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ORIGINAL

Decision No. 90932 OCT 23 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
John E. Foley and Charles E. Harris
for authority to control the Black
Butte Water Company, AKA North Valley
Services, Inc.

Application No. 58957
(Filed June 21, 1979)

O P I N I O N

Clarification of Issues

In the application as filed, applicants John E. Foley and Charles E. Harris requested authority under Section 854 of the California Public Utilities Code to acquire control of North Valley Services, Inc., a California corporation which owns the Black Butte Water Company. This application was signed only by Purchasers. However, as written, it was apparently the intent of Purchasers to acquire only the Black Butte water system. The application also included another completed application form properly signed and attested by both Seller and Purchasers as part of the filed packet, requesting authority under Section 851 of the California Public Utilities Code for the North Valley Services, Inc. (Seller) to sell the Black Butte Water system to John E. Foley and Charles E. Harris (Purchasers). Except for the two differing applications, the filing was adequate. A filing fee of \$75 was received, but returned as not required.

The Commission staff therefore queried Purchaser Harris and was advised that Purchasers wanted only the water system. A letter, dated July 16, 1979, signed by Purchasers and Clay McGowan, President of the North Valley Services, Inc., now in the Commission file on this matter, confirms the desire of applicants to sell and purchase only the Black Butte water system and asks that the application to control the North Valley Services, Inc. be withdrawn.

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On the basis of this letter request by applicants, and in the interests of securing just and speedy determination of the issues presented, we have considered the application as intended and not as presented in the heading.

General

North Valley Services Corporation (Seller), a California corporation, requests authority under Section 851 of the California Public Utilities Code to sell and transfer the Black Butte Water Company system and plant to Charles E. Harris, Sr., and John E. Foley (Purchasers).

The Black Butte Water Company furnishes flat rate domestic water service to approximately 34 residences and 2 fire hydrants in Black Butte Estates, approximately one mile northwest of the City of Orland, Glenn County, California.

The utility's annual report for 1978 shows the original cost of the plant to be \$20,183.70, with a reserve for depreciation of \$3,134.76, for a net book cost of \$17,048.94. The purchase price is \$5,000, terms cash, with Purchasers assigned all of Seller's interest in proceeds from the utility at the time of Commission approval.

The original owners were granted a Certificate of Public Convenience and Necessity by Decision No. 70863, dated June 14, 1966 in Application No. 48235. Seller was authorized to acquire the system by Decision No. 75735, dated June 3, 1969 in Application No. 51017.

Seller desires to dispose of the utility as it is closing out its business as such. Purchasers wish to acquire and expand the system for additional income. Mr. H. George Roney, Vice President of Seller, and the City Clerk of the City of Orland advise the staff that the Orland Municipal Water Department, approximately one mile distant, had no interest in acquiring the utility.

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An inventory of the system plant is contained in the application. It consists basically of 0.21 acres of land; one 12-inch well, depth 287 feet; one 50-hp pump with 1,000 gpm capacity; one 5,000-gallon reservoir; 1,680 linear feet of distribution main, of unknown size; a pump house; and a gasoline-powered auxiliary standby pump.

Purchaser Harris has had 31 years of experience in surveying and engineering design and construction with development and use of irrigation water systems for 35 years. Purchaser Foley has had in excess of 20 years' experience in land sales and business management.

Customers have been notified by individual letters mailed August 27, 1979. No protests have been received. Seller warrants that there are no customer deposits for establishment of credit nor main extension advances. The system is reported to need modification and repair estimated to cost \$2,000, for which funds are available. The work will be performed by Purchasers. There have been no recent complaints as to quality of service.

Personal financial statements filed by Purchasers show a combined net worth in excess of \$200,000.

The Utilities Division and the Revenue Requirements Division have reviewed the application and have no objection to the proposed transfer.

Findings

After consideration, the Commission finds that:

1. Applicants desire to purchase the water system ~~but not to control the~~ North Valley Services, Inc. MF Ka
2. Seller is a corporation authorized to purchase the water system by Decision No. 75735, dated June 3, 1969, in Application No. 51017.
3. The proposed purchase price is less than the net book cost of the system.
4. The filing fee of \$75 required by the Commission's Rule No. 45(d) was received, but returned through misunderstanding.

5. There are no customer deposits to establish credit, nor advances for construction, requiring payment of refunds.

6. Purchasers' combined net worth is over \$200,000.

7. Purchasers have 35 and 20 years, respectively, in related fields of engineering design and construction and business management.

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

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

Conclusions

The Commission concludes that:

1. Purchasers are adequately qualified and have adequate financial resources to acquire, operate, and maintain the Black Butte Water Company.

2. The proposed transfer would not be adverse to the public interest.

3. A public hearing is not necessary.

4. The application should be granted as set forth in the following order.

5. A filing fee of \$75 is required.

O R D E R

IT IS ORDERED that:

1. Upon receipt of the required \$75 filing fee, after the effective date of this order and/or before March 31, 1980, North Valley Services, Inc. may sell and transfer the water system (and other assets) referred to in the application to John E. Foley and Charles E. Harris, Purchasers.

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.

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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 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 systems 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.


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7. 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.

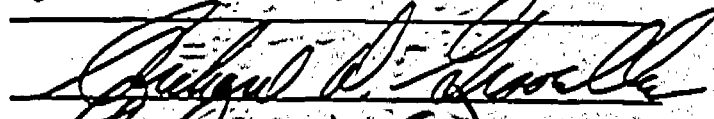
The effective date of this order shall be thirty days after the date hereof.


Dated OCT 23 1979, at San Francisco, California.


Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.



President







Commissioners