

ORIGINAL

Decision No. 88866 MAY 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ALEX BROWN ELECTRIC COMPANY and SACRAMENTO MUNICIPAL UTILITY DISTRICT for an order authorizing the former to sell and convey to the latter the electric facilities herein described.

Application No. 55750
(Filed June 19, 1975)
(Amended August 22, 1977)

Joint Application of ALEX BROWN ELECTRIC COMPANY and PACIFIC GAS AND ELECTRIC COMPANY for an order authorizing, among other things, (a) the former to sell and convey to the latter the electric facilities herein described, (b) Pacific Gas and Electric Company to make effective electric tariff schedules as herein requested.

Application No. 55751
(Filed June 19, 1975)

(Electric)

Forrest A. Plant, Attorney at Law,
for Alex Brown Electric Company;
Kermit R. Kubitz, Attorney at Law,
for Pacific Gas and Electric
Company; and David S. Kaplan,
Attorney at Law, for Sacramento
Municipal Utility District;
applicants.
Robert T. Baer, Attorney at Law,
for the Commission staff.

O P I N I O N

By their amended Application No. 55750, Sacramento Municipal Utility District (SMUD) and Alex Brown Electric Company (Alex Brown) request authority for Alex Brown to sell

and SMUD to purchase certain electric facilities in the area of Walnut Grove, California; to consummate this sale in accordance with the terms of a contract dated June 23, 1977 (contract); and to relieve the company, concurrently with the sale and transfer of the facilities, of the public utility duties and responsibilities of an electric corporation within the area involved. A copy of the contract is attached to the amended application as Exhibit A.

The contract provides that the consideration to be paid by SMUD to Alex Brown shall be \$68,533 for the electric distribution facilities consisting of poles, fixtures, conductors, transformers, switching devices, cut-outs, services, meters, street lighting facilities, appliances, and other enumerated items set forth in Section 1 of the contract, which shall hereinafter be referred to as 'facilities'. The facilities are shown on a map entitled Exhibit A attached to the contract.

SMUD will compensate Alex Brown for any additional capital additions, replacements, or necessary betterments of the facilities installed and paid for by Alex Brown between the date of the contract and the date of actual conveyance.

Alex Brown will pay that portion of the real and personal property taxes for the current fiscal year prior to the date of conveyance of the facility. SMUD will arrange for cancellation of the portion of such taxes allocable to the remaining of a portion of the year beginning upon acquisition by SMUD of the facilities pursuant to Section 4986(2)(b) of the Revenue and Taxation Code. ✓

The contract contains the provision that it shall not become effective until the Commission shall authorize Alex Brown to carry out the terms of the contract. Alex Brown's reasons for executing and desiring to consummate the contract, which is dated June 23, 1977, are as follows:

"The owners and operators of Alex Brown desire to withdraw from the electric utility business and be relieved of the duties and responsibilities thereof, and SMUD desires to purchase the facilities of Alex Brown and continue service to the area served on the map attached to the agreement as Exhibit A to said agreement. The owners and operators of Alex Brown believe SMUD is able and desirous to furnish dependable electric service to present and prospective customers in the aforesaid area."

Alex Brown and SMUD assert that the contract of June 23, 1977 is fair, just, and reasonable to the parties thereto and the customers affected thereby; that the properties and business which Alex Brown has agreed to sell to SMUD are reasonably worth the amount SMUD has agreed to pay therefor; and that Alex Brown and SMUD desire to effectuate the agreement in accordance with its provisions.

Customer deposits held by Alex Brown, if any, shall be paid over to SMUD. SMUD shall assume the obligations for the customer deposits subject to the provisions of the contract.

By memorandum dated March 23, 1978 the Director of the Commission's Finance Division stated that he had no objection to an ex parte decision authorizing the requested transfer.

By the original joint Application No. 55750 Alex Brown sought authority to sell and SMUD sought authority to purchase part of the facilities of Alex Brown, and by their Application No. 55751 Alex Brown sought to sell and Pacific Gas and Electric Company (PG&E) sought to purchase the other part of Alex Brown's facilities.

At the time of filing the original application, Alex Brown furnished electric service to approximately 300 meters in an area of approximately 2,400 acres surrounding the unincorporated community of Walnut Grove in the Delta region of Sacramento County. The system was established in 1911 and at the time of filing the original applications on June 19, 1975 was owned by 18 descendants of the founder who died in 1924. No certificate of public convenience and necessity has ever been issued. All of Alex Brown's power was purchased from SMUD and its rates were unchanged from 1947 to June 19, 1975.

According to Alex Brown's annual report to the Commission as of December 31, 1974, the original cost of the properties to be transferred was \$99,292.19. The depreciation reserve was \$71,263.83, resulting in net plant of \$28,028.36. There were no customer deposits or advances for construction.

The consideration for the proposed transfers in the original applications was \$38,385 to be paid by SMUD and \$30,148 to be paid by PG&E. In addition the purchasers were to compensate Alex Brown for any required capital additions or replacements to the facilities paid by Alex Brown.

Several protests to the proposed PG&E transfer were received and on September 10, 1975 a public hearing was held in Walnut Grove before Examiner Boneysteele. Although one witness supported the sale of facilities to PG&E, two others testified in opposition, and one witness presented a petition with 13 signers, mostly business people, from the area proposed to be transferred to PG&E. The protestants were concerned that PG&E would eventually apply its regular rate schedules to the Alex Brown area and that these rates would be much higher than those of SMUD. One witness pointed out that since SMUD was presently supplying the power distributed by Alex Brown, service to the entire area

would not be an additional burden on SMUD. This witness also argued that as a Sacramento County taxpayer he was being required to pay additional taxes to offset SMUD's tax-free status, and felt that he should receive some benefit for these higher county taxes through SMUD's lower rates. The witness said that the affected customers had made no attempt to annex to SMUD because they were unaware that a transfer of their area to PG&E was impending.

The case was submitted on the day of the hearing and, thereafter, on September 24, 1975 the presiding officer issued an Examiner's Ruling which contained, among other things, the following:

"The customers' concern that the transfer of the facilities south of Snodgrass Slough would result in higher rates appears to be well founded. The Commission has, in Decision No. 84902 dated September 16, 1975 in general rate increase Applications Nos. 54279, 54280, and 54281, completed a major restructuring of PG&E's electric and gas rates. This restructuring resulted in the virtual elimination of special rate areas created as a result of acquisitions. PG&E has now on file Applications Nos. 55509 and 55510 for further general increases in rates. It is indeed doubtful if a unique special rate area for thirty accounts could survive a redesign of rates involving almost three million customers. Service to the entire area by SMUD would require no additional generating capacity on SMUD's part and seems to be the most reasonable alternative. Since it is not practical to authorize the transfer of the northern system to SMUD and require Alex Brown to continue service to the remaining 30 customers on Tyler Island, submission of both applications will be set aside and they will be taken off calendar until April 30, 1976, to permit the affected customers an opportunity to seek annexation to SMUD. If, by April 30, 1976, the Commission has not, by amendment to Application No. 55750, received a request to transfer the entire

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Alex Brown system to SMUD, Applications Nos. 55750 and 55751 will be decided on this record.

"Accordingly it is ruled that submission of Applications Nos. 55750 and 55751 is set aside and that the proceedings be taken off calendar until April 30, 1976."

By Decision No. 85496 dated March 2, 1976 the Commission concluded that:

"1. The proposed service by SMUD to that portion of the service area of Alex Brown described in Application No. 55751 will not impair the ability of PG&E to provide adequate service at reasonable rates within the remainder of PG&E's service area.

"2. The Executive Director of the Commission should be ordered to forward a certified copy of this order to the Sacramento Local Agency Formation Commission."

On March 29, 1976 an Examiner's Ruling extended the April 30, 1976 due date for submission of an amendment to Application No. 55750 to September 30, 1976. On September 3, 1976, an Examiner's Ruling extended the date to March 30, 1977, and on March 29, 1977, the due date was extended to June 30, 1977.

On September 10, 1976 the Sacramento Local Agency Formation Commission approved the annexation of the service area to SMUD. The decision noted that there had been no objection from PG&E to such annexation.

By letter dated March 24, 1978 Alex Brown requested that Application No. 55751 be dismissed and stated that PG&E joined in the request.

Findings

1. The acquisition, maintenance, and operation by SMUD of Alex Brown's facilities will not be adverse to the public interest.
2. Further public hearings are not necessary.
3. All credit deposits from customers held by Alex Brown will be transferred to SMUD subject to the terms of the contract and will thereafter become obligations of SMUD.
4. PG&E has not objected to the proposed sale of the facilities by Alex Brown to SMUD.
5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
6. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.
7. Application No. 55751 should be dismissed.

The Commission concludes that Application No. 55751 should be dismissed and the authorization sought by Application No. 55750, as amended, should be granted.

O R D E R

IT IS ORDERED that:

1. Alex Brown Electric Company may sell and convey to the Sacramento Municipal Utility District, in accordance with the terms of the contract dated June 23, 1977, a copy of which is attached to the application, the electric distribution facilities described therein in the area shown by the map attached to the contract.
2. Upon completion of the sale and transfer authorized by this order and upon compliance with all the terms and conditions of this order, Alex Brown Electric Company shall be relieved of its public utility obligations in connection with the utility system transferred.

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3. Alex Brown Electric Company shall, within thirty days after said sale and transfer, notify this Commission in writing of the date thereof, and file with the Commission a true copy of the bill of sale or other instrument of transfer.

4. In the event that the Sacramento Municipal Utility District does not consummate the purchase of the property under the terms of the contract dated June 23, 1977, within two years after said date, the authority herein granted shall expire.

5. Application No. 55751, filed June 19, 1975, is dismissed. The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California,
this 31st day of MAY, 1978.

William J. Furus President
Vernon L. Sturgeon
Richard D. Howell
Commissioners

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

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.