

ORIGINAL

Decision No. 89823 JAN 4 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 TEHACHAPI MOUNTAIN LAND & ORCHARD CO.,
 doing business as TEHACHAPI MOUNTAIN
 WATER SERVICE, a public utility, for
 an Order Authorizing the Sale of
 Certain Properties of Tehachapi
 Mountain Water Service, a public
 utility, to TERRANCE LEE JETTON &
 WAYNE E. GROOM, individuals.

Application No. 58264
 (Filed August 1, 1978)

O P I N I O N

Tehachapi Mountain Land and Orchard Company (Seller), a California corporation, requests authority under Sections 851 - 853 of the California Public Utilities Code to sell and transfer the water service plant and system of the Tehachapi Mountain Water Service to Terrance Lee Jetton and Wayne E. Groom, (Purchasers).

The Tehachapi Mountain Water Service, a public utility, provides water service to approximately 25 metered rate and three flat rate services customers in an area approximately five miles west of Tehachapi, Kern County, California.

The filed annual report for 1977 shows that the original cost of the system is \$50,228 and the depreciation reserve is \$32,902, resulting in a net book cost of \$17,326. The selling price is \$30,000, to be paid \$10,000 upon close of escrow, with a note for \$20,000 secured by a security agreement in favor of Seller. The attorney for Seller has advised the Commission staff, by letter dated September 26, 1978 that 235-acre feet of adjudicated water rights of the Brite Basin, having a substantial value of from \$160 to \$200 per acre-foot, are included in the sale.

He stated that the adjudication was made by the Tehachapi Cummings County Water District, and that without the water rights it would be necessary to enter into a pooling arrangement with the Tehachapi Cummings County Water District and pay to the District a sum, as noted above, per acre-foot pumped, and that therefore the water rights are an asset to the utility.

A copy of the proposed deed to the real estate involved is attached to the application as Exhibit D. The Escrow Instructions, Security Agreement, and Bill of Sale are attached as Exhibit C. Purchasers are paying \$12,674 more than original cost net of depreciation and contributions. They understand that rates will be based upon the depreciated original cost of the plant, excluding contributed plant, and not on the purchase price. This matter has been discussed by telephone by the Commission staff with Purchaser Groom.

The application is silent on the following matters on which information has been secured by the Commission staff by correspondence and telephone communications with the attorney for the Seller, and by review of previous formal actions involving the utility.

The Seller desires to dispose of the water utility because the principal owner, Mrs. Cook, is ill, of advanced age, without sufficient funds, and unable to continue to care for the system. She no longer lives in the area and wishes to retire from the activity. Mrs. Cook's son, President of the Corporation, has moved to Nevada, in an isolated location, and is unable to care for the system properly.

The Purchasers have bought real property in the area, including the land served by the water system, and wish to improve the system to be able to serve their additional properties. They are contractors, skilled and equipped for the necessary maintenance

and construction tasks, and competent to operate the system. Both Seller and Purchasers urge favorable action on this application at the earliest possible moment, giving as reasons the ill health of Mrs. Cook and the necessity of having responsible individuals in charge. A notice of proposed sale has been included with the customer billing of October 1, 1978. The staff has received a copy.

There are reportedly no customer deposits to establish credit, nor any advances for construction, with no refunds due or to become due.

Discussion

The financial statements of the Purchasers, attached to the application, indicate that they have sufficient financial resources to improve, operate and maintain the system.

The condition of the system has been discussed in previous formal actions. It appears that few of the directed actions have been accomplished. The pertinent orders and compliances are identified and repeated in Appendix A hereto. Specifically, the utility has not complied with orders to connect Well No. 3 into the system; to apply for a water service permit and send a copy of the permit or of the application to this Commission; and to file a revised Rule 2 providing for interruptible irrigation service. An order to have pump tests made of Wells Nos. 1 and 2 to determine capacities and efficiencies was complied with on March 6, 1978 but no copies of the tests were sent to the Commission. They have now been secured by the staff. They show a total water supply capability of 193 gpm. There has been no test of Well No. 3.

The Kern County Department of Health has informed the Commission staff that the temporary water permit, which expired in 1972, was for only 28 services, and that this restriction is still in force. A new water supply permit was reported to be waiting on the results of the pump tests.

This Commission, in Decisions Nos. 78094 and 88080 has denied the utility authority to extend its mains to serve additional customers without further order of the Commission, or to serve any additional customers from an existing 2-inch plastic pipe which is approximately 700 feet long.

The past actions of the utility in failing to comply with most of the Commission's directives have been dealt with at some length to emphasize the strong probability that future action under the same ownership will probably not show any improvement. Reasons given are the advancing age and poor health of Mrs. Cook, the principal stockholder, the almost complete absence of ready cash with which to make improvements, such as connecting Well No. 3 into the system, and apparently a general ineptitude or indifference on the part of the other corporation officers.

Findings

1. The past operation of the utility has been inefficient and inadequate.
2. Present owners offer no reasonable probability of improvement in operation.
3. Certain of the previously directed actions are still necessary to the proper operation of the utility.
4. Purchasers have the necessary competence and have adequate financial resources to improve, operate, and maintain the utility.
5. There is urgent need for approval of the transfer.

Conclusions

After due consideration the Commission concludes:

1. Continued ownership and operation of the Tehachapi Mountain Water Company by the Tehachapi Mountain Land and Orchard Co. would be adverse to the public interest.

2. Transfer of the Tehachapi Mountain Water Company to Purchasers would not be adverse to the public interest.
3. A public hearing is not necessary.
4. The application should be approved.
5. Completion of necessary improvements should be reviewed in any future rate actions.

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

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before March 31, 1979, Tehachapi Mountain Land and Orchard Company may sell and transfer the water system (and other assets) referred to in the application to Terrance Lee Jetton and Wayne E. Groom.
2. As a condition of this grant of authority, purchasers shall assume the public utility obligations of Seller 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 being transferred. Purchasers shall send notice of the assumption of liability for refunds to all customers affected.

3. 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 2 of this order.

4. Purchasers shall either file a statement adopting the tariffs of Seller 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 shall be made unless authorized by this Commission.

5. On or before the date of actual transfer, Seller 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.

6. 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 Seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

7. Purchasers shall initiate action to complete the following items within the time specified, and shall notify this Commission of the time of initiation and time of completion of each item as it occurs. Satisfactory completion will be reviewed during any future rate actions.

- a. Within 60 days after the effective date of this order file an application with the Kern County Department of Health to renew the water supply permit.
- b. By July 31, 1979 connect Well No. 3 into the system and have a pump test made to show the capacity of the well in gallons per minute, static and pumping levels, discharge pressures, pump efficiencies, and a description of the equipment. The results of the test to be provided the Commission staff.

8. The utility may not provide water service to new connections, other than previously authorized, until further order of this Commission. Upon satisfactory completion of the items in paragraphs 7a and b above the utility may apply for release or modification of this restriction.

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

The effective date of this order is the date hereof.

Dated at San Francisco California, this 4th day
of JANUARY, 1979.

Robert Bateman
President
Michael W. ...
Clair J. ...

Commissioners