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Decision 92-11-006 November 6, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of John Ballard )  
and Branko Z. and Donna L. Pudarich )  
to transfer ownership of Timberland )  
Water System from Pudarichs to John )  
Ballard. )

**ORIGINAL**  
Application 92-04-025  
(Filed April 23, 1992)

O P I N I O N

Statement of Facts

The Timberland Water System today serves 128 flat rated customers through 3/4-inch services and six hydrants in and around the Timberland Tract Subdivision in an unincorporated area about three miles south of Tahoe City in Placer County.

Originally constructed about 1912 as a spring fed water system, it was sold in 1932 to the F. A. Kilners who expanded the system to serve the lower portion of the Timberland Tract, drilling a 110-foot well on Shady Lane, adding storage capacity, pumping facilities and a concrete pumphouse before selling the system in 1952 to the Bertel Andersons.

In 1963, the Andersons in turn sold the system to the Anders A. Nyquists. Nyquist, initially continuing to operate as an unregulated public utility, and, seeking to sell lots in the upper portion of the tract and needing a water supply to do so, drilled a 310-foot well near the upper end of Sugar Pine Drive. After the Placer County Board of Health intervened, finding the spring source to the lower portion susceptible to contamination, Nyquist extended the well system to supply the entire tract. A 65,000-gallon steel storage tank added in the early 1960's has since deteriorated and is now out of service.

Later in 1966, by Decision (D.) 71256 (Timberland Water Service (1966) 66 CPUC 161), the Nyquists obtained a Certificate of Public Convenience and Necessity authorizing operations and further

construction, establishing rates, and obtaining a deviation from General Order 103 to retain existing bare steel pipe mains in service.

After Nyquist died in 1982, the Commission, by D.82-09-11 (Timberland Water Service (1982) 9 CPUC 2d 614), granted his widow authorization to transfer the water system to their daughter and son-in-law, Donna and Branko Pudarich.

The Pudarichs who reside in San Bruno, a considerable distance from the Lake Tahoe area, have owned the system since, but for the past 10 years have relied upon John Ballard to actively manage the system for them. Ballard, a general contractor and owner of Ballard Construction, lives at Tahoe City. Because of other commitments in the Bay Area and declining health, the Pudarichs no longer wish to operate the system.

Accordingly, by the present application the Pudarichs and Ballard seek authorization pursuant to provisions of Public Utilities (PU) Code § 851 to sell and transfer Timberland Water System to John Ballard. Subject to our approval of the proposed transaction, on January 1, 1991 Ballard assumed full control of the system. The sale price is \$50,000. Updated information based on four-year old Annual Reports and Income Tax returns indicate an original cost of \$65,120. Using a 2.7% composite straightline depreciation rate, the applicants and staff, respectively, compute a depreciation reserve of \$37,313 and \$37,229 to arrive at rate base of \$27,807 and \$27,891, respectively. Ballard accepts that his return on investment will be based on the rate base amount, and not the sale price.

Today, the system consists of two wells; the well at Sugar Pine serves as the primary one with the older well at Shady Lane serving as the backup. A 20 hp pump at Sugar Pine supplies water to a 12,000-gallon tank, and all customers except one are served by gravity flow from that tank. The exceptional customer has his own booster pump on his service connection. The exact

amount of distribution line (ranging from 1-1/2 inch to 6-inch) is not known. While the system lacks a water treatment facility, the Placer County Department of Environmental Health finds the water to be acceptable.

The Commission's Water Branch conducted an inspection of the physical plant and has contacted the applicants, reviewing records of original cost installation dates and tax returns to ascertain plant in service. On June 29, 1992, the customers were given public notice of the proposed sale. Notice of the proposed sale and transfer appeared in the Commission's Daily Calendar of April 29, 1992. There have been no protests.

Discussion

PU Code § 851 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 obtaining authorization to do so from this Commission. The function of the Commission in proposed sales is to protect and safeguard the interests of the public. Our concern is to prevent impairment of the public service by the transfer of utility property into the hands of parties incapable of performing an adequate service at reasonable rates or upon terms which will bring about the same undesirable result (So. Cal. Mountain Water Co. (1912) 1 CRC 520). We want to be certain that the purchaser is financially capable of the acquisition and satisfactory operation thereafter.

Ballard submitted a balance sheet, excluding his home and personal possessions, which reflects business assets of \$36,193 and liabilities of \$14,574 as of December 31, 1991 (when he assumed responsibility for the system). From this and the fact that he has managed the system for the past 10 years, we conclude that Ballard is financially capable of the acquisition and can operate the system satisfactorily.

Timberland's last rate increase was in June of 1975, under Advice Letter proceedings culminating in Resolution W-1729. During the intervening years, it has had no further rate relief, which is why it currently is seeking to increase its rates by \$16,250 (116%) by Advice Letter. Its last Annual Report for the year 1988 purports to show a net loss of \$11,256 for the year, although that determination has limited credibility.<sup>1</sup>

Branch's investigation included a review of Timberland's original cost records, installation dates, and depreciation calculations, and staff recommends that we adopt and that Timberland enter in its books for year ending December 31, 1991 the following rate base estimates:

Utility Plant in Service	\$65,120
Less: Depreciation Reserve	<u>37,229</u>
Net Utility Plant	\$27,891
Less: Contributions/Advances	0
Rate Base	<u><u>\$27,891</u></u>

We will adopt Branch's estimates and order Timberland to record them.

Finally, before the Pudarichs are relieved of their public utility responsibilities for the Timberland System, payment must be made to the Commission of the collected Public Utilities Commission Reimbursement fees.

Findings of Fact

1. Timberland Water System is a public utility water system within the jurisdiction of the Commission.

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1 A comparison with the utility's 1984 report, its immediate filed predecessor, shows for minor intervening changes in utility plant, a tripling of depreciation expense and almost a doubling of operating expense.

2. Currently owned by the Pudarichs, the system has been managed for the past 10 years by John Ballard.

3. The Pudarichs have contracted to sell the Timberland System to Ballard, who is financially capable of the acquisition and can operate the system satisfactorily.

4. Although paying approximately twice the rate base for the system, Ballard accepts that rates may be based only upon rate base.

5. Branch's determination of utility plant in service, the depreciation reserve, and rate base is reasonable, acceptable to Ballard and should be adopted.

6. There is no known opposition to the sale and transfer of the water system.

7. It can be seen with reasonable certainty that the sale and transfer to Ballard presents no significant adverse impact on the environment.

8. The sale and transfer are in the public interest.

9. Because the transfer of managerial and operational responsibility has already taken place, the public interest would best be served by having the ensuing order made effective on the date of issuance.

Conclusions of Law

1. A public hearing is not necessary.

2. The sale and transfer should be authorized.

3. Upon completion of the sale and transfer and payment of the Public Utilities Commission Reimbursement fees collected to the date of actual sale and transfer, the Pudarichs may be relieved of their public utility water obligations in the Timberland Water System's service area.

ORDER

IT IS ORDERED that:

1. Within six months after the effective date of this order, Branko Z. and Donna L. Pudarich may sell and transfer to John Ballard the Timberland Water System set forth in the application.

2. Ballard will enter, as of December 31, 1991, Utility Plant in Service \$65,120, Depreciation Reserve \$37,229, and Rate Base \$27,891 to represent plant investment in its books of account and in the annual report he files with the Commission.

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

4. Ballard will adopt the rates and charges set forth in Timberland's tariffs presently on file with the Commission pending resolution of the Advice Letter proceedings relative to requested rate relief before the Commission.

5. The Pudarichs shall make remittance to the Commission of the Public Utilities Commission Reimbursement fees collected to the date of sale and transfer.

6. Upon completion of the sale and transfer authorized by this Commission order, and upon payment to the Commission of the Public Utilities Commission Reimbursement fees collected to the date of the sale and transfer, the Pudarichs shall stand relieved of their public utility water service obligation in the Timberland Water System service area.

This order is effective today.

Dated November 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. SULMAN, Executive Director