

Decision 90 07 036 JUL 18 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DEL ORO WATER CO., INC., a California)
 Corporation, (U-61-W), for a)
 certificate of public convenience)
 and necessity authorizing the)
 extension of its service area in)
 order to furnish water service to a)
 certain portion of Butte County,)
 California, and for orders)
 authorizing it to establish rate and)
 charges for water service within such)
 extended service area, and to assume)
 certain long-term obligations of a)
 community services district.)

Application 89-06-021
(Filed June 14, 1989)

William G. Fleckles, Attorney at Law, for
 Del Oro Water Company, applicant.
Arthur B. Jarrett, for the Division of
 Ratepayer Advocates, Water Utilities
 Branch.

O P I N I O N

Del Oro Water Company, Inc. (Del Oro/applicant), a California public water utility which presently serves customers in Butte County, requests authority to extend water service to a non-contiguous area of 313 customers which is presently served by the Lime Saddle Community Services District (Lime Saddle). Applicant proposes to purchase the system under the terms and conditions of a Purchase Agreement, attached to its application as Exhibit C. The Purchase Agreement requires an assignment to applicant of Lime Saddle's existing rights to sources of water from Oroville Dam. The Purchase Agreement provides and applicant requests authority to assume a long-term debt owed to the Department of Water Resources obtained under the Davis Grunsky Act

for Lime Saddle system improvements. Applicant proposes a rate base of \$218,098 as of June 30, 1989, based on the net cost of acquisition. The analysis assumes applicant will take over \$338,098 in liabilities and acquire cash and receivables of \$120,000. The balance (\$338,098 - \$120,000) is the \$218,098 rate base. Applicant proposes to establish the same rates in Lime Saddle that are presently assessed. Even with the lower rate base proposed by applicant, the existing rates will not produce a rate of return exceeding applicant's last authorized rate of return.

Applicant provided bill insert notice of the application to the customers of both companies involved and notice of the application appeared on the Commission's Daily Calendar on June 19, 1989. Subsequently, the Commission received numerous letters of protest, most of which were from Del Oro customers, and requests for hearing in applicant's service territory.

Public participation hearings and evidentiary hearings were held in Magalia, California, on January 29 and 30, 1990. Applicant, a director of Lime Saddle, the Water Utilities Branch (Branch), and the public participated in these hearings.

At the public participation hearings, numerous customers who initially opposed the extension withdrew their opposition once the application was fully explained. Initially, customers feared that the service extension would further reduce the tenuous water supply to applicant's service territory and rates would be increased. Del Oro presently restricts water usage during certain hours of the day. Applicant explained that Lime Saddle has its own source of supply and that a rate increase in Lime Saddle rates will not be requested for at least two years. John Malone, past president of Lime Saddle, explained that Lime Saddle's past administrative problems and high costs which caused high rates were now resolved due to the help of Del Oro management. Although no longer opposing the application, several customers requested that

applicant be prohibited from physically connecting the two service territories at any time in the future, presumably to assure no reduction in Del Oro's water supply.

At the evidentiary hearings applicant's president, Robert Fortino, explained the proposed transaction and in doing so addressed the specific customer concerns. Branch's witness, James Greig, does not oppose the application. Branch estimates the rate base described below. Applicant does not dispute these calculations.

After the hearings, one customer pursued by letters to the assigned Administrative Law Judge the issue of whether the system could be sold for \$1.

Discussion

Fortino reiterated the background of Lime Saddle, explained the previous day during the public participation hearing by its past president, Malone. Del Oro has resolved the management problems which caused cost overruns and high rates. Lime Saddle's board of directors approves the transfer because they no longer desire to operate Lime Saddle. Malone knows of no impropriety or unlawfulness of the transaction. Neither do we find that the purchase price violates the public interest under the circumstances of unwilling operators and a willing, qualified buyer.

Del Oro is located in an area where water supplies are tenuous. The Lime Saddle system has its own sources of water supply which are independent of the Del Oro system. These sources consist of five wells within the Lime Saddle service area and purchased water from Stirling Bluffs Corporation, a Del Oro subsidiary. Lime Saddle also has rights to 200 acre-feet of water per year from the Oroville Dam complex. Lime Saddle has an agreement with the County of Butte, which has a water supply contract with the State of California Department of Water Resources. In the purchase agreement executed by buyer and seller, Lime Saddle assigns to Del Oro its right to purchase water from

Butte County for the next 50 years. (Application-Exhibit C.) Butte County has 50 years remaining in its contract with the state to purchase water from the state water project at Oroville Dam. Butte's contract with the state warrants the availability of 27,500 acre-feet of water per year for the next 50 years. Butte's contract with Lime Saddle warrants the availability of 200 acre-feet of water per year for the next 50 years. In the state/county contract, Lime Saddle has the right to purchase additional uncontracted for water and in the case of water shortages due to drought, all purchasers are treated equally. Because Lime Saddle has its own water supply independent of the Del Oro system, and because it will convey reasonably secured water rights from Oroville Dam as additional supply to its service territory, there will be no adverse effects on the water supply of Del Oro customers.

Lime Saddle's board of directors approves the purchase price of \$1. We have no jurisdiction to overturn this decision. Our jurisdiction under the circumstances is whether this purchase price is adverse to the public interest because it is so low. We do not believe this is the case. From the record in this proceeding we find that Lime Saddle does not desire to continue to operate this system. Although the management problems are resolved, this area has potential supply problems. Lime Saddle is presently under a Department of Health moratorium on new growth. Lime Saddle desires Del Oro to purchase the company because they are experienced in resolving water problems in this area and generally experienced in providing water service. We agree that it is in the best interest of all customers that Lime Saddle be operated by Del Oro. Generally, a selling price of \$1 indicates a strong desire to sell because certain adverse conditions exist, such as significant improvements being needed. However, in this case significant improvements have already been made leaving a Safe Drinking Water Bond Act debt of \$235,000 and other

liabilities for a total of \$338,098, which is an adverse condition for a buyer. Therefore, we cannot find that the selling price is unreasonable and adverse to the public interest.

Once it was clarified that rates would not increase, this basis for protest was withdrawn by complaining customers. However, these customers requested that applicant be prohibited from physically interconnecting these systems in the future. We find no justification for such an order since Fortino testified that such a connection is not economically feasible and is not planned. In addition, because Lime Saddle is not contiguous with Del Oro, Del Oro requests that Lime Saddle be established as a separate district. We agree that this is appropriate. Separate districts are not interconnected and generally have different rates. Prior to an interconnection, a utility would be likely to file an application to change the rates in one district. A change in rates must be justified, meaning the utility would have the burden of proving that an interconnection is reasonable. We believe these procedures are sufficient to protect the customers' interest.

We find applicant's requests to be reasonable.

The Proposed Decision of ALJ Bennett was mailed on June 14, 1990. No comments were filed.

Findings of Fact

1. Applicant requests approval to extend its service territory to Lime Saddle, a non-contiguous service territory near its existing service territory. Applicant also requests approval to incur Lime Saddle's existing debt for system improvements which has a balance due of \$235,000 and other liabilities for a total of \$338,098. Applicant proposes to adopt a rate base of \$218,098 which reflects the \$338,098 acquired debt less \$120,000 in cash and receivable also acquired at time of transfer. Applicant proposes to establish the rates which presently exist in Lime Saddle. Even with the lower rate base, the existing rates will not produce a rate of return exceeding applicant's last authorized rate of return.

2. Applicant and Lime Saddle have executed a purchase agreement, subject to Commission approval, which establishes the purchase price as \$1, assigns all Lime Saddle water rights to applicant and transfers all debt obligations to Del Oro.

3. Applicant presently operates a water system which is in good condition and has satisfactory service. Under a management agreement, applicant has operated Lime Saddle since 1988. Therefore, applicant has the technical ability to operate Lime Saddle.

4. Applicant has the financial ability to purchase the system and assume the debt obligation since it is solvent and generating a profit. Assumption of the debt results in an increase in applicant's total debt from 18% to 27%, a reasonable level of debt.

5. The transaction presents no financial hardship to customers since the applicant agrees to charge the existing rates in the acquired service territory. Neither will there be a disruption of service since applicant has successfully managed the system for the past year.

6. Branch recommends that the application be approved. Branch estimates the following rate base for Lime Saddle and requests that applicant establish these amounts in separate books and records for Lime Saddle:

<u>Account</u>	<u>Original Cost</u>
Land	\$ 46,124
Source of Supply	154,857
Pumping Plant	55,355
Trans. & Distr.	391,315
General Plant	25,290
Office Equipment	<u>5,406</u>
Total	\$678,347
Less:	
Accum. Depr.	\$ 91,365
Acquisition Adjust.	<u>368,884</u>
Rate Base	\$218,098

7. Branch recommends that the acquisition adjustment accounting entry be adjusted over the life of the plant to reflect the depreciation of the plant over its useful life. This can be accomplished by reducing the acquisition adjustment entry by the current Lime Saddle depreciation rate of 2.71% or \$9,997 per year.

8. It is in the public interest that this application be approved expeditiously. ✓

Conclusion of Law

The proposed extension of service and assumption of debt should be granted.

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

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order Del Oro Water Company, Inc. (Del Oro/applicant) may extend its service territory to Lime Saddle, a non-contiguous area, under the substantial terms of the Purchase Agreement attached to the application as Exhibit C.

2. As a condition of this grant of authority, Del Oro shall assume liability for refunds of any existing Lime Saddle customer deposits and main extension agreements existing on the date of transfer and shall notify the affected customers.

3. Within 10 days after the transfer, Del Oro shall write the Commission, stating the date of transfer and the date the requirements of paragraph 2 were completed.

4. Del Oro shall either file a statement adopting Lime Saddle tariffs or refile those tariffs under its own name as prescribed in General Order Series 96. Rates shall not be increased unless authorized by this Commission.

5. Del Oro shall establish separate books and records for the acquired property based upon the calculations in Findings 6 and 7, above.

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

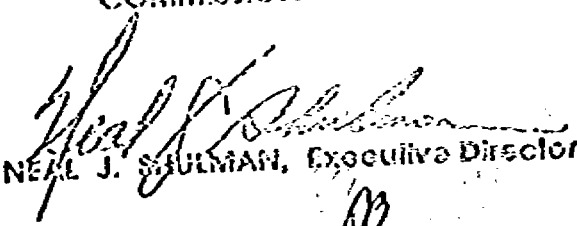
7. Del Oro shall use its existing corporate identification number U-61-W in connection with the property acquired in this proceeding. The number shall appear in the caption of all original pleadings and in the title of pleadings filed in existing cases with this Commission. ✓

This order is effective today. ✓

Dated JUL 18 1990, at San Francisco, California.

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

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


NEAL J. STULMAN, Executive Director
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