occupancy. SoCalWater expects to occupy its new headquarters in early 1990.

SoCalWater has reached an agreement to sell its headquarters property. SoCalWater would like to complete the sale of the property before the end of April 1989.

Description of the Property

SoCalWater's headquarters at 3625 West Sixth Street, Los Angeles, is located on a parcel of land approximately 33,750 square feet which it presently owns.

On the 33,750-square foot parcel that SoCalWater owns, it also owns a two-story building (built in 1956) of approximately 26,280 square feet and a paved parking area.

A map of the property is attached to the application as Exhibit A.

The original cost and current book cost of the land is \$288,800. The cost of the land has not been depreciated. The original cost of the improvements on the land is \$969,256, and their depreciated book value at the time of filing of the application was approximately \$629,116. The sale price of the property will exceed the book value of the land and all improvements.

Reasons for Sale of SoCalWater's Headquarters

Two principal reasons have led SoCalWater to consider relocation of its headquarters.

First, the age and condition of the present headquarters building and mechanical equipment cause SoCalWater to incur constantly increasing costs to operate and repair them, creating inconvenience and inefficiency. In addition, were SoCalWater to continue on a long-term basis to occupy the building, it will incur substantial expenditures for electrical and plumbing improvements,

earthquake safety, asbestos abatement, and adequate parking facilities. Structural limitations make rehabilitation of the headquarters facility impractical and prevent the use of modern open-space office layout concepts. SoCalWater has determined that relocation to a new, efficient headquarters will solve all of the above problems.

Second, the location of the present headquarters has become increasingly undesirable because of a high crime rate, traffic congestion, and inadequate parking facilities. According to SoCalWater, these conditions inhibit its ability to attract and retain qualified professional employees. SoCalWater believes that moving the headquarters facility to the San Dimas location will help minimize environmental concerns caused by traffic congestion, improve employee morale, and also enable it to wind up with new and modern production facility.

SoCalWater's Request

SoCalWater seeks a bifurcated consideration of its proposal. In the first phase, it asks expedited ex parte authorization to sell the headquarters property on whatever terms of a sales agreement SoCalWater obtains, accepting in advance that thereby there will be no inference or finding that the Commission determines that the eventual sales terms were reasonable. It asks this treatment of the first phase because it expects to close a sale in the immediate future. It is concerned that no prospective purchaser will hold open an offer pending the time that would be required in the normal course for Commission review and approval of a prospective sale.

SoCalWater asks that the Commission hold for consideration in a second phase the ratemaking aspects and consequences of the sale which would cover everything from the reasonableness of the sale, and the construction of the company's new headquarters, to treatment of the gain on sale of the company's present headquarters building.

SoCalWater believes that it would be better if the second phase is deferred until after it has finished construction of its new headquarters building and has occupied that building.

Prehearing Conference

A prehearing conference was held before Administrative Law Judge Garde on March 30, 1989.

At the prehearing conference, SoCalWater reiterated its request to bifurcate the proceeding and requested a swift ex parte authorization to sell its headquarters.

The Water Utilities Branch (Branch) of the Commission Advisory and Compliance Division expressed concern regarding granting SoCalWater a conditional ex parte approval to sell its headquarters. Branch's main concern is about the treatment of gain on the sale of the property. Therefore, Branch recommended that SoCalWater amend its application to propose that any gain on sale be used to offset the replacement cost.

Discussion

This application has been filed pursuant to the requirements of PU Code § 851 which provides that no public utility other than a common carrier by railroad may sell the whole or any part of its system or property useful in the performance of its public duties without first having obtained authorization to do so from this Commission. SoCalWater's application complies with the requirements of the Commission's Rules of Practice and Procedure except that temporary waiver of Rules 35(d) and 36(b) is requested until after close of a sale.<sup>1</sup>

As SoCalWater concedes, the proposal lacks much of the pertinent information normally included in such applications, and questions must remain open for subsequent resolution. For example,

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<sup>1</sup> Rule 35(d) requires inclusion in the application of the agreed purchase price and the terms for payment. Rule 36(b) requires that a copy of the contract for sale be an exhibit to the application.

we do not know if the lease obligation on the old building pending relocation would be greater or less than the revenue requirement for the old building. Nor is there any assurance that the new location will be cost-effective.

In the interest of allowing SoCalWater unfettered discretion in today's volatile real estate market to obtain the most advantageous sale possible, we will ex parte authorize it to proceed, but with the clear understanding that there will be no rate increases due to or ascribable to the sale and/or lease-back arrangements until our review of the ratemaking impact of the sale in Phase II of this proceeding. In the interim, SoCalWater will be required to maintain memorandum accounts to track the ownership cost revenues of the headquarters (return, depreciation, operating costs, and taxes), and excess revenues collected will be subject to refund. If there is an undercollection, SoCalWater will be at risk.

Phase II of the present proceeding should begin after SoCalWater has completed the sale, entered upon the leaseback, and has constructed and occupied its new headquarters facility. In Phase II, SoCalWater must demonstrate the reasonableness of the sale, the cost effectiveness of leaseback of the current headquarters, and justify the construction cost of its new headquarters facility. In Phase II, the Commission will also consider the ratemaking treatment of the gain on sale. Our approval of a sale under these circumstances does not constitute a finding that the sale or eventual sales terms are reasonable.

Finally, we appreciate Branch's concern regarding the treatment of gain on sale of SoCalWater's headquarters. Therefore, we emphasize that the authorization to sell SoCalWater's headquarters does not assume the reasonableness of the transaction and that SoCalWater would bear the risk associated with the treatment of gain on sale of the property.

Findings of Fact

1. SoCalWater's present headquarters facility in Los Angeles is old, inefficient and in need of expensive repairs.

2. SoCalWater proposes to sell its present headquarters facility and construct a new headquarters facility on land it owns in San Dimas, California.

3. SoCalWater's new headquarters facility will not be ready for occupancy until early 1990.

4. SoCalWater proposes to lease back from the purchaser its present headquarters until its new headquarters is ready for occupancy.

5. On December 7, 1988, SoCalWater filed A.88-12-020 requesting authorization to sell and lease back its headquarters in Los Angeles.

6. SoCalWater has reached an agreement to sell its headquarters property.

7. In order to expedite the sale, SoCalWater proposes to bifurcate the proceeding.

8. In the first phase of the proceeding SoCalWater seeks Commission approval to consummate the sales agreement at its sole discretion, leaving for subsequent Commission consideration in the second phase of the proceeding, justification for its actions and ratemaking implications of the sale including the treatment of the gain on sale of the property.

9. Branch recommends that the application be amended to propose that any gain on sale be used to offset the replacement cost of SoCalWater's headquarters facility.

10. Branch's concern regarding the treatment of gain on sale of SoCalWater headquarters will be addressed in the second phase of the proceeding.

11. Under the circumstances set forth in this opinion, the Commission's approval in advance of a sale does not constitute any finding that the sale or eventual sale terms were reasonable.

Conclusions of Law

1. SoCalWater should be authorized to sell its headquarters in Los Angeles.
2. All ratemaking consequences flowing from the sale, leaseback, and associated activities, including gain on sale, should be considered in the Phase II supplemental application SoCalWater will be required to make.
3. Ratepayers will not be harmed under these circumstances by granting SoCalWater expedited approval to sell.
4. This order should be made effective immediately so that SoCalWater will be able to act expeditiously to consummate a sales agreement.

INTERIM ORDER

IT IS ORDERED that:

1. Southern California Water Company's (SoCalWater) application for ex parte Commission authority pursuant to PU Code § 851 to sell and lease back its headquarters property in Los Angeles is granted.
2. This approval does not constitute a finding that the sale or eventual sale terms were reasonable, and all ratemaking consequences flowing from such sale, leaseback, and associated activities, including gain from sale, shall be considered in a Phase II supplemental application which SoCalWater shall file within 6 months after it has constructed and occupied its new headquarters.
3. SoCalWater shall maintain memorandum accounts to track the ownership cost revenues collected and the actual costs incurred with regard to the leaseback, with excesses subject to refunding, or SoCalWater at risk for undercollections.
4. SoCalWater shall bear the risk of demonstrating the reasonableness of the sale and cost effectiveness of the leaseback

in the Phase II supplemental application. SoCalWater must justify the cost of its new headquarters facility before the Commission will allow the costs for this facility to be recovered through rates.

5. Within 10 days after transfer of title to the property, SoCalWater shall write the Commission stating the date of transfer of title. A copy of the sale and lease-back agreement shall be attached.

6. The authority in this order shall expire on October 31, 1989 unless it is exercised before that date.

This order is effective today.

Dated APR 26 1989, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
Commissioners

Commissioner Patricia M. Eckert  
present but not participating.

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

*Victor Weisler*  
Victor Weisler, Executive Director  
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