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Decision 92-10-005 October 6, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of the R. C. SOULTS ESTATE and
the ETHEL V. SOULTS TRUST, doing
business as TULCO WATER COMPANY,
and BRADLEY and PAMELA RALSTON,
for the former to sell and transfer
to the latter the water company's
"East Tulare Villa" water system,
formerly known as the "Allen
Estates" system.

ORIGINAL

Application 91-07-013
(Filed July 12, 1991)O P I N I O NStatement of Facts

Over the years since 1955, R. C. Soultis, doing business initially as Soultis Pump Company, and later, in conjunction with his wife Ethel V. Soultis, doing business as Tulco Water Company, obtained various certificates of public convenience and necessity to construct and operate a number of small water systems located in different subdivisions in the Tulare-Kings Counties area of California.¹

- 1 (1) Decision (D.) 51792, 8/9/55, in Application (A.) 36839 by Soultis Pump Company for the Park Avenue Estates in Tract 225 approximately 1/2 mile east of Tulare.
- (2) D.55876, 12/3/57, in A.39352 by Tulco Water Company for Riggins Road in Tract 260 one mile north of Visalia (subsequently sold to Horace and Lillian Nish; see D.76313, 10/21/69, in A.45989).
- (3) D.58886, 8/18/59, in A.41003 by Tulco Water Company for Allen Estates in Tract 132 three miles east of Tulare (expanded subsequently to embrace adjacent Tracts 355 and 378).

(Footnote continues on next page)

The captioned application, however, involves only the "East Tulare Villa" system (formerly known as the "Allen Estates" system) which serves approximately 175 flat rated customers in Tracts 132, 355, and 378 located three miles east of Tulare.

Following the death of R. C. Soultis, the water system devolved to the Estate of Robert C. Soultis and the Ethel V. Soultis Trust. Robert James Soultis is the Executor of the Estate of Robert C. Soultis, and Co-Trustee (with Suzanne E. Harrison) of the Ethel V. Soultis Trust. The Estate and the Trust wish to sell the water system, and with that objective in March of 1991 contracted to sell the system to Bradley C. and Pamela A. Ralston, husband and wife, for \$30,000.² The Ralstons have been managing and operating the Tulco water system since October of 1990. They live in Visalia, five miles north of the Tulco system. In addition, the Ralstons also own and operate the EPTCO-Visalia, Buhl, and Nish

(Footnote continued from previous page)

- (4) D.63547, 4/10/62, in A.43964 by Tulco Water Company for La Paz Village in Tract 361 south of Tulare.

2 Of this \$30,000, \$2,500 was paid by the buyers at the time of signing the sales contract. The original sales contract, which provided for the substantial balance of the purchase price to be in the form of a purchase note secured by a deed of trust to the two parcels of real estate owned by the utility, has since been reformed at the specific request of Commission's Water Branch (Branch) to provide for the substantial balance of the purchase price to be in the form of a personal note of the buyers. This note bears interest at 10% per annum, and the buyers have been making monthly payments of \$363.42, pursuant to terms of the note, to the Estate and Trust since February 1, 1991. A copy of the reformed sales contract was taken into the application record as Administrative Law Judge's Exhibit 1.

water systems in the vicinity of Visalia.³ Mrs. Ralston, an experienced bookkeeper and part-time school teacher, maintains the utilities' books.

The Tulco water system includes Lot 72 in Tract 355, the northern half of Lot 30 in Tract 132, an 80-foot well on each lot, 20- and 15-horsepower pumps, two pressure tanks with a total holding capacity of 8,000 gallons, and 8,270 feet of cement asbestos distribution mains. Inspected by the Branch staff in April of 1992, the system was found to be well-maintained and meeting all requirements of General Order 103.

With the application the parties submitted a copy of Tulco's Annual Report for year 1990 (a report filed March 21, 1991 with the Commission). Effective June 8, 1988, Tulco had been granted a rate increase in advice letter proceedings culminating in our Resolution W-3399. Appendix A to that resolution established Tulco's average plant as being \$47,710 at beginning of year 1988 with a depreciation reserve of \$32,630. Tulco was ordered to record these amounts on its books of account. The copy of the 1990 Annual Report submitted with the application does not reflect adjustments to these accounts as having been made. Branch's investigation also discovered that there had been substantial additions to utility plant made since the beginning of 1988 which had not been reflected in the Annual Reports of the utility, although the utility had maintained detailed invoices documenting the additions. The following schedule illustrates values for the utility plant, annual depreciation (assuming 2.52% composite annual depreciation on revised plant values and allowing for land and

3 By D.90-09-018 issued 9/12/90 in A.89-08-013, the Ralstons acquired Buhl Water Company, (Buhl) Nish Water Company (Nish) (see fn. 1(2)), and EPTCO Water Company (EPTCO).

intangibles of \$3,150), and depreciation reserve to December 31, 1991:

Utility Plant

<u>Year</u>	<u>BOY Figure</u>	<u>Added Plant</u>	<u>EOY Figure</u>	<u>Average</u>
1988	\$47,710	\$ 990	\$48,700	\$48,200
1989	48,700	10,710	59,410	54,060
1990	59,410	8,585	67,995	63,700
1991	67,995	0	67,995	67,995

Note: For detail on added plant, see attached Appendix A.

<u>Year</u>	<u>Depreciation Reserve as of January 1</u>	<u>Depreciation on Average Plant</u>	<u>Depreciation Reserve as of December 31</u>
1988	\$32,630	\$1,135	\$33,770
1989	33,770	1,283	35,050
1990	35,050	1,605	36,650
1991	36,650	1,634	38,290

According to the utility's 1991 Annual Report, revenues of \$26,899 were generated, while incurring \$26,555 in operating and maintenance expenses and depreciation, to produce net operating revenue of \$344 for the year. Using the staff-adjusted end of year 1990 utility plant (\$67,995) and depreciation reserve (\$36,650) figures, we obtain an adjusted book value of \$31,345.

Notice of the proposed sale and transfer of the utility to the Ralstons was sent to the utility's customers at the time the application was filed. The filing of the application was also noticed in the Commission's Daily Calendar of July 16, 1992. No protests have been received. There are no customer deposits to establish credit or main extension advances outstanding. The utility has no long-term debt.

Discussion

The design of Public Utilities (PU) Code § 851 is to prevent the impairment of the public service of a utility by the transfer of its property and the obligation to serve into the hands of persons or agencies incapable of performing an adequate service

at reasonable rates or upon terms which will bring about the same undesirable result. Transfers are often proposed which would leave the utility so burdened with fixed interest charges and crippled financially that it would be totally unable to perform its duty to the public. To prevent such conditions, the Commission has been given the authority to regulate the transfer and encumbrance of utility property (Southern California Mountain Water Co. (1912) 1 CRRC 520). The obvious purpose is to enable the Commission, before any transfer of public utility property necessary or useful in the performance of its public utility responsibilities is consummated, to review the situation and to take such action, as a condition to the transfer, as the public interest may require (San Jose Water Co. (1916) 10 CRRC 56).

In the present situation, the purchaser proposes to acquire the Tulco system making a downpayment of \$2,500 toward the \$30,000 purchase price with the remaining \$27,500 to be in the form of a 10% interest-bearing personal note to the seller. This note requires a monthly payment of \$363.42 (or \$4,361.04 annually) until the note is paid off. The question thus is posed, will the Ralstons derive sufficient income and return from the business to meet basic living costs and also be able to meet this payment schedule? Or, would approval of the transaction merely set the stage for an early repossession?

The Tulco Annual Report for 1990 is not reassuring. It states a management salary of \$860 and a permitted return of \$5,432 for the year. Similarly, the Annual Report for 1991, officially noticed by the administrative law judge, while stating office salaries of \$1,200 and management salaries of \$8,400, states a net return of only \$344, thus producing a total income and return of only \$9,944 against which the Ralstons would need \$3,997.62 (payments began February 1, 1991) to meet payments on their purchase note.

Were Tulco the source of the Ralstons' entire livelihood apart from Mrs. Ralston's part-time teaching, we would probably have to deny the application as not being in the public interest. But by D.90-09-018, issued September 12, 1990, the Ralstons were authorized to acquire the Buhl, Nish, and EPTCO water companies serving a total of 870 customers in the vicinity of Visalia. They have now acquired these three other utilities which they manage and operate, albeit with a total of approximately \$147,000 in acquisitional and acquired debt to service.⁴ However, by advice letter proceedings resulting in Commission Resolutions W-3655 (Buhl), W-3657 (Nish), and W-3658 (EPTCO-Visalia), these latter three utilities were authorized annual totals of \$9,617 in office salaries and \$35,207 in management salaries, and a combined annual return of \$13,250 (based on a 14.40% rate of return) which could produce approximately \$58,074 for the Ralstons.

Out of these salaries and returns on the Buhl, Nish, and EPTCO operations, after making interest and principal payments on the \$80,000 acquisitional debt and \$67,357 balance on utility debt at 10.5% maturing in year 2004 (utility debt acquired with purchase of the three utilities from Cawthray in 1990 and reported in the respective 1991 Annual Reports), the Ralstons could net approximately \$35,000. This, together with the approximate \$5,900 (\$9,944 less \$3,997.62) net possible from Tulco, would make the Tulco purchase a viable venture for the Ralstons, and one considered in combination, not against the public interest.

4 The Ralstons purchased these three utilities for \$105,000, paying \$25,000 down and giving a note secured by a deed of trust for \$52,500, and another unsecured note of \$27,500 for the balance. Each of these three utilities came with long-term debt (Buhl \$16,097, Nish \$33,784, EPTCO \$17,476) balances, interest, and principal payments which will necessarily reduce the net return available annually to the Ralstons on their utility investments.

If they have not already done so, the Estate Executor and Trust Trustees must report and submit the PU Commission Reimbursement Fees⁵ collected to the date of sale and transfer to the Commission before they can be released from their public utility water service obligations associated with the Tulco Water Company's "East Tulare Villa" system, formerly known as the "Allen Estates" system.

Given the absence of any adverse impact to the consumers, the absence of any protest, and staff's recommendation that the application be approved ex parte, there exists no need for a public hearing.

Findings of Fact

1. Tulco Water Company is a public water utility within the jurisdiction of this Commission.

2. The present owners of Tulco, the Robert C. Soultz Estate and the Ethel V. Soultz Trust, represented by the Executor and Co-trustees, respectively, have negotiated a sale and transfer of the Tulco water system to the Ralstons for a reasonable price and, pursuant to PU Code § 851, filed the present application seeking Commission authorization for the sale and transfer.

3. The Ralstons, owners of three other public water utilities in the vicinity of Visalia, are experienced in managing and operating public utility water systems and have demonstrated financial ability to make this acquisition.

4. A sale and transfer to the Ralstons will have no operating or financial impact for the customers of Tulco.

⁵ PU Code § 432 requires all public utilities with gross annual interstate revenues of \$750,000 or less to collect from all customers a surcharge (presently 1-1/2% added to all billings), and to remit these fees to the Commission.

5. It can be seen with reasonable certainty that a sale and transfer to the Ralstons presents no significant impact on the environment.

6. There is no known opposition to the proposed sale and transfer.

7. Before the Estate and Trust can be relieved of their public utility service obligations upon a sale and transfer, they must make remittance to the Commission of the PU Commission Reimbursement Fees collected up to the date the sale and transfer are consummated.

8. A sale and transfer of Tulco to the Ralstons would be in the public interest.

Conclusions of Law

1. A public hearing is not necessary.

2. The sale and transfer of Tulco to the Ralstons should be authorized.

3. Upon completion of the sale and transfer, and payment of the PU Commission Reimbursement Fees collected to the date of the sale and transfer, the Estate and Trust can be relieved of their public utility service obligations.

ORDER

IT IS ORDERED that:

1. Within 6 months after the effective date of this order, the Robert C. Soultz Estate and the Ethel V. Soultz Trust (owners) may sell and transfer to Bradley and Pamela Ralston (buyers) the Tulco Water Company's "East Tulare Villa" water system, formerly known as the "Allen Estates" system, including operating rights for \$30,000 in accordance with the terms set forth in the reformed sales contract identified and taken into the application record by the administrative law judge as Exhibit 1.

2. Within 10 days of the actual transfer, owners shall notify the Commission in writing of the date on which the transfer was consummated. A true copy of the instruments effecting the sale and transfer shall be attached to the written notification.

3. Before the sale and transfer become effective, owners shall report and pay to the Commission all fees due to the date of sale and transfer under Public Utilities Code § 431.

4. Upon completion of the sale and transfer, and compliance with Ordering Paragraph 3, owners shall stand relieved of their public utility water service obligation in the Tulco Water Company's "East Tulare Villa" water system, formerly known as the "Allen Estates" system service territory.

5. Within 90 days after the sale and transfer are consummated, buyers shall refile the Tulco Water Company tariffs to reflect the new ownership.

6. The authorization granted by this order shall not be construed as a finding of the value of the rights and properties authorized to be transferred for ratemaking purposes.

7. The authority granted in Ordering Paragraph 1 shall expire 6 months from the effective date of this order if it has not been exercised by that date.

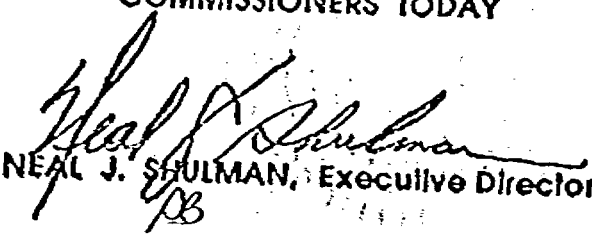
This order becomes effective 30 days from today.

Dated October 6, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President

JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

Appendix A

DETAILED PLANT ADDITIONS

1988 thru 1990

<u>1988 Additions:</u>	<u>Date:</u>	<u>Amount:</u>
1) 2, 6" Meter Assy - Weld on W/HWS (see invoice #62388)	6/23/88	\$ 990.07
Total Additions 1988 - \$990		
<u>1989 Additions:</u>		
1) 2, Fusetron fuses Installation & Tax (invoice #32007)	2/23/89 "	\$ 9.98 \$ 51.60
2) 1, 8-stage, 8" bowl unit 14, Shaft bearings 14, New line shafts w/ journal 1, motor bearing set Installation & Tax (invoice #31489)	3/14/89 " " " "	\$ 4,160.00 \$ 294.00 \$ 2,366.00 \$ 295.00 \$ 3,227.90
3) 3, Fusetron fuses Installation & Tax (invoice # 864)	8/21/89 "	\$ 17.19 \$ 37.03
4) 1, Armstrong air release 2, Fusetron fuses Installation & Tax (invoice # 1364)	10/27/89 " "	\$ 60.00 \$ 11.46 \$ 40.29
5) 1, GE Fuseable disconnect switch Installation & Tax (invoice # 1591)	12/19/89 "	\$ 98.00 \$ 42.13
Total 1989 Additions - \$10,710		
<u>1990 Additions:</u>		
1) 1, THC-32 14, Stainless steel journals 14, Rubber bearings 14, Snap rings 1, 93" x 1" Head Shaft Assembly 1, 8-stage, 8" bowl unit 1, motor bearing - 6209 1, motor bearing - 7409 Installation & Tax (invoice #11790)	1/17/90 " " " " " " " "	\$ 171.00 \$ 560.00 \$ 246.00 \$ 13.30 \$ 156.89 \$ 4,160.00 \$ 32.41 \$ 147.20 \$ 2,459.21
2) 1, No-slam exchange 5, rings of pump packing Installation & Tax (invoice # 4039)	10/29/90 " "	\$ 285.00 \$ 12.00 \$ 341.56
Total 1990 Additions - \$8,585		

(END OF APPENDIX A)