

Decision No. 91378 MAR 4 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TEMESCAL WATER)
 COMPANY, a Public Utility, and)
 DAON CORPORATION, a Delaware)
 Corporation, for Ex Parte)
 Order Authorizing Acquisition)
 by Daon Corporation of Control)
 of Temescal Water Company. }

Application No. 59373
 (Filed January 14, 1980)

O P I N I O N

Daon Corporation (Buyer) and Temescal Water Company (Utility) request authority under Section 854 of the California Public Utilities Code for Buyer to acquire control of Utility. The circumstances of the proposed acquisition are as follows: Utility is a wholly owned subsidiary of Temesco, a California corporation. Fifty-one percent of the issued and outstanding shares of Temesco are owned by Corona Foothill Lemon Company (Corona). Owners of 54.66 percent of the issued and outstanding shares of Corona (Sellers) have entered into a written agreement with Buyer whereby Buyer has an option to purchase their capital stock, subject to the condition that Buyer make a bona fide offer to the remaining shareholders of Corona to purchase all of their shares at a price not less than the price paid pursuant to the written agreement. Buyer indicates that it intends to exercise the option on or about March 3, 1980. Upon exercise of the option Buyer will acquire a minimum of 54.66 percent of the issued and outstanding shares of Corona and a maximum of 100 percent of such shares, depending on the results of the tender offer to the other shareholders. By acquiring certain control of Corona, Buyer also assumes a majority interest in Temesco, thereby acquiring control of Utility. Buyer requests ex parte authorization by this Commission so that the transaction may be consummated.

Utility is a public utility water company engaged in the business of supplying water service for irrigation, domestic, industrial, and emergency purposes in the city of Corona and in the adjacent unincorporated territory of Riverside County. Utility serves 220 customers, primarily agricultural users, except for eleven industrial customers and 32 potable water customers.

Temescal Water Company was organized under the laws of the State of California on March 22, 1887, as a mutual water company. It was declared to be a public utility by Commission order, Decision No. 59443 dated December 29, 1959, in Case No. 6098. The Commission decision was affirmed by the California Supreme Court in Corona City Water Co. v PUC, 54 C 2d 834 (1960). By Decision No. 65115, dated March 19, 1963, the final order in Case No. 6098, the Commission prescribed rates for Temescal Water Company, defined its service area, and ordered the filing of tariffs. By Decision No. 84781 dated August 12, 1975, in Application No. 55724, the Commission authorized a corporate reorganization that resulted in the existing corporate relationships.

The original cost of the total utility plant assets of Utility as of December 31, 1978, is \$3,539,463.57, and the depreciation reserve as of the same date is \$1,246,997.18, resulting in a net book cost of \$2,292,466.39. Attached to the application is an extensive description of the Temescal water system and the property owned by Utility, including pumping equipment, wells, mains and reservoirs.

The application recites that Corona and its subsidiaries are directly or indirectly engaged in the business of agriculture and in particular the ownership and operation of citrus (orange, lemon, and grapefruit) and avocado farms, and orchards. Virtually all of Utility's customers, including Corona, are agricultural users. Buyer intends to continue the agricultural business of Corona and to remain a customer of Utility. No significant change in the operations or service of Utility nor any displacement of its management or other personnel is anticipated as a result of the

transaction. In this regard Buyer further proposes to adopt the presently filed tariffs of Utility and to be bound by any outstanding Commission decisions and/or directives involving the water system. The application alleges that all customer deposits will be refunded when due. All refunds due on main extension advances have been paid on a current basis and none are overdue; future refunds will be made on a timely basis.

Buyer is a Delaware corporation, qualified to do business in California. It is a wholly owned subsidiary of Daon Development Corporation, a corporation organized and existing under the laws of the Province of British Columbia, Canada. Buyer's financial statements indicate that Buyer is a substantial entity, with assets as of July 31, 1979, exceeding \$500 million and earnings for the 9 months ended July 31, 1979 of over \$8.5 million.

The terms of the agreement between Buyer and Sellers provides that Buyer will pay to Sellers \$820.03 per share of Corona stock. The total number of shares outstanding is 36,401; the number of shares to be sold by Sellers to Buyer is 19,898. Buyer states that it understands that future rates for water will be based on the depreciated original cost of the plant excluding contributed plant and will not be based on such purchase price or any allocation thereof.

The application states that Buyer and Utility accept responsibility for informing customers of the utility about the filing of the application. The subsequently filed Declaration of Eleanor Allen dated February 5, 1980, states that such notice was effected by mail, on January 14, 1980, by postcard, advising customers that a copy of the application was available for inspection and requesting that any comments or questions be directed in writing to the applicants and mailed by January 31, 1980. Ms. Allen states that no objections have been received. This Commission has received no protest to the proposed acquisition of control.

The transfer of a water company, even when merely control passes, is a sensitive subject for this Commission in discharge of its regulatory responsibilities. Many of the transfer applications that we receive involve companies that provide poor service with little prospect for improvement. In such cases we may find it appropriate to require various commitments from the buyer or seller as a condition of the transfer. Frequently, we find that a public district, by takeover or formation, offers a more promising future than transfer, and we promote such a result. Sometimes a public hearing is required to examine the facts and circumstances surrounding the proposed transaction.

In this light we determine that the proposed acquisition of control of Utility by Buyer would not be adverse to the public interest and that the application should be granted. A public hearing is not necessary.

This decision is based on the information on file with the Commission and furnished by the Applicants, which indicates that Utility provides adequate service at reasonable rates with reliable service and supply, and that Buyer is a substantial entity with a direct stake in the continued viability of Utility. Our confidence in the ex parte granting of authority is enhanced by the actual notice afforded customers and the absence of protest. In order to facilitate the parties in carrying out their agreement on the scheduled basis, the effective date of this order shall be the date hereof.

Findings of Fact

1. Utility provides water service to 220 customers in the city of Corona and adjacent Riverside County, primarily agricultural users.
2. Utility is a wholly owned subsidiary of Temesco, which in turn is controlled by Corona. The principal business of Corona and its subsidiaries is the ownership and operation of citrus and avocado farms, and orchards.
3. Buyer is a subsidiary of Daon Development Corporation, a Canadian corporation.
4. Buyer has agreed with owners of a majority interest in Corona to an option that will allow Buyer to acquire control of Corona under specified terms and conditions.
5. Acquisition of Corona results in transfer of control of Utility to Buyer.
6. Buyer intends to carry on the agricultural enterprises of Corona.
7. Utility is a vital part of agriculture in its service territory.
8. The operation of Utility will be unchanged by this acquisition.
9. Utility provides adequate service at reasonable rates.

10. All customers have been notified of this pending application; there is no objection.

11. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be acquired.

12. The effective date of this order shall be the date hereof in order to permit the parties to proceed with the scheduled acquisition.

Conclusions of Law

1. Pursuant to Section 854 of the Public Utilities Code this Commission has jurisdiction to consider the acquisition of control of Utility by Buyer.

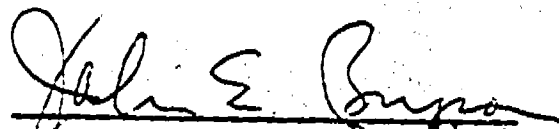
2. Acquisition of Utility by Buyer is not adverse to the public interest.

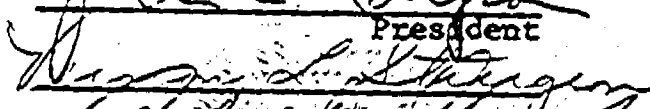
O R D E R


IT IS ORDERED that Daon Corporation may control Temescal water Company.

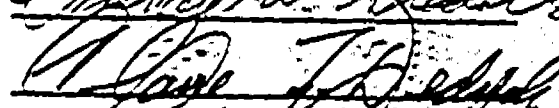
The effective date of this order is the date hereof.

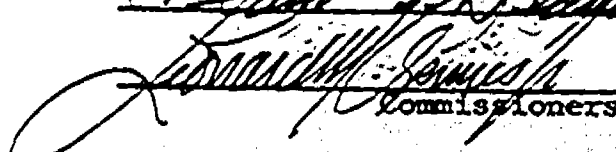
Dated MAR 4 1980, at San Francisco, California.



President








Commissioners