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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS  
Water and Sewer Advisory Branch

RESOLUTION W-4879  
June 9, 2011

R E S O L U T I O N

**(RES. W-4879), ROLLING GREEN UTILITIES, INC. (RGU). ORDER  
AUTHORIZING TRANSFER OF 50% OF THE STOCK OF ROLLING  
GREEN UTILITIES, INC. FROM DONALD W. KANEN TO ARNOLD  
D. PETERSEN.**

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**SUMMARY**

By Advice Letters Nos. 31-W and 17-SS, filed on February 11, 2011, Donald W. Kanen (co-owner and seller) and Arnold Petersen (co-owner and buyer) request Commission authorization pursuant to Public Utilities Code § 851 to transfer 50% of the ownership interest of Rolling Green Utilities Inc. from Donald W. Kanen, a co-owner, to the other co-owner, Arnold Petersen, making him the sole owner.

Pursuant to Public Utilities Code § 851, we find that the sale and transfer of the 50% ownership interest in RGU to Arnold Petersen to be in the public interest and approve it.

**BACKGROUND**

RGU is a class D water and sewer utility, serving approximately 285 metered residential customers for the water division and the same 285 customers as flat rate customers for the sewer division, in the Rolling Green Terrace Subdivision near Big Pine, Inyo County. RGU consists of a water and sewer division. RGU is a corporation owned by Donald W. Kanen, Vice President (identified here as seller) and Arnold Peterson, General Manager (identified here as buyer). Mr. Kanen owns 50% of the stock, while Mr. Peterson owns the other 50% and manages the operations of both the water and sewer division of the company.

The Water Division

The water system is comprised of the following:

1. Three active wells, each with a depth of 135 feet, 6-inch diameter casings, and approximately 400 gallons per minute original pumping capacity.
2. 5/8 X 3/4-inch, 2-inch, and 1-inch connections to serve 285 metered residential customers.
3. One 5,000-gallon steel pressure vessel to maintain system pressure as there is no place for elevated storage.
4. Pipelines, consisting of 3,000 feet of 2 1/4-inch - 3 1/4-inch, 3,000 feet of 4-inch and 15,520 feet of 6-inch for a total of 21,520 feet, a combination of plastic and asbestos cement.
5. Land includes approximately .33 acres, consisting of: the location for 3 wells, shop building, and the 5,000-gallon pressure tank.

The Sewer Division

The Sewer system is comprised of the following:

1. Collection Lines which consist of 6,695 feet of asbestos cement and 6,918 ft of plastic for total footage of 13,613.
2. Treatment Facilities which consist of aeration ponds on leased property from Los Angeles Department of Water and Power.
3. Three Storage Facilities which each have a capacity of 22,000 gallons as part of the treatment facility.
4. Land leased from the Los Angeles Department of Water and Power.

Stock Purchase Agreement

The Agreement attached to ALs 31-W and 17-SS details the terms and conditions for the purchase and sale of 50% stock of both the water and sewer systems. This will result in Mr. Petersen owning the entirety of RGU and all of its assets.

The purchase price is about 50% of the last Rate Base amount of \$44,909 reflected in AL 29-W, Consumer Price Index - Urban (CPI-U) for the water division, and \$21,710 reflected in AL 15-SS CPI-U for the sewer division, which both became effective May 1, 2010. The purchase price is \$35,000. Funding for the purchase price comes from a cash payment of \$25,000, and a \$10,000 loan, which will be paid over a course of 7 years in monthly installments at 5% interest rate.

The stock purchase agreement does not consist of a change in title since RGU is a corporation and the real property belongs to the entity.

Ratepayer Indifference

The Commission applies 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.<sup>1</sup> In more recent years, the Commission has further required the buyer to demonstrate that its acquisition of the public utility yields a tangible benefit to the ratepayer.<sup>2</sup>

Using the ratepayer indifference test to assess the sale/change of the water and sewer system ownership from Mr. Kanen to the other owner Mr. Petersen, the Division evaluated several key metrics including: (1) the impact of purchase price on rate base, (2) future water rates, (3) service quality, and (4) continuity of service, which are discussed below.

Technical and Managerial Capabilities

Mr. Petersen has about 20 years experience in managing and running both the water and sewer systems. He is also a certified operator. Mr. Frank Brommenschenkel, who is an experienced utility consultant, will be retained as the regulatory agency's consultant.

CEQA

RGU requests that the Commission find that this transaction is exempt from review under the California Environmental Quality Act (CEQA).<sup>3</sup>

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<sup>1</sup> See D.04-01-006, Section 4, pg 6: "Under this test, the 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".

<sup>2</sup> See D.05-04-048; D.04-01-006, Section 4, pg 6: "In more recent years, the Commission has further required the buyer to demonstrate that acquisition of the public utility yields a tangible benefit to the ratepayers".

<sup>3</sup> Public Resource Code Sections 21000 et seq.

## NOTICE AND PROTESTS

In compliance with General Order 96-B (GO 96-B), General Rule 4.3 and Water Industry Rule 4.1, copies of ALs 31-W and 17-SS were served on the service list for RGU Water, which includes adjacent utilities. A notice of ALs 31-W and 17-SS describing the proposed sale was sent to all customers of RGU Water. DWA received no protests to, or comments on, ALs 31-W and 17-SS.

## DISCUSSION

Mr. Kanen (co-owner and seller) is selling 50% of the stock (a total of 2715 shares of stock) which is the total amount of stock he owns in RGU. He is selling because he is based out of state, no longer has any interest in the operations of the systems (water and sewer) and feels that it will be in ratepayers' interest to have a water and sewer system that is run 100% by a local, Mr. Petersen, who is also a certified operator. Mr. Petersen has about 20 years of experience in managing and running both the water and sewer systems. Mr. Frank Brommenschenkel will be retained as the regulatory agencies' consultant.

### *The Impact Of Purchase Price On Rate Base*

The proposed purchase price of \$35,000 was arrived at by adding together the fixed assets of the water and sewer system and subtracting accumulated depreciation. The Division reviewed RGU's calculations and confirmed them with Commission adopted resolution and annual reports filed with the Commission. The Division finds that the purchase price of \$35,000 meets the fair market standard because it represents the depreciated assets of the water and sewer systems. Furthermore, there will be no impact on the rate base, as the water utility is not acquiring any assets. Rather, an owner is acquiring stock in the utility.

### *Future Water Rates*

An examination of the annual report for both systems indicates that both systems are financially fit. A financial analysis indicates that the existing rates approved by the Commission in ALs 29-W's CPI-U and 15-SS's CPI-U provide adequate revenue to operate and cover normal costs. RGU under the 100% ownership and management of Mr. Petersen will be keeping the existing Commission approved rates.

### *Service Quality*

The buyer is a certified operator and has been operating the water and sewer systems for over 20 years. Since he is a local resident, customers are able to report any water service quality issues in person and over the phone and get speedy responses.

There are no recent or pending complaints on file with the Commission. Based on staff's investigation, we believe that it is clearly advantageous to the customers of the water and sewer systems to have the transfer go into effect. Mr. Petersen is an experienced water utility operator, is intimately familiar with RGU's water and sewer systems, and community based. Under his exclusive ownership he will no longer have any responsibility to confer with an absentee owner about his operation of the systems.

Continuity of Service

Donald Kanen is based out of state and no longer has any interest in the operations of the systems. Arnold Petersen is an experienced water and sewer utility plant operator with over 20 years of ownership and managing experience with RGU. Mr. Petersen desires to own these systems. He is relatively young and lives in the community. The stock purchase agreement with Mr. Kanen ensures an orderly water system ownership transition and offers continued water service by a responsible and experienced owner. This in turn reduces the chance that these water and sewer systems will be abandoned and turned over to the county health department.

We find that Mr. Petersen possesses sufficient financial, managerial, and technical qualifications to operate RGU, which he has successfully demonstrated by how fit the system is, in every respect. Furthermore, it is to the rate payers' benefit to have as the exclusive owner a local who is easily accessible, knowledgeable, has every incentive and interest to see that the system is well run. We conclude that the transfer of 50% ownership of Mr. Kanen to Mr. Petersen, making him the sole owner is in the public interest. Mr. Petersen should notify the Commission when the Agreement for Purchase and Sale for RGU has closed.

Given the reasons stated above, the Division believes that the acquisition of the other 50% stock by Mr. Petersen will yield a tangible benefit to the ratepayers.

CEQA

The Commission is responsible for making the determination of whether environmental review is required under CEQA. The Commission's authorization of a change of ownership could result in changes to facility operations that have the potential to result in environmental impacts. In this case, the change from two owners, each owning a 50% stake of RGU to one owner, making the system a 100% locally-owned utility by the remaining system owner, will have no impact or changes in its operations, thereby, resulting in no environmental impacts. Mr. Petersen indicates that RGU will continue to operate as authorized in its Certificate of Public Convenience and Necessity.

The water and sewer systems will be providing the same service as it was providing prior to the sale, using all the same wells, collection and treatment facilities, and equipment as was used since this system was originally established in 1965. Therefore, the Commission is not required to conduct environmental review of the sale of 50% ownership of Mr. Kanen to the other owner Mr. Petersen.

### **COMMENTS**

This is an uncontested matter that grants the relief requested. Pursuant to Public Utilities Code § 311(g) (2), this Resolution was not circulated for public comment.

### **FINDINGS AND CONCLUSIONS**

1. Advice Letters Nos. 31-W and 17-SS were filed on February 11, 2011 requesting Commission authorization to transfer a 50% ownership interest in Rolling Green Utilities, Inc. from Donald W. Kanen, a co- owner, to the other co-owner, Arnold Petersen, making him the sole owner.
2. Rolling Green Utilities, Inc. is a corporation owned by Donald W. Kanen and Arnold Petersen.
3. The water and sewer systems were originally established in 1965.
4. Donald R. Kanen and Arnold Petersen entered into an Agreement of Stock Purchase for the transfer of 50% of the ownership of RGU, Inc. on December 28, 2010.
5. No protests to Advice Letters Nos. 31-W and 17-SS were received.
6. The Stock Purchase Agreement provides the terms and conditions for the purchase and sale of the 50% ownership share of Mr. Kanen (a total of 2715 shares of stock in the company) to Mr. Petersen, including the purchase price of \$35,000. The Agreement states that upon conveyance of the shares to buyer by seller, the buyer will acquire good and valid title thereto, free and clear of any lien, pledge, charge, security interest, encumbrance title retention agreement, adverse claim or option arising under seller.
7. Mr. Petersen is a licensed water operator and has about 20 years of experience in managing and running both the water and sewer systems. Mr. Frank Brommenschenkel will be retained as the regulatory agencies consultant.
8. The transaction passes all the rate payer indifference tests, because: (1) there will be no impact of the purchase price on rate base; (2) future water rates will not change as a result of the transaction; (3) service quality should remain high; and (4) there will be a continuity of service.
9. It is to the ratepayers' benefit to have as the exclusive owner a local who is easily accessible, knowledgeable and has every incentive and interest to see that the

systems are well run, as opposed to an owner who is based out of state and has no interest in the systems. Thus, there will be a tangible benefit to customers because they will be better served as a result of the sale.

10. Mr. Petersen should notify the Commission when the Stock Purchase Agreement for RGU has closed.
11. Environmental review is not required for this transaction because the sale of RGU will not result in a change of operations of the utility.
12. The transfer and sale of 50% stock of RGU to Mr. Petersen, making him a 100% owner is in the public interest and should be approved.

**THEREFORE IT IS ORDERED THAT:**

1. The transfer and sale of 50% of the stock of Rolling Green Utilities Inc., from Donald W. Kanen (co-owner and seller) to Arnold Petersen (co-owner and buyer) is approved.
2. Within five (5) days of the closing of the Stock Purchase Agreement for Rolling Green Utilities, Inc., Arnold Petersen shall notify the Commission of the date that the transaction closes by sending a letter to the Executive Director with a copy to the Director of the Division of Water and Audits.
3. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at the Public Utilities Commission of the State of California on June 9, 2011; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon  
Executive Director

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners