

Decision No. 88028 OCT 25 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BRUCE BIDWELL and ADELAIDE BIDWELL,
doing business as BIDWELL WATER COMPANY,
and
THOMAS J. JERNIGAN and VICKY K. JERNIGAN
for permission to sell the physical
assets of the BIDWELL WATER COMPANY to
THOMAS J. JERNIGAN and VICKY K. JERNIGAN.

Application No. 56937
(Filed December 13, 1976)
(Amended July 1, 1977)

O P I N I O N

Bruce Bidwell and Adelaide Bidwell dba Bidwell Water Company request authorization to lease with an option to sell their water system and related assets to Thomas J. Jernigan and Vicky K. Jernigan.

The Bidwell Water Company furnishes domestic, commercial and industrial water to 221 metered and 216 flat rate active, and 3 metered and 54 flat rate inactive, residential connections, one industrial connection and 28 fire hydrants in the area known as the Town of Greenville, Plumas County, California.

The Bidwell Water Company was formed about 1931 by a merger of the Greenville Water Company with the Round Valley Water Company. Both predecessor companies were owned by the estate of Clara Bidwell and operated by A. R. Bidwell, the administrator, now deceased, who was the father of Bruce Bidwell, one the applicants. The Commission has not approved any subsequent transfer of ownership. However, the owners are identified in Decision No. 34176, dated May 6, 1941, in Case No. 4542 as being Bruce Bidwell and Elsie B. Bringarner, his sister; and in Decision No. 48221, dated January 27, 1953, in Application No. 33620, as being Bruce and Adelaide S. Bidwell, husband and wife; the proposed lessors in this application.

Bruce and Adelaide Bidwell allege that because of age, Bruce Bidwell is no longer able to continue sole operation of the utility, and they desire to retire from active employment and obtain a secure source of income for their retirement years.

Lessees, Thomas J. and Vicky K. Jernigan, allege a desire to lease the water system with an option to purchase for reasons of material advancement and financial independence. Mr. Jernigan has been the manager of the Malaga County Water District (Fresno County) for approximately 18 years, and has been the defacto operator of the Bidwell Water Company under a prior lease from May, 1976 to March 1, 1977, and under the proposed lease since that date. (Neither lease has been approved by this Commission.) He is thoroughly familiar with the operation of the Bidwell Water Company and the requirements for the proper operation of such a system. The lessees' net worth as indicated in the application appears to be satisfactory.

The balance sheet of the Bidwell Water Company as of December 31, 1976, is as follows:

Water plant in service	\$169,101.15
Reserve for depreciation	<u>93,457.87</u>
Water plant less reserve	75,643.28
Cash	2,046.46
Accounts receivable	11,588.15
Materials and supplies	13,635.61
Lessee clearing	<u>2,057.47</u>
	<u>\$104,970.97</u>
Proprietary capital	\$103,195.79
Contributions in aid of construction	<u>1,775.18</u>
	<u>\$104,970.97</u>

The water company's annual report for 1976 shows a gross revenue of \$50,243 and a net income of \$6,371. Expenses include \$16,000 for management salaries, \$6,500 for labor, \$3,234 for depreciation and \$3,376 for taxes. Power costs are miniscule at this time, \$128 for the year, due to gravity distribution. These costs will increase as planned improvements are made. The water company has recently requested an increase of approximately 10% by the Advice Letter procedure. That request will be the subject of a subsequent order.

The lease-purchase agreement which we are asked to approve (and under which the Jernigans are now operating the system) provides that the lessees are to operate the system and make monthly payments to the lessor for the period of the lease, which runs until March 1, 1978, unless terminated earlier. The lessee has an option to extend the period of the lease for ten (10) additional periods of one (1) year and, during that entire period, has an option to purchase the assets of the company for a price of \$100,000.00 to be secured by a note and deed of trust.

Although the application does not specifically request authority to execute said rate and deed of trust, such authorization is required by Section 851 of the Public Utilities Code and will be given in the following order.

It appears from the information supplied in the application that it would be in the public interest to authorize the lease-purchase agreement. However, that determination is based in part on the financial ability of the lessees to operate the system. The financial information supplied by the lessees will become less relevant as time passes. Therefore, we will condition our approval of the option to purchase provision of the lease to provide that such option be exercised prior to March 1, 1978.

Applicants allege that there are no customer deposits to secure credit and that there are no main extension advances on which refunds will be due in the future.

The lessees acknowledge that various improvements to the distribution system and treatment facilities, as well as additional storage capacity and repairs to a dam and an access road will be necessary to meet requirements of the Department of Health and this Commission. The lessees estimate the total cost of these improvements will be \$158,000, for which a loan has been requested under the State Clean Drinking Water Bond Act. Our approval of this loan is not sought by this application but will be required under Section 851 of the Public Utilities Code.

Findings

1. Bruce and Adelaide Bidwell obtained the assets of Bidwell Water Company through inheritance and intra-family transfer without Commission's authorization and now seek authority to lease the system with an option to purchase to Thomas J. and Vicky K. Jernigan.

2. Thomas J. and Vicky K. Jernigan, have many years experience in operating a water utility and have been operating the Bidwell Water Company System since May, 1976.

3. The sale and transfer of the property as proposed in this proceeding would not be adverse to the public interest.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. Issuance of a note and Deed of Trust in the form on file with this Commission and encumbering the property is for a proper purpose, and the money, property, or labor to be procured or paid for by the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Conclusion of Law

1. Application No. 56937 should be granted in accordance with the order which follows.

2. The action taken herein shall not be construed as a finding of the value of the original cost of the properties authorized to be transferred nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

3. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. The lease purchase agreement entered into by Thomas J. Jernigan and Vicky K. Jernigan with Bruce Bidwell and Adelaide Bidwell on June 27, 1977, copy attached to the amended application, is authorized subject to the conditions in the following paragraphs.

2. Prior to March 1, 1978, Bruce and Adelaide Bidwell may sell and transfer, and Thomas J. and Vicky K. Jernigan may purchase and acquire the Bidwell Water Company water system and other assets referred to in the application.

3. Prior to March 1, 1978, Thomas J. and Vicky K. Jernigan, in acquiring said water system properties, may execute and deliver a Deed of Trust and issue a note in a principal amount not exceeding \$100,000 in substantially the same form as that on file with this application.

4. As a condition of this grant of authority, in the event that Thomas J. Jernigan and Vicky K. Jernigan (hereinafter purchasers) exercise their option to purchase the assets of the Bidwell Water Company, purchasers shall assume the public utility obligations of the sellers within the area served by the water system being transferred and shall assume liability for refunds of all existing customer deposits and advances pertaining to the water system transferred, if any exist. Purchasers shall send notice of the assumption of liability for refunds to all customers affected.

5. Within ten days after completion of the transfer, purchasers shall notify the Commission, in writing, of the date of completion and of the assumption of the obligations set forth in paragraph 4 of this order and pay a fee of \$200 as prescribed by Section 1904(b) of the Public Utilities Code.

6. Purchasers shall either file a statement adopting the tariffs of sellers now on file with this Commission or refile under their own name those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates shall be made unless authorized by this Commission.

7. On or before the date of actual transfer, sellers shall deliver to purchasers and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water system authorized to be transferred.

8. On or before the end of the third month after the date of actual transfer, purchasers shall cause to be filed with the Commission, in such form as it may prescribe, an annual report covering the operations of sellers for the period commencing with the first day of the current year to and including the effective date of the transfer.

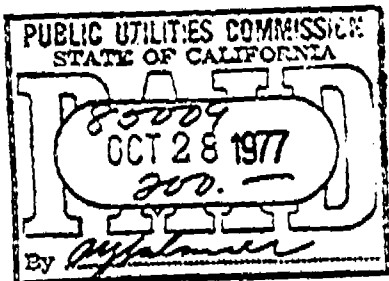
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9. Upon compliance with all of the terms and conditions of this order, sellers shall be relieved of their public utility obligations in connection with the water system transferred.

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

Dated at San Francisco, California, this 25th day of OCTOBER, 1977.

William J. ... President
Vernon L. ...
Richard P. ...
Clare J. ... Commissioners



Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.