

DRAFT

WATER/RSK/PTL/LEP/jlj

Agenda Item #7851

9/4/2008

Ratesetting

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Elia Najor doing business as Live Oak Springs Water Company to sell and Live Oak Enterprises, LLC to buy the water system in San Diego County, California.

Application 07-05-032
(Filed May 29, 2007)

OPINION

Summary

Elia Najor doing business as Live Oak Springs Water Company is seeking Commission authorization to sell and transfer ownership of the Live Oak Springs Water Company (Live Oak or Company) to Live Oak Enterprises, LLC (Buyer). The Commission's Division of Water and Audits (Division) has investigated the proposed transfer and recommends approval. Application 07-05-032 (Joint Application) is granted.

Background

Live Oak is a California corporation engaged in the business of selling water to 96 customers in the unincorporated community of Live Oak Springs and Vicinity, San Diego County, California. Elia Najor acquired Live Oak in September 2, 1992 pursuant to Decision 92-09-001.

Live Oak is located in Boulevard, San Diego County. It serves a resort community. The Live Oak system consists of two wells (one is off-line at this time), two well pumps, one booster pump, three storage tanks, and 16,437 feet of distribution mains. The office furniture includes a trailer truck, a computer, software, filing cabinets, a desk, and telephones.

Sales Agreement

The sales agreement was signed on June 1, 2007 by and between Live Oak, and Lauren Najor, one of the three principals for Live Oak Enterprises, LLC. Elia Najor desires to dispose of the system. He is 93 years old and cannot run the system. He wishes to sell to his sons Daniel and Ramsey and his daughter-in-law, Lauren. These three are principals of Live Oak Enterprises, LLC. They have a combined business experience of 88 years, and have been overseeing the company for some time. Nazar Najor, the manager of the utility since 1984 has been retained and will continue as manager of the utility. In addition, a Certified Operator has been retained on a contractual basis.

The sales agreement calls for a purchase price of \$185,000, the company's current book value. Elia Najor agrees that he has been prepaid. He has signed a quit claim for a family transfer.

After examining the financial statements of Live Oak Enterprises, LLC, the Division has determined that the Buyer has the financial net worth and sufficient liquid assets to own and operate Live Oak. The Division believes that the customers of Live Oak will be better served under the new ownership as further discussed below.

Ratepayer Indifference

The Commission requires that any sale of a public utility should not have any net consequences that cause the ratepayer to prefer the seller to the buyer.

This requirement is referred to as the “ratepayer indifference” test. For example, the ratepayer should not be subject to increased rates or reduced service as the result of a change of ownership.

Using the ratepayer indifference test to assess the sale of the Company from Elia Najor to the Live Oak Enterprises, LLC, the Division evaluated several key metrics including (1) the impact of purchase price on rates, (2) service quality, and (3) continuity of service.

Purchase Price

The proposed purchase price of \$185,000 is the book value arrived at by adding the fixed assets of the water system, subtracting out accumulated depreciation, and adding working cash. The Division has reviewed the calculations contained in the application, which agree with Commission-adopted resolutions.

Public Utilities Code § 2720(a) requires, “[T]he commission shall use the standard of fair market value when establishing the rate base value for the distribution system of a public water system acquired by a water corporation. This standard shall be used for ratesetting.” The Division has determined that the purchase price of \$185,000 meets the fair value doctrine. The purchase price is based on the Company’s book value and will not adversely impact customers’ rates.

Service Quality

Live Oaks Enterprises, LLC has retained Nazar Najor, the existing manager, to continue operating the Company. In addition, the Buyers have retained a Certified Operator on a contractual basis. The system needs modifications and repairs to bring it up to the standards of General Order 103 at

an estimated cost of \$50,000. The Joint Application states that these funds will be provided by Live Oaks Enterprises, LLC through cash investments in the water system (Joint Application at p.5). The Company's 2007 annual report indicates progress in this regard.

Service Continuity

Elia Najor wishes to dispose of the Company. He is 93 years old and is unable to operate the water system. He wishes to sell it to his two sons and daughter-in-law. These three are principals of Live Oak Enterprises, LLC. They have a combined business experience of 88 years. The Buyer will also have the benefit of continuity with the current manager, Nazar Najor. In the Joint Application, Live Oak Enterprises, LLC commits that it will adopt the present tariffs and agrees to be bound by any outstanding Commission decisions and/or directives involving the water system being transferred. The transfer of ownership to Live Oak Enterprises, LLC ensures an orderly water system ownership transition and thereby offers continued water service by a responsible and experienced new owner. This greatly reduces the chance of the water system being abandoned and turned over to the county health department. The Joint Application also indicates that it has obtained the County of San Diego's Department of Environmental Health Permit approving the transfer of ownership to Live Oak Enterprises, LLC.

Division's Conclusions

The sale of the Live Oak water system from Elia Najor to the Live Oak Enterprises, LLC is desired by both parties. The Live Oak Enterprises, LLC has the staff and financial resources to operate the Company.

The Division recommends that:

- (1) The Joint Application be accepted and approved with no further hearings, pleadings, or filings necessary;
- (2) The sales agreement between Elia Najor and Live Oak Enterprises, LLC for a total purchase price of \$185,000 be authorized;
- (3) Elia Najor be granted authorization to withdraw from providing water utility service to customers of Live Oak Springs Water Company; and
- (4) Live Oak Enterprises, LLC be allowed to acquire ownership and assume water utility service to the customers of Live Oak Springs Water Company.

Uncontested Matter

This is an uncontested matter in which the decision grants the relief requested. This proceeding is subject to the public review and notice comment exclusion pursuant to Public Utilities Code § 311(g) (3).

Assignment of Proceeding

Rami Kahlon is the assigned Examiner in this proceeding.

Findings of Fact

1. The sale of Live Oak Springs Water Company from Elia Najor to the Live Oak Enterprises, LLC is desired by all parties.
2. Live Oak Springs Water Company has obtained approval from the County of San Diego Department of Environmental Health to sell the Company to the Live Oak Enterprises, LLC pursuant to § 116525(a) of the Health and Safety Code.

3. Elia Najor requests authority to transfer ownership of the Live Oak Water Company, which serves approximately 96 customers.

4. Elia Najor wants to exit the water utility business because he is unable to continue the day to day operation of the utility.

5. Live Oak Enterprises, LLC wants to buy Live Oak Springs Water Company, and its principals have the knowledge and experience to operate the system.

6. Live Oak Enterprises, LLC has the staff and financial resources to operate Live Oak Springs Water Company.

7. Live Oak Enterprises, LLC will have the benefit of retaining the current manager of Live Oak Springs Water Company.

8. Ratepayers will benefit from the transfer because the Live Oak Enterprises, LLC has the financial net worth and sufficient liquid assets to own and repair the water system.

9. The Commission's Division of Water and Audits has determined that the purchase price of the Company for \$185,000 is the fair market value, as required by Public Utilities Code § 2720.

Conclusions of Law

1. Transfer of ownership of Live Oaks Springs Water Company meets the test of ratepayer indifference in that customers will be unaffected or better off in terms of service, water quality, and continuity of service.

2. This is an uncontested matter in which the decision grants the relief requested.

3. This order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. The application of Elia Najor to sell and convey the Live Oak Springs Water Company to Live Oak Enterprises, LLC is granted.
2. Live Oak Springs Water Company shall remit to the Commission's Fiscal Office all of the Commission's Users Fees collected as of the date of transfer of ownership of the water system.
3. Live Oak Enterprises, LLC is authorized to acquire ownership and assume water utility service to the customers of Live Oak Springs Water Company.
4. Elia Najor shall be relieved of public utility responsibility for the operation of the Live Oak Springs Water Company.
5. Application 07-05-032 is closed.

This order is effective today.

Dated _____, at San Francisco, California.