

Decision 00-04-024 April 6, 2000

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Mineral City Water System, a California Corporation, (U-48-W) for Authority to Sell and Del Oro Water Co., Inc. (U-61-W) for Authority to Buy the Mineral City Water System in Tehama County.

Application 99-10-012  
(Filed October 7, 1999)

**OPINION**

**Summary**

This decision authorizes Mineral City Water System (Mineral City) to sell and Del Oro Water Company, Inc., (Del Oro) to purchase Mineral City's water system. Upon consummation, Del Oro would assume Mineral City's public utility obligations and provide water service with no change in rates. Further, Del Oro is authorized to execute a promissory note and encumber utility property in connection with the purchase as set forth in the Application.

**Discussion**

Mineral City is a Class D regulated water utility serving approximately 173 general metered customers in Tehama County east of Red Bluff. The utility was first certificated in 1940 by H. K. Beresford, Catherine A. Beresford and Nellie V. Beresford.<sup>1</sup> In 1985, the Commission authorized the utility's transfer to Mineral City, a California corporation formed by the succeeding owners for that

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<sup>1</sup> Decision (D.) 33187

purpose.<sup>2</sup> Mineral City's owner now desires to sell to Del Oro so that she may discontinue doing business as a public utility. Del Oro desires to acquire the system because it can be profitably and efficiently consolidated with the regulated water systems Del Oro already owns and operates. Mineral City and Del Oro seek authorization for the sale and purchase under Pub. Util. Code Sections 851 through 854.<sup>3</sup>

Del Oro is a Class B regulated water utility serving over 7,000 customers in Butte, Humboldt, Shasta and Nevada counties through five districts and two wholly-owned subsidiaries, and is in the process of annexing three systems as additional districts in other areas. Del Oro has a history of expansion. Beginning with its Paradise Pines District in 1965, it expanded through acquisition to include as operating districts the water systems of Lime Saddle Community Services District (1990), Magalia County Water District (1993), Francis Land and Water (1996) and Johnson Park Water Works (1998), and, as wholly-owned subsidiaries, Stirling Bluffs Corporation (1989) and Donner Lake Utility Co. (1993). We recently approved a Del Oro application to acquire Pine Mountain Water Company and Pine Flat Water Company,<sup>4</sup> both in Tulare County, and have pending a Del Oro application to acquire Country Estates Water Company in Kern County.<sup>5</sup> There was no indication in our consideration of any of those acquisitions that Del Oro was anything other than competent and conscientious as a public utility water system operator.

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<sup>2</sup> D.85-02-012

<sup>3</sup> All references are to the Public Utilities Code except as otherwise noted.

<sup>4</sup> D.00-01-018

<sup>5</sup> Application 99-11-031

In Mineral City's most recent rate resolution,<sup>6</sup> the Commission noted both the Department of Health Services' and Water Advisory Branch's belief that Mineral City acted prudently, in good faith and in the best interests of its ratepayers to comply with new surface water treatment regulations. The Commission concluded that service was satisfactory, there were no Commission orders requiring system improvements, and no service problems requiring corrective action.

Notice of the Application appeared on the Commission's Daily Calendar of October 20, 1999. Ratepayer Representation Branch of Water Division (RRB) filed a timely protest, stating that it planned to conduct an investigation and a hearing might be necessary. Ratepayer Representation Branch subsequently withdrew its protest without expressing an opinion on the merits of the Application.

The Application cites Mineral City's 1998 annual report to show the original cost of the property being transferred as \$244,945, the related depreciation reserve as \$79,004, and net plant in service as \$165,941 on December 31, 1998. Del Oro has agreed to pay \$210,000<sup>7</sup> plus adjustments for accounts receivable and additions and betterments from the June 29, 1999 date of the Agreement through the closing date. Del Oro would pay \$150,000 in cash and the approximate \$60,000 balance pursuant to a promissory note secured by the real property being conveyed. The promissory note would be payable in equal installments at 8.5% interest per annum over 15 years.

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<sup>6</sup> Resolution W-4136, February 18, 1999

<sup>7</sup> The Application gives this figure as \$200,000, but Application Exhibit A, the Agreement to Purchase and Sell (Agreement), shows it to be \$210,000. Del Oro confirms the latter figure is correct.

Under the Public Water System Investment and Consolidation Act of 1997, Pub. Util. Code § 2718 et seq., the Commission must use a fair market value standard to establish rate base in setting rates for regulated systems acquired by other regulated water utilities. The \$165,941 value cited in the Application notwithstanding, the \$210,000 Del Oro has agreed to pay approximates Mineral City's net plant in service and rate base in this case. The discrepancy is explained by a February 18, 1999 rate base offset approved by the Commission and not considered in the Application figures. Appendix A, Summary of Earnings, from Resolution W-4136 shows the Commission approved a plant addition that brought adopted rate base to \$210,726 in 1999. Under the terms of the Agreement, that addition has already been incorporated into the purchase price and is not part of the potential purchase price adjustments for additions and betterments at closing.

As part of the Agreement, Del Oro is acquiring not only Mineral City's regulated utility assets, but also a ten-year lease with one five-year renewal option and a right-of-first-refusal purchase option on a non-utility real property parcel owned by Mineral City's principal. Del Oro may later place a storage and field office facility on the site, but for now the parcel is not owned by Mineral City, not included in the net plant in service figures, and not used in providing Mineral City's water service. The Application and the Agreement do not define what portion, if any, of the \$210,000 purchase price is to be allocated as consideration for the lease/purchase option. However, because the purchase price, and thus fair market value, does not exceed rate base, the requirements of § 2718 et seq. do not come into play and we need not further examine the \$210,000 purchase price figure.

Del Oro will also require Commission authorization under §§ 817 and 818 to issue the \$60,000, 15-year promissory note, and under § 851 for a deed of trust

encumbering the utility's real property. These issuances are for proper purposes related to the purchase and sale and will be approved.

To implement the transfer, Applicants would have all of Mineral City's current tariffs canceled and Mineral City relieved of its public utility water service obligations; Del Oro deemed to be the holder of the certificate of public convenience and necessity to provide water service to Mineral City's service area; and Del Oro authorized to refile for its new Mineral City District the water rates and charges then in effect for Mineral City. Del Oro would accept responsibility for customer deposits and refundable advances for construction. For future ratemaking purposes, it should maintain separate accounting, charging to Mineral City District a portion of its common expenses using Commission-accepted allocation methods.

Del Oro is experienced and capable of running a public utility water system, and can presumably introduce economies of scale into Mineral City's operations. The acquisition would be largely transparent to Mineral City customers in the near term, and favorable in the longer term. Del Oro is well-suited to acquire the Mineral City water system and to assume Mineral City's public utility responsibilities.

### **Procedural Considerations**

In Resolution ALJ 176-3025, the Commission preliminarily categorized this as a ratesetting proceeding, and preliminarily determined that a hearing would not be necessary. There are no material facts in dispute, no remaining protests, and no known opposition to granting the full relief requested. We conclude that it is not necessary to disturb our preliminary determinations.

This is an uncontested matter which pertains solely to water corporations. Accordingly, pursuant to Pub. Util. Code § 311(g)(3), the 30-day period for public review and comment does not apply.

### **Findings of Fact**

1. Mineral City and Del Oro have entered into an Agreement to Purchase and Sell under which Del Oro would acquire the Mineral City water system and assume Mineral City's public utility obligations.

2. The Agreement establishes the price Del Oro will pay at or below rate base value as determined by the Commission in Resolution W-4136. The sales price will be adjusted to reflect accounts receivable and additions and betterments through the closing date.

3. The Agreement also provides for Del Oro to lease with a purchase option a separate parcel of non-utility real property.

4. Del Oro is well-suited to acquire and operate the Mineral City water system.

5. Upon transfer, Del Oro would establish the Mineral City system as a separate district with the same water rates and charges then in effect, or authorized by the Commission to be put into effect, for Mineral City.

6. Del Oro would accept responsibility for Mineral City customer deposits and refundable advances for construction.

7. There is no known opposition to granting the authority requested.

### **Conclusions of Law**

1. Del Oro's proposed acquisition of the Mineral City water system is not adverse to the public interest.

2. Del Oro should be authorized under §§ 817 and 818 to issue a promissory note not to exceed \$60,000 and payable at more than 12 months for the purchase

of the Mineral City system. The property to be paid for by the note is reasonably required for the purpose specified, and that purpose is not in whole or in part reasonably chargeable to operating expenses or income.

3. Del Oro should be authorized under § 851 to encumber the system's real property to secure its promissory note to Mineral City.

4. Pursuant to California Health and Safety Code Section 116525, a change in ownership of a public water system shall, and a change in regulatory jurisdiction may, require application for a new operating permit from the California Department of Health Services.

5. A public hearing is not necessary.

6. The Application should be granted as set forth in the order that follows.

7. The order that follows should be made effective immediately to allow Del Oro and Mineral City to complete the transaction without delay.

## **O R D E R**

### **IT IS ORDERED that:**

1. Within one year after the effective date of this order, Mineral City Water System (Mineral City) may sell to Del Oro Water Company, Inc. (Del Oro), and Del Oro may acquire, Mineral City's public utility water system. The sale shall be as described in Application 99-10-012 and the exhibits attached to it.

2. Del Oro is authorized to issue a promissory note payable at more than 12 months for an amount not to exceed \$60,000 and an associated deed of trust encumbering the real property being conveyed, both as described in the Application and the exhibits attached to it, for the purchase of the Mineral City system.

3. As conditions of this grant of authority, Del Oro shall assume Mineral City's public utility obligations and its liability for refunding customer deposits and advances for construction, and Mineral City shall remit to the Commission all user fees due under Public Utilities Code § 401 et seq. up to the date of closing.

4. Before the transfer is complete, Mineral City shall deliver to Del Oro, and Del Oro shall keep, all records of construction and operation of the water system.

5. Within 10 days after the transfer, Del Oro shall file an advice letter in the form prescribed by General Order 96 canceling Mineral City's tariffs and simultaneously making only such revisions to Del Oro's tariffs as are necessary to establish a Mineral City District with the same water rates and charges as then in effect, or authorized by the Commission to be put into effect, for Mineral City. Concurrently with this advice letter filing, Del Oro shall provide a separate compliance letter providing notification of the date on which the transfer was consummated and attaching true copies of the sale and transfer instrument(s).

6. Del Oro shall track its revenues, costs, and investments related to Mineral City District separately from those of its other water systems, charging to Mineral City District a portion of its common expenses using Commission-accepted allocation methods.

7. Within 90 days after the transfer, Del Oro shall file in proper form an annual report on Mineral City's operations from the first day of the year through the effective date of transfer.



8. Upon completion of the transfer in conformance with this order, Mineral City shall have no further public utility obligations in connection with the Mineral City water system.

9. This proceeding is closed.

This order is effective today.

Dated April 6, 2000, at San Francisco, California.

LORETTA M. LYNCH  
President

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

CARL W. WOOD

Commissioners