

RE/fc

Decision No. 87841 SEP 13 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of KEEFNER ENTERPRISES,)
INC., to acquire and operate the)
water system formerly owned and)
operated by AZTEC WATER COMPANY)
in the Apple Valley area of the)
county of San Bernardino.)

Application No. 57132
(Filed March 8, 1977)

KELLY FRITCHARD, et al.,
Complainants,

vs.

AZTEC WATER COMPANY, INC., and
W. PAUL PAYNE, President,

Defendants.

Case No. 9923
(Filed May 30, 1975)

Eugene F. Keefner, for applicant.
Maxine C. Dremann, Attorney at Law,
and Richard Finnstrom, for the
Commission staff.

O P I N I O N

A duly noticed public hearing was held on these matters June 1, 1977 before Administrative Law Judge Main at Victorville. A.57132 was submitted subject to the filing of the transcript which occurred June 8, 1977. C.9923, however, is to remain open because certain water system properties will continue to be held by Aztec Water Company (Aztec).

In the application Keefner Enterprises, Inc., dba High Desert Water Company (Company), seeks authority to acquire and operate a 50-customer water system in Apple Valley formerly owned by Aztec. Company purchased this system, except for certain real property and water rights, at the February 11, 1977 San Bernardino County Tax Collector's sale for \$1,107.86 subject to Commission approval.

Aztec's service area comprises approximately 200 acres in the West $\frac{1}{2}$ of Section 5 and the West $\frac{1}{2}$ of Section 4, Township 5 North, Range 3 West S.B.B.M., San Bernardino County.^{1/} Apple Valley Ranchos Water Company's (Ranchos) service area is contiguous to Aztec's on Otoe Road. Youngtowne Water Company and Southern California Water Company provide water service within four miles of Aztec. Company is also seeking authority to purchase Youngtowne Water Company (A.56828 filed October 25, 1976) which serves 41 customers and another water purveyor, the Apple Valley View Mutual Water Company.

Company is a California corporation incorporated February 11, 1974. Eugene F. Keefner (Keefner) is president and Cecile L. Keefner, his wife, is secretary. Keefner, a registered professional engineer, will be the general manager; Ralph Norton, a mechanical contractor, will manage the rehabilitation projects; and Peter Cheeseman, a Youngtowne resident, will operate, maintain, and bill the customers of both systems.

^{1/} Aztec was granted a certificate of public convenience and necessity for Tract No. 4286 by D.50858, December 15, 1954, A.35681. Tract No. 4286 subsequently was recorded as Tracts Nos. 4268 and 5436. Also a certificate of public convenience and necessity was granted for Tracts Nos. 5745 and 5746 by D.60314, June 28, 1960, A.42038. Tract No. 5678 was a contiguous expansion prior to 1960.

According to the application, Company intends to "operate the Aztec system under present tariffs until the Commission authorizes the filing of new standard rules and regulations and a new metered rate schedule that is more water conservation oriented" is authorized, and proposes the following:

- "1. Perform an engineering study of the Aztec system and submit a rehabilitation plan within 120 days. The rehabilitation program will be phased so that we expect to bring the water system to G.O. No. 103 standards within 30 months.
- "2. Negotiate with Apple Valley Ranchos Water Company for an alternate source of water for use during emergencies.
- "3. Make application to the County of San Bernardino for a water supply permit.
- "4. Make application to the Department of Water Resources for a loan to finance the rehabilitation plan under the Proposition 3 Program, if necessary."^{2/}

Abandonment by Aztec

Aztec is an inactive California corporation that was suspended by the Department of Corporations on January 2, 1968. It has no officers. The last officer of record was W. Paul Payne, president and treasurer. Payne wrote the Commission on July 10, 1975 explaining that all the officers had resigned. The last annual report filed with the Commission was for 1973.

Aztec provided water service until early 1975. On May 30, 1975 after a prolonged outage, some of the customers filed a formal complaint, C.9923. The complainants alleged that service was not provided, customers were not billed, and requested that Robert Van der Sluis be appointed operator. Van der Sluis was authorized to operate the system and bill customers by D.84565 dated June 17, 1975. Van der Sluis resigned on January 24, 1977

^{2/} Proposition 3 became the California Safe Drinking Water Bond Law of 1976.

and D.86982 dated February 15, 1977 authorized Nell Murfield, the bookkeeper previously retained by Van der Sluis to maintain the Aztec books and bill the customers, to replace Van der Sluis. There have been several outages due to leaking mains and pump failures since June 1975. The water system is in a generally poor condition even though the pumps and leaking mains were repaired.

Murfield has the customer records and ledger from Payne's operation and all records of Aztec during the Van der Sluis and Murfield operations. A staff accountant audited the books of Aztec under Van der Sluis control through December 31, 1976. No discrepancies were noted.

Assessment Roll

There are three parcels shown on the San Bernardino County Assessor records to be owned by Aztec:

<u>Item</u>	<u>Parcel No.</u>	<u>Description</u>	<u>Assessed Value</u>	<u>Full Cash Value</u>	<u>1976/1977 Tax</u>
A	040-005-22	Utility Plant	\$ 6,750	\$ 27,000	\$ 816.08
B	440-022-10	Land	50	200	6.04
C	030-054-05	Water Rights	100	400	12.09

Item A is all of the water utility plant including two wells, a 60,000-gallon steel reservoir, pressure tanks, booster pumps, water mains, services, and meters. It was sold to Company at the February 11, 1977 County Tax Collector's sale.

Item B is a .63-acre lot presently used by Aztec as the site for the two wells, the reservoir, a pressure tank, and an enclosed booster pump. Taxes were last paid for tax year 1972. It will be available for tax sale during January 1979, providing the taxes are not paid. The original cost of this land as shown in Aztec's 1973 Annual Report is \$1,098.75.

Item C is the water rights assessment for water taken from Item B. It is taxed on the basis of estimated annual production of 16.67 acre-feet at a full cash value of \$24 per acre-foot. Taxes were last paid for tax year 1974. It will be available for tax sale during January 1981 providing the taxes are not paid.

Items B and C are necessary and useful for the purpose of providing public utility water service to Aztec's customers and cannot be transferred without prior authorization of the Commission (P.U. Code Section 851).

It is essential that Company use the water (Item C) from the wells located on the land (Item B) unless a replacement source is obtained. A permanent connection to Ranchos and use of their water would be the ideal replacement if a contract could be negotiated. Ranchos is receptive only, however, to continue providing assistance, as it has up to now, in emergencies. Ranchos asserts that its water supplies are needed for its own service area.

No complaints or comments have been received from Aztec officers or stockholders, if indeed there be any, over the operation and management of their property by Van der Sluis or Murfield or the February 11, 1977 tax sale by San Bernardino County.

In Exhibit 1 the staff engineer recommended that:

- "A. Keefner Enterprises, Inc., dba High Desert Water Company, be authorized to provide public utility water service to the entire service area of Aztec Water Company and be authorized to acquire all properties of Aztec that are used and useful in providing such service.
- "B. Aztec not be relieved from public utility status until all of its utility properties are transferred to Keefner or the Commission finds that these properties are no longer necessary or useful in the performance of its duties to the public.

"C. Keefner should establish a separate bank account to deposit the funds to be set aside as fair rental for the use of the Aztec utility property not acquired at the February 11, 1977 San Bernardino County Tax Collector's sale. The monthly deposit should be \$10.00 which is the sum of the annual property tax on these properties and 8.5 percent of the original cost of the land as reported in Aztec's 1973 Annual Report filed with the Commission. Funds deposited in this account are to remain until the properties are legally transferred or no longer necessary or useful. At that time the Commission will determine the disposition of the balance in the account.

"D. Within 120 days from the effective date of the order authorizing Keefner to operate the Aztec system, Keefner should prepare and file a 30-month rehabilitation plan that will bring the water system up to General Order No. 103 standards.

"E. Keefner should acquire an alternate source of water from Apple Valley Ranchos Water Company and file a copy of the agreement with the Commission.

"F. A staff accountant perform a closing audit. The funds in Murfield's possession should be used to pay current necessary liabilities and any surplus be paid to Southern California Edison Company as a payment on the current electric bill of Aztec and as a payment on future bills. This payment should not be used for the prior unpaid debts of Aztec during the period preceding June 17, 1975. This method will obviate the need for a proration of bills."

As noted earlier, accomplishment of Recommendation B is too unlikely to require Company to pursue that matter further at this time.

Findings

1. Aztec, an inactive corporation, has not and is not meeting its obligations as a public utility.

2. The interim arrangements under which the water system has been operated first by Van der Sluis and presently by Murfield, although having served reasonably well, appear precarious.

3. Under the circumstances an expeditious vesting of authority in applicant to acquire and operate this water system, subject to the conditions to be imposed by the order which follows, will not be adverse to the public interest.

The Commission concludes that the application should be granted as provided in the following order.

The action taken herein does not constitute a finding as to the value or original cost of the rights and properties authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Keefner Enterprises, Inc., dba High Desert Water Company (Company), is authorized to provide public utility water service to the entire service area of Aztec Water Company (Aztec) and to acquire all properties of Aztec that are used and useful in providing such service.

2. Upon exercising the above authority, Company shall forthwith either file a statement adopting the tariffs of Aztec now on file with this Commission or refile under its own name those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates or service area shall be made.

3. On or before the date Company commences public utility water service operations, Murfield shall transfer and deliver to Company and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the Aztec water system.

4. Upon the staff accountant's performing the closing audit, Murfield and Company shall take the following action recommended by the staff:

"The funds in Murfield's possession should be used to pay current necessary liabilities and any surplus be paid to Southern California Edison Company as a payment on the current electric bill of Aztec and as a payment on future bills. This payment should not be used for the prior unpaid debts of Aztec during the period preceding June 17, 1975. This method will obviate the need for a proration of bills."

5. Company shall implement staff Recommendations C and D set forth on page 6 of this decision.

6. Aztec shall not be relieved from public utility status until all of its utility properties are transferred to Company or the Commission finds that those properties are no longer necessary or useful in the providing utility service.

7. Upon Company's commencing operations and Murfield's carrying out her obligations under Ordering Paragraphs 3 and 4 above, Murfield shall stand relieved of any public utility obligations she may have with respect to this water system and shall stand divested of the authority vested in her by Decision No. 86982.

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

Dated at San Francisco, California, this 13th day of SEPTEMBER, 1977.

Robert Batzinger
President
William J. ...
...
Michael D. ...
Clare J. ...
Commissioners