

Decision No. 91427 MAR 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARVEY KNOX
for authorization to sell
all outstanding shares of
stock of the YERBA BUENA
WATER COMPANY to ROBERT M.
BERRY, ROY E. MARQUARDT,
HOWARD P. HOUSE, LAWRENCE
J. CASHION, JAMES B. TARVER
and VICTOR J. SPRAUER.

Application No. 59069
(Filed August 14, 1979)

John W. Wissinger, Attorney at Law, for Harvey Knox,
applicant.

Ralph B. Helm, Attorney at Law, for Robert M. Berry,
Roy E. Marquardt, Howard P. House, Lawrence J.
Cashion, James B. Tarver, and Victor J. Sprauer;
and Stuart Simmons, for Wilshire Boulevard Temple
and Wilshire Boulevard Temple Camps; interested
parties.

Mary Jean Purcell and Robert M. Mann, for the
Commission staff.

O P I N I O N

Harvey Knox (Knox) seeks authorization of the Commission for the sale of all outstanding shares of stock of the Yerba Buena Water Company (Yerba Buena) to Robert M. Berry, Roy E. Marquardt, Howard P. House, Lawrence J. Cashion, James B. Tarver and Victor J. Sprauer. The 26,000 shares outstanding are to be sold to the specified buyers in the following amounts:

<u>Buyer</u>	<u>Shares</u>
Robert M. Berry	8,667
Roy E. Marquardt	8,666
Howard P. House	4,815
Lawrence J. Cashion	1,284
James B. Tarver	1,284
Victor J. Sprauer	1,284
Total	<u>26,000</u>

Authorization for such sale is required pursuant to Sections 851 through 854 of the Public Utilities Code.

Yerba Buena supplies domestic water service to parts of Sections 26 and 27, Township 1 South, Range 20 West San Bernardino Base and Meridian adjacent to the Pacific Ocean, County of Ventura, State of California, commonly known as Malibu, Ventura. It consists of approximately 200 customers, 2 water wells, 2 storage tanks and 20,372 feet of transmission lines.

Yerba Buena was granted its operating authority by Decision No. 40950 dated November 19, 1947 in Application No. 28777.

Because the agreed purchase price of \$210,000 represents more than 400 percent of the indicated rate base as shown by the June 30, 1979 balance sheet attached to the application, and because of staff concerns respecting the adequacy of maintenance of the system after purchase, a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Los Angeles on January 16, 1980.

The rationale for the prospective purchasers to pay an amount far in excess of the indicated rate base was given in the application and established at the hearing. Knox purchased the water company in February 1971 in order to establish and develop a reliable domestic water supply to a residential development that he owned in the area. Knox indicates that he has significantly improved and expanded the water company's storage and distribution facilities, has completed his development, and no longer owns any significant amount of property in the area. The proposed buyers own 444 acres of real property contiguous to Yerba Buena's certificated area, and therefore have a far greater interest in the future of the water company than has Knox, who intends to leave the area and inaugurate a new development in northern California. The utility is, however, restricted by Decisions Nos. 59493, dated January 12, 1960, and 61403, dated January 24, 1961, both in

Application No. 39469 from extending service outside the authorized service area. The restriction is based on water supply and potability and can only be removed by an appropriate finding and order by this Commission.

The buyers are fully aware that rates charged for water service are measured by the historical utility rate base and not by the purchase price of the capital stock. They are also aware that no rate base is established in this proceeding; said rate base may well be more or less than indicated by the balance sheet attached to the application. The staff was diligent in communicating ratemaking principles to the prospective buyers both by letter and at the hearing.

With regard to the proper maintenance of the system, the testimony of Robert Mann of the staff as to appropriate measures was concurred in by Eugene D. Michael, a consulting geologist and engineer retained by the parties to the proposed sale. Further, Roy E. Marquardt, one of the buyers, testified of his intention to provide 24-hour customer call service and to make an early move of his residence to the vicinity of Yerba Buena. Mr. Marquardt testified to having extensive business experience, including utility work.

The prospective purchasers are financially capable and expressed willingness to advance funds to Yerba Buena, if required.

There was no opposition to the application, and its approval was recommended by the staff at the conclusion of closing statements.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred. In issuing this decision we place Yerba Buena and its shareholders on notice that we do not regard the number of shares outstanding nor the purchase price of the shares as measuring the return it should be allowed to earn on its investment in plant, and that this authorization is not to be construed as a finding of the value of the company's

stock or property, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

Findings of Fact

1. Yerba Buena is a California corporation in good standing and a water utility subject to the jurisdiction of the Commission.

2. The sale of all of the outstanding stock to the buyers as set forth in the application would not be adverse to the public interest.

Conclusion of Law

The application should be granted.

O R D E R

IT IS ORDERED that:

1. Robert M. Berry, Roy E. Marquardt, Howard P. House, Lawrence J. Cashion, James B. Tarver, and Victor J. Sprauer may acquire all of the issued and outstanding capital stock of Yerba Buena Water Company from Harvey Knox.

2. Robert M. Berry, Roy E. Marquardt, Howard P. House, Lawrence J. Cashion, James B. Tarver, and Victor J. Sprauer may control Yerba Buena Water Company.

3. Within ninety days after the date hereof, Robert M. Berry, Roy E. Marquardt, Howard P. House, Lawrence J. Cashion,

James B. Tarver, and Victor J. Sprauer shall file reports informing the Commission whether or not the control authorized has been completed.

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

Dated MAR 18 1980, at San Francisco, California.

John G. Boyer

President

William L. ...

Richard D. ...

Donald M. ...

Commissioners

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