

Decision No. 92660

FEB 4 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of B. L. & E. CO. and)
BIG LAGOON PARK CORPORATION to)
acquire and operate as a mutual)
water company the portion of the)
B. L. & E. Co. water system)
serving the Big Lagoon Park)
Corporation homeowners.)

Application No. 59244
(Filed October 29, 1979)

O P I N I O N

B. L. & E. Co. (BL&E) requests authority to sell a water well, complete with pump, piping, and storage tank to Big Lagoon Park Corporation (Park), a nonprofit California corporation.

BL&E serves 20 residential water customers in the Big Lagoon Park subdivision located in Humboldt County approximately seven miles north of Trinidad, California, and one large customer (Park) in an area separate from the subdivision.

Park is a nonprofit California corporation whose stockholders are property owners in Park's portion of BL&E's service area. Park wishes to buy the well, pump, storage tank, attendant piping, service connections, easements, water rights, and pumping rights associated with serving the approximately 76 service connections in Park's area for \$2,500, and operate it as a mutual water system outside the control of this Commission.

There have been no protests to the application. Because the former owner of BL&E, Richard Kurwitz, died in 1975 and BL&E is now controlled by his widow, who has less experience in the business, the Administrative Law Judge requested the staff to investigate and report on the sale. A copy of this report was furnished to Mrs. Sheila Kurwitz. After an exchange of correspondence, she agreed

in a letter dated October 22, 1980 that the transfer could proceed as recommended in the staff report and that no hearing is necessary. The staff report will therefore be received as Exhibit 1 and the findings and conclusions which follow are based upon it.

The staff report notes that the well and facilities, although belonging to BL&E, were never connected to the remainder of the BL&E system and that apparently these facilities are not useful as utility plant except as a standby water system for Park. This raises the question of whether this well and system could have been sold under Public Utilities Code Section 851 (that is, without a Commission order). Because their sale raises questions concerning an alternate standby source for the BL&E system after the sale is consummated, we will proceed with this application and issue this decision.

Findings of Fact

1. The BL&E domestic water system consists of a well, 12 inches in diameter, approximately 100 feet deep; a deep well pump rated 30 gpm at 130 feet-140 feet TDH (Total Dead- or Static-Head); a 20,000-gallon redwood storage tank; a booster pump rated 250 gpm at TDH; a 3,000-gallon hydropneumatic tank; 3,334 feet of 6-inch asbestos cement pipe; and necessary valves and fittings. The well has been variously rated at 17 gpm and 23 gpm.
2. The Park water system consists solely of the distribution system within the park. The water supply is from a BL&E well and system which consists of the well, a pump, a 22,500-gallon redwood tank, a booster pump, a hydropneumatic tank (both of unknown capacity), and necessary valves and fittings.
3. Subsequent to filing this application, Park rehabilitated the well, at a reported cost of \$1,876.78. The well had been silted to a depth of 92.5 feet, with a bad split in the 12-inch casing at 62 feet. The well was cleaned and drilled to a depth of 120 feet. New 8-inch casing was placed inside the 12-inch casing, with the

space between the casings filled with clean graded gravel and the top 65 feet filled with concrete as a water seal. The pump failed within a week after the repairs and was replaced with another of the same size. The well has since been reported as producing 23 gpm. Park advised the Commission staff by telephone that the cost of the repairs to the well would be borne by BL&E if the sale was not approved, but by Park if it was.

4. The well and facilities which BL&E proposes to sell to Park were installed by Humboldt County prior to 1945 to supply domestic water to privately owned cabins occupying sites leased from the county. In 1963, when the lease expired, the owners of the cabins incorporated as the Big Lagoon Park Company and, in 1965, purchased the land from Georgia-Pacific Corporation. They did not purchase the well or the other facilities.

5. The water system and tank site were owned by Humboldt County and in 1965 were transferred to Georgia-Pacific as part of the purchase price for land which is now a county park. BL&E was granted an easement for access to the well.

6. BL&E was sold to Richard Kurwitz in 1973. The well and tank site were included in the purchase. Sheila Kurwitz assumed ownership of BL&E upon the death of Richard Kurwitz in 1975.

7. By letter dated February 26, 1974, Park advised the Commission of its complete dependence on this well and its fear that the well might be connected into BL&E, resulting in Park's complete loss of water. Park asked that it be advised of any effort by BL&E to obtain approval of the use of this well and facilities as the standby source of water supply.

8. Park and BL&E jointly filed this application for the sale and transfer of the subject well to Park.

9. Park has a vital interest in the well which it wishes to purchase. Park has no other source of supply. Neither the failure of Park to purchase the well and facilities at the time of incorporation and land purchase nor the reason for their subsequent sale to BL&E instead of to Park are clearly explained. They are logically a water supply dedicated to Park and used and useful in its operation.

10. Conversely, the well and facilities, although belonging to BL&E, have never been connected to the BL&E system and are not used and useful in its business except as a water supply for Park. The system has not been entered into the BL&E system's plant accounts.

11. In Decision No. 67298 dated June 3, 1964 (Application No. 44736) we granted BL&E a certificate for its system. In that decision (Ordering Paragraph 6) we required a standby source of water. The staff investigation demonstrates that this requirement is unnecessary, because it was predicated on the assumption that the system would exceed 25 customers. In sixteen years of its existence, it never has done so, and the record of the company's water usage does not substantiate the need for the pump and associated equipment to be retained by BL&E for that purpose.

12. Instead of requiring the pump and other equipment not connected to the BL&E domestic system to be retained for standby purposes, it is more appropriate to condition the approval of the sale to Park on the requirement that BL&E seek Commission approval before exceeding 25 customers so that the Commission may investigate the need for a standby source of water prior to such expansion.

Conclusions of Law

1. Public convenience and necessity do not require BL&E to retain the pump, piping, storage tank, and associated plant not connected to its domestic water system for standby use.

2. This application should be granted subject to the requirement that if BL&E wishes to expand its system beyond 25 customers, it shall first apply to this Commission to do so, in order that we may investigate the necessity for system improvements, including standby capacity.

O R D E R

IT IS ORDERED that:

1. B. L. & E. Co. may sell and transfer to Big Lagoon Park Corporation the water well, complete with pump, piping, storage tank, and associated plant which is presently connected to the water system of Big Lagoon Park Corporation. The sale and transfer shall be completed within six months from the effective date of this order and a copy of the contract of sale and deed of transfer shall be furnished to this Commission by B. L. & E. Co.

2. B. L. & E. Co. shall not expand its service beyond 25 customers without first applying to this Commission for approval of such expansion.

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

Dated FEB 4 1981, at San Francisco, California.

John E. Bayne
President
Stephen A. Hoople
Lawrence J. ...

Commissioners