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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION NO. W-4923
June 21, 2012

RESOLUTION

**(RES. W-4923), RIVERVIEW ACRES WATER COMPANY (RAWC).
ORDER AUTHORIZING WALTER G. CARPENTER, OWNER OF
RIVERVIEW ACRES WATER COMPANY TO SELL, AND SALYER
MUTUAL WATER COMPANY (SMWC), A NONPROFIT MUTUAL
BENEFIT CORPORATION TO BUY RAWC.**

SUMMARY

By Advice Letter (AL) 12 filed on April 2, 2012, Walter G. Carpenter, owner of RAWC requests to sell the water system to SMWC, a nonprofit mutual benefit corporation. This advice letter was filed as a Tier 3 filing in compliance with Resolution ALJ-272.

Pursuant to Public Utilities Code (PU Code) §§ 851-854 and Resolution ALJ-272, this resolution grants authority to Walter G. Carpenter, owner of RAWC, to sell and SMWC to buy RAWC in Trinity County, which serves a total of approximately 53 connections.

BACKGROUND

Pursuant to PU Code Section 851, Walter G. Carpenter (current owner) and SMWC¹ filed the AL 12 on April 4, 2012, to sell and to buy, respectively, RAWC in Trinity County. Walter G. Carpenter was granted a certificate of public convenience and necessity to acquire ownership of and assume water utility service to the customers of RAWC by Res. W-2422, dated September 6, 1978.

RAWC provides service to 53 customers located approximately one mile east of the community of Salyer. RAWC's water system consists of one pump house, one 5 horse-power pump, one chlorinator, two storage tanks totaling 24,000 gallons, approximately

¹ Walter G. Carpenter and Salyer Mutual Water Company combined are referred to as "Applicants" for the remainder of this resolution.

10,000 feet of mains, and land easements for pump station & storage tanks. Water is treated via chlorination. All of RAWC's customers are charged a metered rate for water service. The last rate increase for RAWC was effective on February 28, 2011 through approval of AL 11 which offset an increase in the Consumer Price Index for 2010.

Walter G. Carpenter desires to dispose of the system due to health reasons and is unable to make improvements to the system for financial reasons. He no longer has the capacity to administer RAWC in accordance with public health requirements governing public water systems in California. The buyer, SMWC, is a nonprofit mutual benefit corporation incorporated in November, 2011 under the laws of the State of California. SMWC wants to acquire RAWC because the 53 shareholders of the mutual are water company customers without other sources of drinking water. The "Agreement for the Transfer of Assets and Operations" was signed by both buyer and seller on February 8, 2012 for a selling price of \$1.00. The sale has been completed. SMWC hired a certified treatment and distribution system operator and each of the 53 shareholders pays a rate structure adopted by the mutual board of directors. Applicants believe that customers of RAWC will benefit from SMWC's technical, managerial, and financial capabilities.

Applicants request an ex parte order authorizing seller to transfer and buyer to acquire the water system described in AL 12 and that seller, upon compliance with such an order, be relieved of any public utility responsibilities related to the system being transferred.

NOTICE AND PROTEST

AL 12 was served in accordance with General Order 96-B, on April 4, 2012, to adjacent utilities and persons on the general service list. No protests were received.

DISCUSSION

Proposed water utility ownership changes are reviewed under Public Utilities Code (PU Code) §§ 851-854. PU Code §§ 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,² and also requires the buyer to demonstrate that the buyer's acquisition of the public utility yields a tangible benefit to the ratepayer.³ Using the ratepayer indifference test to assess the sale of RAWC, the Commission should evaluate several key metrics including: (1) service quality; (2) continuity of service; and (3) the impact of the purchase price on rate base.

We also assess whether the transaction requires compliance with California Environmental Quality Act (CEQA), and whether any required approval from the California Department of Public Health (CDPH) has been received, when assessing whether a sale of a water utility should be authorized.

(1) Service Quality

SMWC now provides management of the operations of RAWC and has hired a certified treatment and distribution system operator. SMWC can provide operational and maintenance services and provides water that consistently meets state and federal drinking water standards. Therefore it is advantageous to the customers of RAWC to have the transfer go into effect.

(2) Continuity of Service

Walter G. Carpenter desires to dispose of the system due to health reasons and is unable to make improvements to the system for financial reasons. He no longer has the capacity to administer RAWC in accordance with public health requirements governing public water systems in California. The buyer, SMWC is a nonprofit mutual benefit corporation incorporated in November, 2011 under the laws of the State of California. SMWC wants to acquire RAWC because the shareholders of the mutual (a total of 53) are water company customers without other sources of drinking water. The "Agreement for the Transfer of Assets and Operations" was signed by both buyer and seller on February 8, 2012. The sale relieves Walter G. Carpenter of his duty to provide public utility water service to the customers of RAWC. The sale agreement ensures an orderly water system ownership transition, and thereby (a) offers continued water service by a responsible mutual board and an experienced operator, and (b) greatly reduces the chance of the water system being abandoned.

² Under the ratepayer indifference test, any sale of a public utility should not have any net consequences that cause the ratepayer to prefer the seller to the buyer.

³ See D.05-04-047 at 9-11; D.04-01-066 at 8-11; and D.01-09-057 at 26-28.

(3) The impact of the purchase price on rate base

The “Agreement for the Transfer of Assets and Operations” was signed by both buyer and seller on February 8, 2012 for a sale price of \$1.00. Walter G. Carpenter desires to dispose of the system due to health reasons and is unable to make improvements to the system for financial reasons. He no longer has the capacity to administer RAWC in accordance with public health requirements governing public water systems in California. The buyer, SMWC is a nonprofit mutual benefit corporation incorporated in November, 2011 under the laws of the State of California and has the financial capability to own and operate the water system. This transaction will not materially impact the ratebase of the utility and we find that the value of the transaction is less than \$5 million and thus is eligible for the advice letter process under PU Code §851.

The Commission concludes that the proposed sale of RAWC is reasonable, is in the public interest, and will provide tangible benefits to ratepayers, which include continued provision of quality water service by a mutual board that has the operational experience and financial ability to operate and own RAWC. The sale of RAWC will relieve Walter G. Carpenter of the duty to provide public utility water service to the customers of RAWC.

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 reasonably 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.”⁴ Pursuant to our review, we have 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 RAWC. 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.⁵ As such, the approval of AL 12 is exempt from CEQA.

⁴ CEQA Guidelines, CALIFORNIA CODE OF REGULATIONS TITLE 14, Sections 15378(a) (2003)

⁵ CEQA Guidelines, CALIFORNIA CODE OF REGULATIONS TITLE 14, Section 15061(b)(3) “A project is exempt from CEQA if...it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment...”).

Permit Requirement

Pursuant to the provisions of California Health and Safety Code (CH&S) § 116525(a), any person or entity operating a public water system must have a permit to operate that system from the CDPH. A change in ownership of a public health system requires the prospective new owner to apply to and satisfy the CDPH requirement that the new owner “possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, and potable drinking water.”⁶

Accordingly, in addition to the authorization from the Commission for the acquisition of RAWC, the new owner must also apply for and receive a domestic water supply permit (permit) to operate RAWC. SMWC has received the permit from CDPH to operate RAWC on March 13, 2012.

Conclusion

Pursuant to PU Code §§851-854 and Resolution ALJ-272, we find that the sale of RAWC to SMWC to be in the public interest and does not warrant a more comprehensive review than would be provided through a formal PU Code §851 application. This sale is approved conditioned on Riverview Acres Water Company’s payments of its Public Utilities Reimbursement Fee as discussed below.

COMPLIANCE

There are no outstanding Commission orders requiring system improvements. Pursuant to PU Code § 433(a), public utilities are required to pay an annual Public Utilities Reimbursement Fee (annual fee) to the Commission. Small water companies must also submit an Annual Fee Statement for the CPUC Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies (statement). RAWC did not pay the required annual fee for the year 2011.

Prior to finalizing the sale of RAWC to Salyer Mutual Water Company, RAWC should pay the required annual fee for 2011 and for the portion of 2012 up to the date of sale of RAWC to Salyer Mutual Water Company, and submit its Annual Fee Statement for the CPUC Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies. RAWC should file proof of payment of the annual fee for 2011 and for the portion of 2012 up to the date of sale of RAWC to Salyer Mutual Water Company and submission of its Annual Fee Statement for the CPUC Utilities

⁶ CH&S Code § 116540(a).

Reimbursement Account, Water and Sewer System Corporations – Small Water Companies to the Director of the Division of Water and Audits as a compliance filing within 30 days from the date of this resolution.

COMMENTS

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

FINDINGS AND CONCLUSIONS

1. By Advice Letter (AL) 12 filed on April 4, 2012, Walter G. Carpenter, owner of Riverview Acres Water Company (RAWC) requests to sell the water system to Salyer Mutual Water Company (SMWC), a nonprofit mutual benefit corporation. No protests were filed.
2. AL 12 was filed as a Tier 3 filing in compliance with Resolution ALJ-272.
3. The transfer of RAWC from Walter G. Carpenter to SMWC is desired by both parties.
4. RAWC provides service to 53 customers located approximately one mile east of the community of Salyer.
5. Walter G. Carpenter desires to dispose of the system due to health reasons and is unable to make improvements to the system for financial reasons. He no longer has the capacity to administer RAWC in accordance with public health requirements governing public water systems in California.
6. SMWC is a nonprofit mutual benefit corporation incorporated in November, 2011 under the laws of the State of California.
7. SMWC wants to acquire RAWC because the shareholders of the mutual (a total of 53) are water company customers without other sources of drinking water.
8. The “Agreement for the Transfer of Assets and Operations” signed by both buyer and seller on February 8, 2012 for a sale price of \$1.00.
9. The value of the transaction is less than \$5 million.

10. This transaction will not materially impact the ratebase of the utility.
11. SMWC has hired a certified treatment and distribution system operator and each of the 53 shareholders pays a rate structure adopted by the mutual board of directors.
12. Applicants believe that customers of RAWC will benefit from SMWC's technical, managerial, and financial capabilities.
13. Applicants request an ex parte order authorizing seller to transfer and buyer to acquire the water system described in the AL 12 and that seller, upon compliance with such an order, be relieved of any public utility responsibilities related to the system being transferred.
14. SMWC can provide operational and maintenance services and provides water that consistently meets state and federal drinking water standards. It is advantageous to the customers of RAWC to have the transfer go into effect.
15. The sale agreement ensures an orderly water system ownership transition, and thereby (a) offers continued water service by a responsible mutual board and an experienced operator, and (b) greatly reduces the chance of the water system being abandoned.
16. The buyer, SMWC is a nonprofit mutual benefit corporation incorporated in November, 2011 under the laws of the State of California and has the financial capability to own and operate the water system.
17. The transaction does not warrant a more comprehensive review than would be provided through a formal PU Code Section 851 application.
18. The California Environmental Quality Act (CEQA) does not apply as this advice letter only involves a transfer of ownership of existing water facilities. No new construction or changes in the source of water supply are being proposed.
19. There is no evidence of any other changes in the operation of RAWC. Accordingly, there is no project under CEQA and there is no possibility that the transaction may have any significant effect on the environment.
20. The approval of AL 12 is exempt from CEQA.
21. Pursuant to the CH&S Code, when a change in ownership of a public water system occurs, the buyer of the public water system must apply for a new operating permit.

22. SMWC has received the domestic water supply permit from California Department of Public Health to operate RAWC on March 13, 2012.
23. Pursuant to Public Utilities Code §§851-853, the sale of RAWC to SMWC is in the public interest and should be approved.
24. After the sale of the RAWC to SMWC is final, Walter G. Carpenter, owner of RAWC, should no longer be required to provide regulated water service to customers of RAWC.
25. Pursuant to PU Code § 433(a), public utilities are required to pay an annual fee to the Commission.
26. Small water companies must also submit an Annual Fee Statement for the CPUC Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies.
27. RAWC did not pay the required annual fee for the year 2011.
28. Prior to finalizing the sale of RAWC to SMWC, RAWC should pay the required annual fee for 2011 and that portion of 2012 up to the date of sale of RAWC to SMWC, and submit its Annual Fee Statement for the CPUC Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies. Riverview Acres Water Company should file proof of payment of the annual fee and submission of its Annual Fee Statement for the CPUC Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies to the Director of the Division of Water and Audits as a compliance filing within 30 days from the date of this resolution.

THEREFORE IT IS ORDERED THAT:

1. Pursuant to Public Utilities Code §§ 851-854 and Resolution ALJ-272, this Resolution grants authority to Walter G. Carpenter, owner of Riverview Acres Water Company, to sell and Salyer Mutual Water Company to buy Riverview Acres Water Company in Trinity County, which serves a total of approximately 53 connections, conditioned on Riverview Acres Water Company's payments of its Public Utilities Reimbursement Fee, and submission of its Annual Fee Statement for the California Public Utilities Reimbursement Account, Water and Sewer System Corporations – Small Water Companies.
2. After the sale of the Riverview Acres Water Company to Salyer Mutual Water Company is final, Walter G. Carpenter, owner of Riverview Acres Water Company, is

