

Decision - 83 03 005 MAR 2 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
 of KYBURZ WATER COMPANY, a )  
 California corporation, to borrow )  
 funds under the Safe Drinking )  
 Water Bond Act, and to add a )  
 surcharge to water rates to repay )  
 the principal and interest on )  
 such loan. )

Application 59346  
 (Filed December 20, 1979)

ORDER OF DISMISSALStatement of Facts

Kyburz Water Company (Kyburz), a California corporation, whose stock has been wholly owned by Fred R. Morley and Diana M. Morley (the Morleys), has served the unincorporated mountain resort community of Kyburz on Route 50 in El Dorado County under authority granted by this Commission two decades ago. In 1978 the Department of Health Services determined that there was a question whether the water supply was safe or not, and concluded that major improvements would be required. An engineering consulting firm retained by the Morleys estimated the cost of the improvements to approximate \$100,000.

The Morleys ascertained that financing could be obtained for these improvements through the California Department of Water Resources (DWR) under provisions of the California Safe Drinking Water Bond Act of 1976, and made application for a loan. On October 26, 1979 DWR advised the Morleys that Kyburz had been found eligible for a 5½%, 35-year loan of \$100,000, and that funds had been reserved in the company's name. Before disbursement could begin, however, certain additional

approvals-were required, including approval from this Commission to enter into a loan contract to borrow the \$100,000 and apply a surcharge to repay it. Kyburz filed A.59346 seeking our approval of this surcharge.

As part of the preliminaries in our consideration of the application, a duly noticed meeting of the consumers was held in Kyburz on January 30, 1980 to give the users opportunity to be heard on the proposed loan and surcharge. Our staff attended. Although after a lengthy meeting a majority of those attending evidenced their reluctant approval, the next day minds changed, and thereafter a majority of the property owners took steps to organize with the intention of buying the company from the Morleys and converting it to a mutual water company. Securing a commitment from DWR to make the same loan funds reserved for Kyburz available instead to the mutual, the property owners secured Corporations Commission approval and raised \$100,000 in subscription for mutual stock, and, in conjunction with the Morleys, applied and, by D.82-11-013 dated November 3, 1982 in A.82-03-14, obtained authorization from this Commission for the Morleys to sell their stock to the property owners and to convert Kyburz to a mutual to be known as Kyburz Mutual Water Company. On January 26, 1983 the Morleys advised the Commission that the sale had been consummated, that the water corporation was now a mutual corporation, and that the mutual had assumed operation of the system.

Accordingly, Kyburz is no longer a public utility water company, and this Commission no longer has jurisdiction over it. This application should be dismissed for want of jurisdiction.

Finding of Fact

Kyburz is no longer a public utility water company under the jurisdiction of this Commission.

Conclusion of Law

The application should be dismissed for want of jurisdiction.

IT IS ORDERED that Application 59346 is dismissed.

This order becomes effective 30 days from today.

Dated MAR 2 1983, at San Francisco, California.

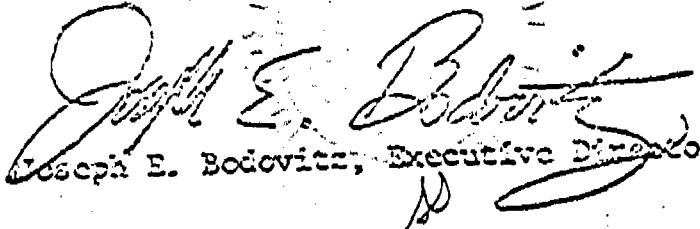
LEONARD M. GRIMES, JR.  
President

VICTOR CALVO

PRISCILLA C. CREW

DONALD VIAL  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director