

ORIGINAL

Decision No. 86870

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application )  
of Monte Vest to sell the Cherokee )  
Water System to a mutual water )  
company, the Citizens Mutual Water )  
Company, and to terminate Public )  
Utilities Commission jurisdiction.)

Application No. 56523  
(Filed June 1, 1976)

Harvey M. Means, Attorney at Law, for  
Monte Vest, applicant.  
Robert C. Durkin, for the Commission staff.

O P I N I O N

Monte Vest, an individual, and Citizens Mutual Water Company (Citizens) request authority for Monte Vest to transfer to Citizens the water system near the town of Shafter, Kern County, known as the Cherokee Water System.

After notice to all customers, a hearing on the application was held on November 2, 1976 in Shafter before Examiner Coffey. The matter was submitted on November 17, 1976, upon the receipt of the transcript.

The Cherokee Water System is located on a parcel of land near Shafter, California, described as the West 248 of the Northwest Quarter of Section 26, Township 28 South, Range 25 East, M.D.B.&M. The system, delineated on Exhibit 1, consists of a well, pump, motor, tanks, switches, and distribution piping. Forty-two domestic customers are served under a flat rate of \$5.40 for a single residence.

Decision No. 52497 dated January 23, 1956 granted Albert B. and Ora Mae Sage a certificate of public convenience and necessity to operate the Cherokee Water System. Mabel P. B. Roe succeeded to the interest of the Sages as set forth in Decision No. 60941 dated October 25, 1960. Monte Vest is the successor to the Roe interest. All assets of the Cherokee Water System will be transferred to Citizens free of debt and without any consideration to Monte Vest.

Upon receiving the authorization requested by this application, Citizens will, upon obtaining approval of the California Corporations Commissioner, issue one share of its capital stock to each owner of the lots served by the water system. Citizen's articles of incorporation provide that its shares are appurtenant to each lot, that rates shall be reasonably related to cost of service and shall be sufficient to create and maintain a facility replacement fund, and that unimproved lots shall bear an appropriate share of the cost of maintaining the system. The shares issued to property owners shall be subject only to such assessments as may be necessary for maintaining, repairing, and enlarging the water system owned by Citizens.

The present owner of the Cherokee Water System is 65 years old and is in the process of retiring from his real estate investment business in Bakersfield. There being no one else to continue the operation of the water system, Monte Vest has arranged the formation of a mutual water company to effect a smooth turnover of the system to those served by the system. A majority of the property owners in the service area have signed a petition requesting the water system be transferred to a mutual water company to be owned and managed by the property owners.

A number of property owners attended the hearing where they voiced their concerns. Their questions regarding the transfer and operation of the system as a mutual company were discussed and answered. For instance, concern was voiced about a rumor that each property owner would be required to pay \$50 for a share of stock. What is actually being proposed is that a \$50 assessment be levied to establish a fund for emergency expenses and working capital. The \$50 would be payable in installments as decided by the lot owners acting through their mutual company. Rumors that the installation of fire hydrants and upgrading of the system was being required by public agencies were demonstrated to be false. Mutual water systems are not under the jurisdiction of the Commission for rates and service. The rates to be charged and the service to be rendered are determined by the owners of the mutual water system.

This system is typical of many small water systems installed to effect the development of a subdivision. The systems typically have far too few customers to be viable economic units. These systems do not generate enough funds to be operated by other than one or two part-time employees or by other than an owner-operator as part of a larger enterprise. Service is frequently marginal due to inadequate capitalization, inability to finance improvements and replacements, and lack of remuneration to owners and operators. It is apparent that it generally is in the best interest of the homeowners to mutually own and operate such small uneconomic water systems. Rates for mutual water service should be lower than those of an owner-operated system because mutual self-help will minimize expenses and nonprofit operation will eliminate income taxes. The financing of the system by assessments will eliminate capital charges. Service can be rendered at such level as the mutual owners of the system may decide is reasonable.

We find that:

1. Citizens has the ability to acquire and operate the Cherokee Water System without interruption in service.
2. Upon completion of the proposed transfer, Monte Vest will no longer be performing public utility service.
3. Subject to the conditions set forth in the order which follows, the proposed transfer will be in the public interest.

We conclude that the application should be granted as provided in the following order.

We are aware that if he had wished to do so Mr. Vest could have abandoned this water system without penalty. The Commission commends Mr. Vest for his concern and good citizenship in effecting the transfer of the water system to the homeowners served by it.

O R D E R

IT IS ORDERED that:

1. Within one year after the effective date of this order, Monte Vest, doing business as Cherokee Water System, may transfer to Citizens Mutual Water Company the properties referred to herein, substantially in accordance with the terms attached to the application herein, but subject to the conditions of this order.
2. Within ten days after the date of actual transfer, Monte Vest shall file in this proceeding written notification of the refunding of all customer deposits made to guarantee the payment of bills, and main extension advance refunds due and payable, if any, the date of transfer and the date upon which Citizens Mutual Water Company shall have assumed the operation of the water system authorized herein to be transferred. A true copy of the instrument or instruments of transfer shall be attached to the written notification.

3. On or before the date of actual transfer, Monte Vest shall deliver to Citizens Mutual Water Company all available records, memoranda, and papers pertaining to the construction and operation of the properties authorized herein to be transferred.

4. On or before the date of actual transfer, Monte Vest shall deliver to each owner of each lot served by the Cherokee Water System a copy of this decision and of the articles of incorporation of the Citizens Mutual Water Company.

5. Upon completion of the transfer authorized by this order and upon compliance with all the terms and conditions of this order, Monte Vest shall be relieved of his public utility obligations in connection with the utility system transferred.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of JANUARY, 1977.

Robert Babcock  
President

William S. Johnson Jr.

Vernon L. Sturgeon

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Commissioners