

Decision 90 09 018 SEP 12 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Roy W. Cawthray,
doing business as Buhl Water Co.,
Nish Water Co. and EPTCO Water Co.
to sell and transfer to Brad &
Pamala Ralston to buy the water
system in Tulare County.

Application 89-08-013
(Filed August 17, 1989)

ORIGINAL

O P I N I O N

Roy W. Cawthray (seller) seeks authority to sell, and Brad and Pamela Ralston (buyers) seek authority to purchase the Buhl, Nish and EPTCO-Visalia water systems, located near Visalia. The systems serve a total of 207 customers.

Mr. Ralston has been working for the water companies for six months prior to filing.

For the Buhl system, the net book cost is \$21,913, with a sale price of \$80,000. For the Nish system, the net book cost is \$67,861 and the proposed sale price was \$140,000. For the EPTCO system, net book cost is \$17,037 with a sale price of \$70,000. ✓

On March 12, 1990, the Water Utilities staff (Branch) mailed its report to all interested parties. In the report, Branch recommended that the application be denied, and that the parties revise the contract of sale for the three systems by lowering the sales price to an amount not exceeding the net book value of the three systems and making the terms of financing less burdensome for the buyers.

On April 11, 1990, the Branch met with both Roy Cawthray and Brad Ralston (buyer), to discuss a revision of the contract of sale of the three systems. Cawthray agreed to amend the original sales agreement as follows:

Total sales price of \$105,000 under the following terms:

Down payment \$ 25,000

Note, secured by a deed of trust, in
favor of seller in the amount of 52,500

Unsecured note in favor of seller
in the amount of 27,500

On May 31, 1990, the Branch received new escrow instructions reflecting such an amendment to the original sales agreement.

The amended sales price and terms of financing are acceptable to the Branch since the sales price is very close to the estimated rate base of \$104,732 in 1990 and the secured debt for the utility will not exceed 50% of rate base. In addition, the buyers should be able to make the payments on the purchase money debt (including unsecured debt) without compromising their ability to make expenditures on behalf of utility service. In view of this, the Branch on June 18, 1990 recommended ex parte approval of the transfer application.

Discussion

Purchase Price

The Commission's Water Sales Policy (Resolution W-3285) criticizes sales of water utilities at prices greatly in excess of net book value; the Resolution notes that such sales often produce an adverse result for consumers. Frequently, when new owners realize that they cannot obtain a fair profit on the excess investment, they allow service to deteriorate.

As reformed, the contract of sale for these systems now conforms to Commission policy. No reason appears not to approve the sale.

Debt

Under the new arrangement, the sale is to be financed by a \$52,000 deed of trust on the utility property in favor of the seller. There will also be a \$27,500 unsecured note in favor of

seller. In Branch's opinion, the financing plan will not violate the usual rule of thumb that utility debt should not exceed 50% of rate base.

Under the original financing plan (which was not described in the application), the buyers would have been left with only \$8,800 of disposable income annually after making payments on debt incurred to purchase the utility. Under the new financing plan, it is estimated that buyers will have over \$33,000 of disposable income, including the wages allowed as utility management expense. In Branch's opinion, this should be adequate. Buyers will not be forced to choose between paying for needed utility expenditures and making payments on loans.

The application does not specifically seek Commission approval for financing; however, such approval is required by Public Utilities (PU) Code § 851. If the Commission does not authorize the notes or encumbrance of utility property, they are void.

We will, therefore, grant financing authorization, subject to payment of the fee required by PU Code § 1904.

Branch Position

Since the contract of sale is not adverse to the public interest against excessive sales price and excessive secured debt for water utilities, Branch on June 18, 1990, recommended that we authorize the sale and the financing. We have adopted its position.

Customers were notified of the proposed sale. No protests have been received. No hearing is necessary.

Findings of Fact

1. The revised purchase price is not materially in excess of the ratemaking value of the utility systems. Buyers should be placed on notice that future rate cases will utilize depreciated original cost rather than sale price in establishing rate base.

2. The proposed sale is not adverse to the public interest.

3. Under the sale arrangement, debt will not exceed 50% of rate base.

Conclusions of Law

1. The sale as modified conforms to Resolution No. W-3285; it should be authorized.

2. 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. The proposed amount of secured debt will not be excessive.

3. No hearing is required. Since there are no remaining disputes, the order should become effective when buyers have paid the fee required by Public Utilities Code § 1904.

O R D E R

IT IS ORDERED that:

1. Brad and Pamela Ralston are authorized to purchase, and Roy W. Cawthray is authorized to sell the public utility systems described in the application for a sale price not to exceed \$52,000.

2. On or before January 1, 1991, Roy W. Cawthray may transfer the water systems designated in the application to Brad and Pamela Ralston.

3. 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.

4. 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.

5. Buyers shall either file a statement adopting seller's 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.

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

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

8. When this order has been complied with, seller shall have no further obligations in connection with this water system.

9. Brad and Pamela Ralston are authorized to issue an unsecured note in the principal sum of \$27,500.

10. On or after the effective date of this order, but before January 1, 1991, for the purposes specified, buyers may issue an evidence of indebtedness in principal not exceeding \$52,000, and may execute and deliver an encumbering document.

This order is effective when buyers have paid the fee of \$80 required by § 1904 of the Public Utilities Code.

Dated SEP 12 1990, at San Francisco, California.

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

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

Neil J. Sullivan
NEIL J. SULLIVAN, Executive Director

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

