

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch****RESOLUTION W-4980
May 15, 2014****RESOLUTION****(RES. W-4980) LAKE FOREST WATER COMPANY.
ORDER AUTHORIZING TRANSFER OF LAKE
FOREST WATER COMPANY TO TAHOE CITY
PUBLIC UTILITY DISTRICT.**

SUMMARY

By Advice Letter (AL) No. 43, filed on February 8, 2013, the Tahoe City Public Utility District (District) requests California Public Utilities Commission (Commission) authorization pursuant to Public Utilities Code § 851 (PU Code) for transfer of the Tahoe Park Water Company, dba Lake Forest Water Company (LFWC), to District. AL 43 was filed as a Tier 3 filing in compliance with General Order 96-B (GO 96-B), Water Industry Rule 7.3.3 (9) for sale to a special district, and Resolution ALJ-272.

Pursuant to PU Codes §§ 851-854, we find that the transfer of LFWC to District to be in the public interest and is approved.

BACKGROUND

District filed AL No. 43 requesting Commission approval of the transfer of the water facilities of LFWC to District pursuant to PU Code Section 851 and GO 96-B, Water Industry Rule 7.3.3 (9) for the sale to a municipality or special district.

District is a California special district formed in 1938 under the Public Utility District Act, PU Code Section 15501. District provides water, sewer, parks and recreation facilities and services to the West Shore of Lake Tahoe in Placer and El Dorado Counties. District is governed by a five-person Board of Directors, elected at large from within District's boundaries.

District serves approximately 7,500 residences and business with sewer, park and recreation facilities. District also provides approximately 4,000 of the above households

with domestic water in five independent water service areas. The remainder of the residences and businesses located within District's boundaries are served by various investor owned utilities, mutual water companies, and individual systems.

LFWC serves approximately 118 residential and commercial connections located approximately 2 miles northeast of the community of Tahoe City. LFWC was purchased by the current owner, Richard Dewante, on April 3, 1996. Mr. Dewante applied to the Commission for a formal transfer of ownership of the water company to Tahoe Park Water Company, but was denied the transfer in 1997. Mr. Dewante operated LFWC without a formal transfer until March 27, 2009 when the Commission approved the transfer in Decision (D.) 09-03-032.

As authorized under D. 09-03-032, LFWC has completed the transfer of all of its assets to Mr. Dewante, owner of the Tahoe Park Water Company, in accordance with the terms of said decision.

LFWC's system is bordered on three sides by existing development served by District. The fourth side is the shore of Lake Tahoe. LFWC's existing distribution system has been in place for nearly a century and much of it is more than 75 years old. Replacement and modernization efforts for LFWC's system have been limited because of the system's small size and revenue level. LFWC also experienced deficiencies in its water quality resulting in compliance orders with the California Department of Public Health (CDPH) beginning in 1998.

In July 2007, District received petitions from approximately 72% of the customers of LFWC requesting District to take over the system. During 2008 and 2009, numerous attempts were made to negotiate a purchase with the owner of LFWC. These attempts were not successful and on April 23, 2010, the District Board of Directors made the decision to exercise its power of Eminent Domain to take ownership of the system and commenced the eminent domain action on June 4, 2010 in Placer County Superior Court.

On January 14, 2011, the Court issued an Order of Possession of the LFWC system to District and District has been operating the system since that date. A review of record indicates that LFWC paid the required Public Utilities Reimbursement Fee up to January 14, 2011, the transfer date of Lake Forest Water Company to the Tahoe City Public Utility District.

On October 26, 2011, District and LFWC filed a Stipulation for Binding Arbitration in the eminent domain proceeding. Placer County Superior Court issued the Order for Binding Arbitration on that same date.

Arbitration was conducted pursuant to the Stipulation and Order at the Sacramento Office of Judicial Arbitration and Mediation Services (JAMS), under JAMS rules and procedures. In the Final Arbitration Award issued on July 3, 2012, it was determined that the amount of just compensation to be paid to Mr. Dewante should be \$453,700. The Final Order of Condemnation was recorded by Placer County Superior Court on November 8, 2012.

Simultaneous with the efforts to purchase the system, District began design and construction of a complete water system replacement project to bring the infrastructure to current standards. Total cost for this project, including acquisition, is estimated at \$4,350,000. District also began efforts to secure grant funding of \$3,772,487 to offset the costs of the project using Proposition 50, State Revolving Fund, Placer County Redevelopment Funds, and Placer County Parks Funds. The remaining costs are funded through District.

District has acquired all of LFWC's water production, transmission, storage, distribution property, facilities, and franchises and rights in the nature of franchises and licenses.

NOTICE AND PROTESTS

In compliance with GO 96-B, Section 4.3, a copy of AL No. 43 was served on the service list for LFWC. The Division of Water and Audits (Division) received no protests or comments to AL No. 43.

DISCUSSION

Pursuant to PU Codes §§ 851-854 and Resolution ALJ-272, this resolution grants authority to LFWC to sell and District to buy LFWC in Placer County. AL No. 43 was filed as a Tier 3 filing in compliance with GO 96-B, Water Industry Rule 7.3.3 (9) for sale to a special district.

Proposed utility ownership changes are reviewed under PU Codes §§ 851-854. PU Codes §§ 851-854 prohibit the sale or transfer of control of a public utility without the advance approval of this Commission. This approval may be obtained through an

advice letter process. That process was established in Resolution ALJ-186 and extended and modified by Resolutions ALJ-202, ALJ-244, and ALJ-272.

The Commission requires a test of ratepayer indifference when evaluating the sale of a public utility, and also requires the buyer to demonstrate that the buyer's acquisition of the public utility yields a tangible benefit to the ratepayer. Using the ratepayer indifference test to assess the sale of LFWC, Division evaluated three key metrics: (1) service quality; (2) continuity of service; and (3) the impact of the purchase price on ratebase.

Division also assessed whether the transaction requires compliance with California Environmental Quality Act (CEQA), and whether any required approvals of other agencies are received, when assessing whether a sale of water utility should be authorized.

Service Quality

District took over operations on January 14, 2011. Conditions of service quality will improve under the jurisdiction of District as the existing water system's drinking water infrastructure has surpassed its useful life and is in need of repair and replacement. By transferring from private to public ownership, the water system will be eligible for many more grant funding opportunities.

Continuity of Service

District took over operations on January 14, 2011 and District meets all mandatory technical, managerial, and financial requirements to operate the water system.

Reasonability of Purchase Price

The transfer price being paid by District to LFWC for the assets is set in the Final Arbitration Award issued on July 3, 2012. It was determined that the amount of just compensation to be paid to Mr. Dewante should be \$453,700. The Final Order of Condemnation was recorded by Placer County Superior Court on November 8, 2012.

Based on the above, Division finds the transfer price and compensation reasonable. This transaction will not materially impact the rates of the utility. Division further finds that the value of the transaction is less than \$5 million and thus is eligible for the advice letter process under PU Code §851.

CEQA Review

CEQA review is not required by the proposed sale. CEQA applies to a “project” or “action “which has a potential for resulting in either a direct physical change in the environment, or a reasonable foreseeable indirect physical change ...[and involves] the issuance to a person of a lease, permit, license, certificate, or entitlement for use by one or more public agencies.” Pursuant to Division’s review, Division determined that CEQA does not apply as this advice letter filing involves only a transfer of ownership of the existing water facilities and no new construction or changes in the source of water supply are being proposed.

There is no evidence of any other changes in the operation of LFWC. Accordingly, approval of this advice letter is not a CEQA project and there is no possibility that the transaction may have any significant effect on the environment. Based on the advice letter, there is no evidence of any potential change to the environment as a result of our approval of this resolution. As a result, the approval of AL No. 43 is exempt from CEQA.

Permits

CDPH issued a domestic water supply permit on March 11, 2011. Therefore, this resolution approves the transfer of LFWC’s water system unconditionally.

Conclusion

Based on the above criteria, Division finds that District can assume the ownership without incurring financial difficulties and the customers of LFWC will be well-served by the change to District's ownership. Pursuant to PU Codes § 851-854 and Resolution ALJ-272, Division finds the transfer of LFWC to District to be in the public interest and the transfer does not warrant a more comprehensive review that would be provided through a formal PU Code §851 application.

COMMENTS

This is an uncontested matter that pertains solely to a water corporation. Accordingly, pursuant to Public Utilities Code Section 311(g) (3), the otherwise 30-day period for public review and comment is exempt.

FINDINGS

1. By Advice Letter (AL) No. 43, filed on February 8, 2013, Tahoe City Public Utility District (District) requests California Public Utilities Commission (Commission) authorization pursuant to Public Utilities Code § 851 (PU Code) to transfer Tahoe Park Water Company, dba Lake Forest Water Company (LFWC), to District.
2. AL 43 was filed as a Tier 3 filing in compliance with General Order 96-B (GO 96-B), Water Industry Rule 7.3.3 (9) for sale to a special district, and Resolution ALJ-272.
3. District is a California special district formed in 1938 under the Public Utility District Act, PU Code Section 15501. District provides water, sewer, parks and recreation facilities and services to the West Shore of Lake Tahoe in Placer and El Dorado Counties. District is governed by a five-person Board of Directors, elected at large from within District's boundaries.
4. District serves approximately 7,500 residences and businesses with sewer, park and recreation facilities. District also provides approximately 4,000 of the above households with domestic water in five independent water service areas.

5. LFWC serves approximately 118 residential and commercial connections located approximately 2 miles northeast of the community of Tahoe City. LFWC was purchased by the current owner, Richard Dewante, on April 3, 1996.
6. Mr. Dewante applied to the Commission for a formal transfer of ownership of the water company to Tahoe Park Water Company, but was denied the transfer in 1997. Mr. Dewante operated LFWC without a formal transfer until March 27, 2009 when the Commission approved the transfer in Decision (D.) 09-03-032.
7. As authorized under D. 09-03-032, LFWC has completed the transfer of all of its assets to Mr. Dewante, owner of the Tahoe Park Water Company, in accordance with the terms of said decision.
8. LFWC's system is bordered on three sides by existing development served by District. The fourth side is the shore of Lake Tahoe.
9. LFWC's existing distribution system has been in place for nearly a century and much of it is more than 75 years old.
10. Replacement and modernization efforts for LFWC's system have been limited because of the system's small size and revenue level. LFWC also experienced deficiencies in its water quality resulting in compliance orders with the California Department of Public Health (CDPH) beginning in 1998.
11. In July 2007, District received petitions from approximately 72% of the customers of LFWC requesting District to take over the system.
12. During 2008 and 2009, numerous attempts were made to negotiate a purchase with the owner of LFWC. These attempts were not successful and on April 23, 2010, the District Board of Directors made the decision to exercise its power of Eminent Domain to take ownership of the system and commenced the eminent domain action on June 4, 2010 in Placer County Superior Court.
13. On January 14, 2011, the Court issued an Order of Possession of the LFWC system to District and District has been operating the system since that date.

14. A review of record indicates that LFWC paid the required Public Utilities Reimbursement Fee up to January 14, 2011, the transfer date of Lake Forest Water Company to the Tahoe City Public Utility District.
15. On October 26, 2011, District and LFWC filed a Stipulation for Binding Arbitration in the eminent domain proceeding. Placer County Superior Court issued the Order for Binding Arbitration on that same date.
16. Arbitration was conducted pursuant to the Stipulation and Order at the Sacramento Office of Judicial Arbitration and Mediation Services (JAMS), under JAMS rules and procedures.
17. In the Final Arbitration Award issued on July 3, 2012, it was determined that the amount of just compensation to be paid to Mr. Dewante should be \$453,700. The Final Order of Condemnation was recorded by Placer County Superior Court on November 8, 2012.
18. The Division of Water and Audits (Division) finds the transfer price and compensation reasonable. This transaction will not materially impact the rates of the utility. Division further finds that the value of the transaction is less than \$5 million and thus is eligible for the advice letter process under PU Code §851.
19. Conditions of service quality will improve under the jurisdiction of District as the existing water system's drinking water infrastructure has surpassed its useful life and is in need of repair and replacement. By transferring from private to public ownership, the water system will be eligible for many more grant funding opportunities.
20. Simultaneous with the efforts to purchase the system, District began design and construction of a complete water system replacement project to bring the infrastructure to current standards.

21. Total cost for this project, including acquisition, is estimated at \$4,350,000. District also began efforts to secure grant funding of \$3,772,487 to offset the costs of the project using Proposition 50, State Revolving Fund, Placer County Redevelopment Funds, and Placer County Parks Funds. The remaining costs are funded through District.
22. District has acquired all of LFWC's water production, transmission, storage, distribution property, facilities, and franchises and rights in the nature of franchises and licenses.
23. In compliance with GO 96-B, Section 4.3, a copy of AL No. 43 was served on the service list for LFWC. Division received no protests or comments to AL No. 43.
24. Proposed utility ownership changes are reviewed under PU Codes §§ 851-854.
25. PU Codes §§ 851-854 prohibit the sale or transfer of control of a public utility without the advance approval of this Commission. This approval may be obtained through an advice letter process. That process was established in Resolution ALJ-186 and extended and modified by Resolutions ALJ-202, ALJ-244, and ALJ-272.
26. The Commission requires a test of ratepayer indifference when evaluating the sale of a public utility, and also requires the buyer to demonstrate that the buyer's acquisition of the public utility yields a tangible benefit to the ratepayer.
27. Using the ratepayer indifference test to assess the sale of LFWC, Division evaluated three key metrics: (1) service quality; (2) continuity of service; and (3) the impact of the purchase price on ratebase.

28. California Environmental Quality Act (CEQA) review is not required by the proposed sale. Pursuant to Division review, Division has determined that CEQA does not apply as this advice letter filing involves only a transfer of ownership of the existing water facilities and no new construction or changes in the source of water supply are being proposed.
29. There is no evidence of any other changes in the operation of LFWC. Accordingly, approval of this advice letter is not a CEQA project and there is no possibility that the transaction may have any significant effect on the environment.
30. There is no evidence of any potential change to the environment as a result of our approval of this resolution. As a result, the approval of AL No. 43 is exempt from CEQA.
31. CDPH issued a domestic water supply permit on March 11, 2011.
32. Division finds that District can assume the ownership without incurring financial difficulties and the customers of LFWC will be well-served by the change to District's ownership.
33. Pursuant to PU Codes § 851-854 and Resolution ALJ-272, Division finds that the transfer of LFWC to District to be in the public interest and does not warrant a more comprehensive review that would be provided through a formal PU Code §851 application.

CERTIFICATE OF SERVICE

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Final Resolution No. W-4980 on all parties in these filings or their attorneys as shown on the attached lists.

Dated May 16, 2014, at San Francisco, California.

/ s/ Daniel Song

DANIEL SONG

Parties should notify the Division of Water and Audits, Fourth Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.

**LAKE FOREST WATER COMPANY
ADVICE LETTER NO. 43
SERVICE LIST**

State of California
California Department of Public Health
Division of Drinking Water and Environmental Management
415 Knollcrest Drive, Suite 110
Redding, CA 96002

Timberland Water Company
Attn. John Ballard
P.O. Box 7573
Tahoe City, CA 96145

Tahoe Park Water Co.
5000 Windplay Dr., Suite 4
El Dorado Hills, CA 95762

Fulton Water Co., Inc.
P.O. Box 1709
Carnelian Bay, CA 96140

Placer County Environmental Health
P.O. Box 1909
Tahoe City, CA 96145

North Tahoe Public Utility District
P.O. Box 139
Tahoe Vista, CA 96148