

ORIGINAL

Decision No. 92608

JAN 21 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY of ESCALON, a California municipal corporation, for authority to purchase the water system of the ESCALON WATER & LIGHT COMPANY, a California corporation.

Application No. 59716
(Filed June 9, 1980)

Lawrence C. Jensen, Attorney at Law, for the City of Escalon, applicant.
James M. Barnes, for the Commission staff.

O P I N I O N

Applicant City of Escalon (the City), a California municipal corporation, requests authority to purchase the water system of the Escalon Water & Light Company (Escalon), a public utility serving domestic water to approximately 900 customers in the central area of the City of Escalon.

Pursuant to an agreement dated May 11, 1980, the City proposes to acquire the water system for \$368,000. The City requests an ex parte order be issued approving the sale and to be effective upon the date of the order.

The City now serves water to customers located in certain areas of the City. It believes that the purchase of the Escalon water system is in the best interests of the parties, their respective customers, and the general public since it will result in the entire City being served by a single fully interconnected water system.

The application was duly noticed on the Commission calendar of June 11, 1980. No protests have been received from any customers of Escalon. The Hydraulic Branch of the Utilities Division, however,

requested a hearing since the proposed purchase price for the water system approximated seven times the historic rate base. A duly noticed hearing was held in Escalon on October 2, 1980. Fewer than ten members of the public attended the hearing. No one protested the proposed acquisition of Escalon by the City.

Jose G. Casillas, Director of Public Works for the City, and Councilman James Fulton testified for the City. Casillas testified on the advantages of physically tying together the City water system with Escalon's water system and the ability of the City to make the necessary improvements to upgrade the Escalon system to City standards.

James Fulton, City Councilman, testified that he served on the negotiating committee to purchase Escalon. He stated that the City was rated Class 9 on the point scale for fire insurance rates and was advised that a combined system would enable the City to be reclassified to a Class 5 rating, thereby resulting in a substantial savings in insurance costs for the residents of the City. He further testified that the City wanted to pay a fair price for the system without increasing rates to any customers. In considering a fair price to pay for Escalon, the negotiating committee considered the price paid for other water systems. Late-filed Exhibits 1-4 indicate that the two systems considered were the Hughson Water System and Riverbank Water Company. Exhibit 3 also indicates that substantial weight was given to capitalization of earnings rather than rate base in determining the purchase price.

The staff representative recommended that before the Commission approves the transfer it require the City and Escalon to notify each customer of the difference between purchase price and rate base. The staff also recommended that the City be required to petition the Commission to fix the just compensation which shall be paid by the City for Escalon.

Discussion

The City has held several public hearings in which the City Council discussed the acquisition of Escalon and the purchase price to be paid. All customers of the utility were notified of the Commission hearing of October 2, 1980 on the proposed acquisition of Escalon by the City. There was no opposition to the proposed acquisition by the City.

Although the staff recommended that the City be required to petition the Commission to fix just compensation for the public utility properties to be acquired, such Public Utilities Code provisions are not mandatory. Moreover, we note that original cost rate base is not the sole basis for determining the reasonable price to be paid for public utility properties but only one of many factors considered. We do not agree with staff that this Commission should intercede in an agreement which has been entered into by both a willing buyer and seller absent compelling reasons.

The City has indicated that it does not plan on increasing rates for Escalon customers and has raised the City rates to be more comparable to existing Escalon rates. We agree that the combining of the City systems with that of Escalon is advantageous to the entire community for effecting system improvements, future expansion, and for improving fire insurance ratings.

Findings of Fact

1. The City is a California municipal corporation and serves domestic water to customers located in certain areas of the City of Escalon.
2. Escalon is a public utility serving domestic water to customers located in the central area of the City of Escalon.
3. The City proposes to purchase the water system of Escalon to form a unified water system serving the entire city.
4. The purchase price for the water system is \$368,000.
5. The proposed sale and transfer would not be adverse to the public interest.

Conclusions of Law

1. The application should be granted to the extent set forth in the following order.

2. The effective date of this order should be on the date on which it is signed since there is no known opposition and there is no reason to delay granting the relief requested.

O R D E R

IT IS ORDERED that:

1. On or before January 31, 1981 Escalon Water & Light Company may sell and transfer the water system referred to in the application to the City of Escalon according to the terms and conditions attached to the application.

2. On or before the date of actual transfer, Escalon Water & Light Company shall refund all customers' deposits for the establishment of credit, if any, which are subject to refund.


3. As a condition of this grant of authority, the City of Escalon shall assume all liability for refunds of main extension advances as set forth in the Purchase-Sale Agreement and shall provide for or pay for them when due in accordance with the terms of the main extension agreement.


4. Within ten days after the completion of the transfer, Escalon Water & Light Company shall notify the Commission, in writing, of the date of transfer, of the refunding of the deposits, and of the date upon which the City of Escalon shall have assumed operation of the water system. A true copy of the instrument of transfer shall be attached to the notification.

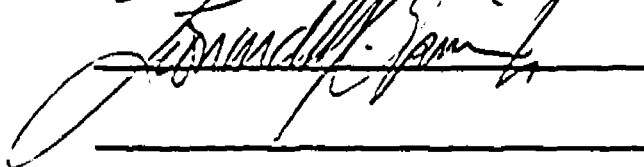
5. Upon compliance with all of the terms and conditions of this order, Escalon Water & Light Company shall be relieved of public utility obligations in connection with the water system transferred.

The effective date of this order is the date hereof.

Dated Jan 21 1981, at San Francisco, California.



President




Commissioners