

WATER/RSK/FLC/JPT/MKX/jlj

Decision 07-08-022 August 23, 2007

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

Application of John W. Richardson, Receiver, for Arrowhead Manor Water Company, Inc., U-347-W, to sell and the County of San Bernardino County Service Area 70 Improvement Zone, CG to buy the water system located in San Bernardino County.

Application 07-04-016  
(Filed April 25, 2007)

**OPINION**

**Summary**

Pursuant to Public Utilities Code §§ 851-854, this decision grants authority to John W. Richardson, the court-appointed receiver, (Receiver) to transfer the control of Arrowhead Manor Water Company, Inc. (Arrowhead) to the County of San Bernardino County Service Area 70 Improvement Zone CG (District). By Application No. (A.) 07-04-016 filed April 25, 2007, the Receiver is seeking Commission authorization to sell and transfer ownership of the Arrowhead to the District. Arrowhead is a Class D water utility servicing 331 customers in unincorporated Community of Cedar Glen located one mile southeast of Lake Arrowhead, San Bernardino County. The Commission's Division of Water and Audits (Division) has investigated the proposed transfer and recommends approval. This proceeding is closed.

**Background**

Arrowhead is a California corporation engaged in the business of selling water to customers in unincorporated Community of Cedar Glen located one mile southeast of

Lake Arrowhead, San Bernardino County, California. The source of water supply is well water.

In Decision (D.) 39396, issued September 10, 1946, the Commission granted Arrowhead a certificate of public convenience and necessity (CPCN) to supply water for domestic purposes as public utility in Tract Nos. 1921 and 2423, San Bernardino County. Tract Nos. 1921 and 2423 are located one and one-half miles east of Lake Arrowhead. Tract No. 1921 consists of 160 acres of land and Tract 2423 consists of five acres of land. At the time the source of water supply was a spring located on United States Government property in which a right to use 2,600 gallons of water per day was obtained.

In D. 55366, issued August 5, 1957, the Commission authorized Arrowhead to acquire the operating rights and CPCN and assets of Lake Brook Park Water System (LBPWS), sole partnership, and relieved LBPWS of all further public utility obligations and liabilities in connection with operations of LBPWS. Arrowhead was authorized to issue not to exceed 8,500 shares of its common capital stock of the par value of \$1 per share (total value of \$ 8,500) to E. A. Schoettmer and Jean Schoettmer. LBPWS owned a certain portion of lots 20 and 21, Block 6, Tract 2036, San Bernardino County, and was immediately adjacent to Arrowhead's service area.

In D.92178, issued September 3, 1980, the Commission granted authority to obtain, through Department of Water Resources (DWR), a Safe Drinking Water Bond Act (SDWBA) Loan of \$884,000 to upgrade its system. Arrowhead was authorized to collect a surcharge from customers to pay for the loan principal and interest. In the 1995 Annual Report, for the first time, the utility disclosed \$884,000 as the amount for the SDWBA financed plant. The original loan was \$910,520 and the difference, \$26,520, was the 3% Administrative fee. From the inception of the loan in 1980, DWR has received \$164,276 paid back to principal of the loan. The last principal payment was received on July 15, 1994. In October 2000 the loan was restructured with a new principal balance of \$1,114,920.

In D.88-06-018, issued June 8, 1988, the Commission authorized the transfer of Arrowhead and its outstanding common shares from Eric Schoettmer and Jean Schoettmer to Lance L. Johnson and Sally Johnson. The selling price was \$100,000. At the time of the purchase of Arrowhead, Mr. Johnson was a consultant with over thirty years of experience with various companies owned by California Water Service Company. Mr. Johnson had experience in the financial community and was deemed qualified to control and operate Arrowhead.

On March 16, 2000, the Commission issued an order to institute investigation (OII) I. 00-03-016 to look into operations and practices of Arrowhead to determine whether Arrowhead: (1) complied with Commission orders in connection with the SDWBA; (2) complied with applicable laws, regulations, and orders of the Commission and the Department of Health Services (DHS) in the provision of a reliable, adequate and potable supply of water to the customers; and (3) pursued effective resolution of customer inquires and complaints.

In D.02-07-009, issued July 17, 2002, the Commission found that Arrowhead had been unable or unwilling to adequately serve its ratepayers, and had been unresponsive to the rules and orders of the Commission. Arrowhead was found to have improperly diverted SDWBA surcharge funds for other purposes than paying the loan payments. The Commission's General Counsel was directed to petition the Superior Court of San Bernardino County to appoint a receiver for Arrowhead in accordance with Public Utilities Code Section 855.

On May 7, 2003, the Superior Court of San Bernardino County appointed John W. Richardson as Receiver for Arrowhead or the Estates of Lance L. Johnson and Kathleen I. Johnson, as the named Executrix of the Estates. Since 2003, Mr. Richardson has worked with Arrowhead's employees to operate the water system until he can arrange for its sale. Mr. Richardson worked with insurance companies and governmental agencies to minimize the impact of the October 2003 fire, lasting about ten days, which devastated part of San Bernardino County. Due to the fire, Arrowhead lost 300 active service connections and spent several months in 2004 replacing and/or

repairing the water plant destroyed by the fire. Arrowhead did not seek recovery of the expenses related to the fire since most of the work was financed with insurance proceeds. Arrowhead was considered Class C water utility because it had over 500 service connections. Arrowhead is now a Class D water company since it has now only 331 service connections.

On December 20, 2006, the Superior Court of San Bernardino County authorized the Receiver to sign the Agreement as described in the Stipulation, dated December 13, 2006, entered into between the Receiver and the Estates of Lance L. Johnson and Kathleen I. Johnson, as the named Executrix of the Estates and her individual capacity and sell Arrowhead to the County of San Bernardino for a purchase price of \$300,000. Arrowhead's service area is in the unincorporated community of Cedar Glen and vicinity located one mile southeast of Lake Arrowhead, San Bernardino County. Arrowhead's water system is comprised of:

1. five storage tanks and one pressure tank;
2. six pumps;
3. one chlorinator;
4. two meters;
5. 38 hydrants;
6. 39 miles of water mains;
7. 270-customer meter connection;
8. 61 flat rate service connections;
9. Land, water license, and inventories;
10. Meter Boxes;
11. All real property and easements including, water tanks, land, water rights, pump houses, and wells listed on Schedule B of the Agreement;
12. All assets including office furniture and equipment listed on Schedule C of the Agreement;
13. Intangible property including water rights, records, utility system maps, drawings, building permits and licenses;

14. Personal property of seller held under title of security arrangement, or located other than in possession of seller; and
15. Individual Grant Deed.

## **Sales Agreement**

The sales agreement calls for a purchase price of \$300,000 with these terms for payment: all cash at close of escrow. Arrowhead indicates that the original cost of property being transferred is \$1,104,258, and the depreciation reserve as of December 31, 2006 is \$417,428, resulting in a net book value of \$686,830. Arrowhead also indicates that it has a net plant of \$12,821 and \$674,009 in net SDWBA plant.

In addition, Arrowhead is liable for the restructured SDWBA loan with a new principal balance of \$1,114,920. The District has the financial net worth and sufficient liquid assets to own and operate Arrowhead. Seller desires to dispose of the system pursuant to the order of the Court and buyer desires to acquire the system because the County of San Bernardino has formed a Community Services District which has the ability to acquire the public funding necessary to rehabilitate the system after the devastating fire of 2003. Buyer is currently operating the system pursuant to the Operations and Management Agreement effective November 1, 2006. Buyer has necessary experience which qualifies it to operate the system. It currently operates nine water districts and ten sanitation districts. The districts are formed as either a County Service area (CSA) or an improvement Zone to CSA.

After examining the County of San Bernardino's financial statements, the Division believes that it has the financial net worth and sufficient liquid assets to own and operate Arrowhead. The Division believes that the customers of Arrowhead will be better served under the new ownership.

## **Ratepayer Indifference**

The Commission requires a test of ratepayer indifference when evaluating the sale of a public utility. The ratepayer indifference concept is one that states that any sale of a public utility should not have any net consequences that cause the ratepayer to prefer the seller to the buyer. 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 water system from the Receiver to the County of San Bernardino County Service Area 70 Improvement

Zone CG, the Division evaluated several key metrics including (1) the impact of purchase price on rate base, (2) service quality, and (3) continuity of service.

### **Purchased Price**

The proposed purchased price of \$300,000 is \$386,830 under the book value of \$686,830 arrived at by adding the fixed assets of the water system and subtracting out accumulated depreciation. The Buyer is also responsible for the restructured SDWBA loan with a principal balance of \$1,114,920. The Division believes that the purchased price is reasonable.

### **Service Quality**

The County of San Bernardino has actual knowledge and all appropriate licenses, permits, easements (actual, implied or prescriptive), building permits, and occupancy permits which are required from any governmental authority having jurisdiction over the assets or from private parties as necessary to make use of the assets of the acquired operational water system.

### **Service Continuity**

Seller desires to dispose of the system pursuant to the order of the Superior Court and buyer desires to acquire the system because the County has formed a Community Service District which has the ability to acquire the public funding necessary to rehabilitate the system after the devastating fire of 2003. Receiver's sales agreement with the County of San Bernardino ensures an orderly water system ownership transition and thereby offers continued water service by responsible and experienced new owners, and greatly reduces the chance of the water system being abandoned and turned over to the county health department.

### **Division's Conclusions**

The sale of Arrowhead water system from the Receiver to the County of San Bernardino is desired by both parties. The Seller wants to exit the water utility business because of the order of the Superior Court to dispose of the system. The County of San Bernardino will have the staff and the resources to operate Arrowhead. The Division recommends:

- (1) That the joint application, A.07-04-016, be accepted and approved with no further hearings, pleadings, or filings necessary;
- (2) That the sale agreement between the Receiver and the County of San Bernardino for a total purchase price of \$300,000 be authorized;
- (3) That the County of San Bernardino be authorized to purchase all of the assets and assume the obligations of the Arrowhead per the purchase agreement;
- (4) That the Receiver be granted authorization to withdraw from providing water utility service to customers of Arrowhead;
- (5) That the County of San Bernardino be allowed to acquire ownership of and assume water utility service to the customers of the Arrowhead;

### **Uncontested Matter**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code § 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Rami Kahlon is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The sale of Arrowhead Water Company, Inc. from the Receiver to the County of San Bernardino is desired by all parties.
2. Receiver requests authority to transfer ownership of the Arrowhead Manor Water Company Inc., which serves approximately 331 customers.
3. Seller wants to exit the water utility business because of the Superior Court order to dispose of the water system.
4. The County of San Bernardino wants to buy Arrowhead Manor Water Company, Inc. because of public convenience.
5. The County of San Bernardino has the staff and resources to operate Arrowhead Manor Water Company, Inc.

6. The County of San Bernardino proposes to hire the existing operator of the County of San Bernardino water districts.

7. Ratepayers will benefit from the transfer because the County of San Bernardino has the financial net worth and sufficient liquid assets to own and to modify and repair the water system.

8. The Division has determined that the purchase price of the system, \$300,000, is the fair market value, as required by Public Utilities Code § 2720.

### **Conclusions of Law**

1. Transfer of ownership of the Arrowhead Manor Water Company, Inc. 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. Pursuant to California Health and Safety Code, 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 Public Health.

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

### **ORDER**

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

1. The application of John W. Richardson, Receiver, to sell and convey the Arrowhead Manor Water Company, Inc. to the County of San Bernardino County Service Area 70 Improvement Zone CG is granted.

2. The County of San Bernardino shall remit to the Commission's Fiscal Office all of the Commission's Users Fees collected to the date of transfer of ownership of the water system.

3. The County of San Bernardino is directed to comply with § 116525(a) of the Health and Safety Code, enforced by the California Department of Public Health, which states: "No person shall operate a public water system unless he or she firsts submits an

application to the department and receives a permit as provided in this chapter. A change in ownership of a public water system shall require the submission of a new application.”

4. Upon approval of the Department of Public Health, and the Department of Water Resources (concerning the assumption of Safe Drinking Water Bond Act Loans), the County of San Bernardino is authorized to acquire ownership of and assume water utility service to the customers of Arrowhead Manor Water Company, Inc.

5. Applicants within 10 days of the transfer of ownership shall notify the Director of the Division of Water and Audits in writing that the transfer has taken place, attaching copies of the transfer document.

6. Upon consummation of the transfer of ownership, John W. Richardson shall be relieved of public utility responsibility for the operation of the Arrowhead Manor Water Company, Inc. water system.

7. Application 07-04-016 is closed.

This order is effective today.

Dated August 23, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners