

ORIGINAL

Decision No. 83806

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
VENTURA UTILITY SERVICES, a Cali-
fornia corporation, for authority
to increase its rates charged for
sewer service.

Application No. 53989
(Filed April 23, 1973)

Clayson, Stark, Rothrock & Mann, by George G.
Grover, Attorney at Law, for applicant.
Verne H. Tindell, Attorney at Law, for the
City of Simi Valley, protestant.
Howard E. Hoff, for himself, interested party.
James T. Quinn, Attorney at Law, John E. Brown,
and John Gibbons, for the Commission staff.

INTERIM OPINION

Ventura Utility Services^{1/} is a corporation engaged in
supplying sewer service as a public utility within the State of
California. Its principal office is located at 1443 Valinda Avenue,
Valinda, California.

According to the application applicant provides sewer
service to approximately 1,220 residential customers (not including
approximately 125 vacancies) and to four public schools. Its
service area is located in the northeast portion of the city of
Simi Valley in Ventura County.

Applicant seeks an order authorizing it to increase by
75 percent its presently effective charges for residential sewer
service (including limited use by small commercial establishments),
that is, from \$5.00 per month to \$8.75 per month, and to increase
its charges for sewer service to schools by approximately 68 percent,
that is, from an average of \$118.75 per month to \$200.00 per month.
The overall increase in annual gross revenues would be approximately
75 percent and would amount to \$58,752.

^{1/} DBA Simi Valley Sanitation Company.

Applicant proposes to require a deposit from each customer in an amount equal to one bimonthly billing, to establish a penalty charge for nonpayment of bills in the amount of 6 percent after 30 days, and to establish a rule providing for disconnection of sewer service for nonpayment of bills with a reconnection fee of \$500 based upon the cost of disconnection and reconnection. The rule would also provide that in the event of such disconnection and reconnection, the required deposit for the customer concerned would be equal to three bimonthly charges.

According to applicant, present sewer service charges are not sufficient to meet expenses of operation, exclusive of charges for depreciation and without regard to return on capital invested in plant, equipment, and other property devoted to public use. This application is an emergency application designed to enable applicant to meet expenses of operation, exclusive of depreciation. At a later date, an amendment to the application will be filed requesting an increase in rates in order to enable applicant more fully to meet expenses, including depreciation charges, and to earn a reasonable return on its investment in property devoted to public use.

Public hearing was held before Examiner Gillanders at Simi Valley on January 22, and February 13 and 14, 1974. Applicant had published, mailed, and posted notice of the hearings in accordance with this Commission's Rules of Practice and Procedure. The matter of interim relief was submitted on May 2, 1974 upon receipt of late-filed Exhibit 17.

Thirty-five members of the public attended the hearings, of whom 14 testified regarding the proposed increase and/or applicant's operations.

Testimony on behalf of applicant was presented by its president, its attorney, and a consulting engineer. Testimony on behalf of the Commission staff was presented by a registered professional engineer, a certified public accountant, and an accountant.

Regulatory Jurisdiction

Applicant, along with the other privately owned California sewer system utilities, was placed under the effective jurisdiction of the Commission, July 1, 1972, by amendment of Sections 216, 230.5, 230.6, and 1001 of the Public Utilities Code. Prior to that time applicant was subject to the regulatory jurisdiction of the city of Simi Valley.

Intercompany Relationships

Applicant is managed in common with three other sewer utilities and one water company. The headquarters for all of these utilities is at Valinda, Los Angeles County. The other sewer utilities are Ontario Utility Services (Ontario), Salinas Utility Services (Salinas), and Lompoc Utility Services (Lompoc). The water company is Mission Hills Water Company (Mission Hills). Mission Hills has two water systems, one located near Salinas and the other near Lompoc, which latter system includes a small system at Santa Ynez.

The existing corporate structure has been in effect since April 9, 1971. Prior to that time Salinas, Ontario, and Lompoc were operating districts of Western Pacific Sanitation, a Nevada corporation, and its successor Western Pacific Services. A single set of books was kept for Western Pacific Sanitation and Western Pacific Services until April 1971. Ventura's system has always been a separate corporate entity. Prior to April 1971, Ventura's system was owned and operated by Simi Valley Sanitation Company (Simi Valley), a Nevada corporation; in April 1971 the system was transferred to a new California corporation, Ventura Utility Services, in contemplation of legislation establishing regulation of California sewer utilities by this Commission. Mission Hills

is operated as a mutual water company and, at the time of submission of this application, was not under the jurisdiction of the Commission.^{2/}

Ontario, Salinas, and Lompoc are affiliated through ownership of their stock by Western Pacific Services. Applicant's president, Mrs. Diana Williams, testified that, although accounting entries had been made, there had been no formal transfer of real or personal property from Western Pacific Services to the above entities. Western Pacific Services, Ventura, and Mission Hills are controlled by Anton C. Garnier, the son of the late Camille A. Garnier, who founded the operations. Western Pacific Services was suspended as a corporation in 1973.

The Garnier interests also control two large water utilities, Suburban Water System (Suburban) and Southwest Water Company (Southwest), which operate in Los Angeles, Riverside, and San Bernardino Counties. Suburban and Southwest have always been operated separately from the sewer companies and from Mission Hills.

MONEY Loan

On December 15, 1964 Western Pacific Sanitation, together with its subsidiaries as of that time, Paradise Services Corporation and Simi Valley (and also Susana Knolls Properties, Inc., a subsidiary of Simi Valley) sold \$2,000,000 of Collateral Trust Notes, 5-1/2 percent Series due in 1984, to the Mutual Life Insurance Company of New York (MONEY). The staff has not been able to ascertain whether the \$2,000,000 was invested in water or sewer properties or whether it was used for other purposes. As of October 12, 1973, Western Pacific's outstanding indebtedness to MONEY amounted to \$1,750,000,

^{2/} On May 8, 1973 Mission Hills Utility Co., a newly formed corporation, filed Application No. 54023 requesting authority to issue stock and a promissory note, to acquire certain assets of Mission Hills Water Co., and for a certificate of public convenience and necessity. This application is to be set for hearing in December 1974.

of which \$200,000 was overdue, thus placing the loan in default. Interest in arrears as of October 12, 1973 amounted to \$433,125. Penalties on the outstanding arrearages of principal and interest are accruing at 6 percent per annum. In addition, as of October 12, 1973, MONY had supplied \$224,989.81 to pay property taxes for Salinas, Simi, Ontario, and Lompoc.

Mrs. Williams has informed the staff that under the Collateral Trust Indenture all of the properties now being operated by Salinas, Ontario, and Lompoc are subjected to the lien of the indenture. In addition, all of the outstanding stock of the subsidiaries is said to be held in trust for MONY.^{3/}

Summary of Revenues and Expenses

The following tabulation shows applicant's and the staff engineer's estimated revenues and expenses for estimated test year 1973:

Item	Applicant		Staff		Applicant : Exceeds : Staff(1)
	Present	Co. Prop.	Present	Co. Prop.	
	Rates	Rates	Rates	Rates	
Operating Revenues	\$ 78,550	\$137,302	\$ 77,440	\$135,360	\$ 1,110
<u>Operating Expenses</u>					
Oper. & Maint.	65,088	65,088	54,600	56,400	10,488
Admin. & Gen.	16,014	16,014	9,500	9,500	6,514
Taxes Other Than Income	27,135	27,135	27,060	28,220	75
Allocated Expense	25,232	25,232	19,580	19,580	5,652
Income Taxes	200	200	200	200	-
Total Expenses(2)	133,669	133,669	110,940	113,900	22,729
Net Operating Revenue Before Depreciation	(55,119)	3,633	(33,500)	21,460	(21,619)
Avg. No. of Customers	1,220	1,220	1,202	1,202	-

(Red Figure)

(1) At present rates.

(2) Excludes depreciation expense.

^{3/} Decision No. 83193 dated July 27, 1974 in Application No. 54252.

The following tabulation shows a comparison of revenues and expenses from the application with amounts recorded in applicant's books as adjusted by the staff accountant and as estimated by the staff engineer for year ended September 30, 1973:

Item	Applicant		Staff	Staff
	Per	As	Accountant	Engineer
	Application	Recorded	Adjusted	Estimated
Operating Revenues	\$ 78,550	\$ 75,099	\$ 75,099	\$ 77,440
<u>Operating Revenue Deductions</u>				
Operating Expenses	105,379	88,531	87,211	83,680
Add'l Expenses (Sched. D-1)			<u>4,524</u>	
Subtotal Expenses	105,379		91,735	83,680
Property Taxes	24,316	23,338	23,338	24,270
Add'l Prop. Taxes (Sched. D-1)			<u>15,750</u>	
Subtotal Prop. Taxes	24,316		39,088(1)	24,270
Other Taxes	3,974	1,700	1,702	2,990
Total Oper. Rev. Deductions	133,669	113,569	132,525	110,940
Net Loss Before Dep'n and Interest	(55,119)	(38,470)	(57,426)	(33,500)
Interest Expense(2)		36,532	36,532	
Net Loss Before Dep'n		(75,002)	(93,958)	
Average number of connections	1,220	1,194	1,194	1,202

(1) Property taxes 1973-74 FY.

(2) Interest expense as computed and allocated by utility without confirmation.

Discussion

Although the record indicates that a complete results of operations study cannot be produced at this time because of insufficient information concerning sources of capital, contributions, and donations, studies by the Commission staff engineer and staff accountant showed that applicant incurred a loss, before depreciation, at present rates. According to the staff engineer, the loss for 1973 estimated amounted to \$33,500, while the staff accountant's

adjusted loss is \$57,426. Applicant's loss per its application amounts to \$55,119, while its recorded loss is shown as \$38,470. All of the above figures were developed using revenues as billed.^{4/} During the first day of hearing numerous public witnesses testified that many houses were connected to the sewer system that were not billed for such service. As a result of the testimony, the examiner ordered applicant to actually count the number of connections. The city of Simi Valley indicated it would make such a count. The results of the counts are as follows:

	<u>Applicant</u>	<u>City</u>
Residences	1,513	1,517
Commercial	21	Not known
Schools	4	4
Fire stations	<u>1</u>	<u>Not known</u>
Total	1,539	1,521

If we subtract 1,224 from 1,539 we arrive at a figure of 315. If we multiply 315 x \$60 we arrive at a figure of \$18,900 in uncollected revenue per year (not considering vacancies).

According to applicant, it paid no property taxes in test year 1973.^{5/} Its estimate shows it would pay \$24,316. According to the staff accountant 1973 taxes would be \$39,088. The staff engineer estimated property taxes would be \$24,270. Because of these differences the examiner directed the staff's financial representative to determine on what basis the county assessor determined the property taxes. His testimony is as follows:

^{4/} The application indicated applicant was serving 1,220 residences and 4 schools, a total of 1,224 connections.

^{5/} The record reveals that MONY, unbeknownst to applicant, finally paid four or five years of applicant's back taxes in order to avoid a tax sale of the properties.

"BY MR. QUINN:

"Q Mr. Gibbons, would you describe for us the contents of your conversation this morning with the official from the Ventura Assessor's Office.

"A Yes. Responding to the presiding Examiner's request this morning, Mr. Robert Pegg, who is the assistant to Supervisor Glenn Smith, very graciously put me in contact with Mr. Edwin Shriner, who is the Ventura County Assessor. Mr. Shriner told me that the sewer company -- that is Ventura Utility Services, reported a cost of plant of \$1,025,000, which the county factored upwards to represent a market value of \$1,110,820.

"Now, if that figure is divided by 4 and with a tax rate of about \$12 -- I computed it to be \$39,305 for the taxes. Now, that actual figure is approximately \$39,000, so the two figures tie together.

"Now, Mr. Shriner stated ordinarily the county in assessing water companies follows a general practice of looking at historical cost, and it molds that together with the net income of the utility, giving recognition to both in figuring the market value of the properties, the assessed value, that is.

"For sewer companies, however, the County of Ventura disregards this practice and uses the estimated market value, as just described. The assessor reasons that two sewer companies in this county have been sold, and both were at prices substantially in excess of historical cost. He mentioned that one of the sewer companies was earning only about two percent, which he believes to be indicative of the fact that earnings of sewer companies are not representative of the true value of the companies.

"This is the rationale that he describes to me as the reasoning behind the figuring of that value.

"So that concludes -- this is a summary of the conversation, my conversation with Mr. Shriner.

"EXAMINER GILLANDERS: Mr. Gibbons, if I understand, then, the man's description, he doesn't give any consideration to -- referring back to water companies, he gives no consideration to donations in aid of construction or contributions in aid of construction or to advances which normally are not assessed by county assessors; isn't that correct?

"THE WITNESS: Well, contributions, normally, are not assessed by the county assessors.

"EXAMINER GILLANDERS: Unless there is some -- advances are assessed at some small ratio of their worth.

"THE WITNESS: Well, advances are assessed at some ratio of the book value -- book amount. In response to your question, Mr. Shriner said that he does follow the general practice in assessing water companies. Specifically, I did not make that inquiry for this company because it shows no advances and contributions, although I would add that the staff accountants have been auditing the plant accounts of this company, and my Colleague Mr. Scott, who will be testifying has indicated this in his exhibit."^{6/}

The witness further testified as follows:

"I might add that in more than 20 years of regulatory experience I have never seen a utility with property taxes of more than 50 percent of its gross revenues as is the case here."

According to the staff accounting witness, the first half of the 1974 taxes were due December 10, 1973 and the second half were due April 10, 1974. These taxes (1973-74) have not been paid.

^{6/} Because the books were restated when Simi Valley Sanitation Company became Ventura Utility Services.

As of January 22, 1974 it was the best estimate of the city of Simi Valley that within six months it would own Ventura Utilities Services (July 1974).

Taking the staff engineer's estimate of net loss of \$33,500, adding thereto \$18,900 for added revenue and subtracting therefrom taxes of \$24,270 (which applicant has not paid) we can determine a net cash flow of \$9,670.

This record shows that Simi Valley Sanitation Company has been operating under a cease and desist order issued by the Regional Water Quality Control Board in January 1970 as a result of odors and overflows. No new connections to applicant's plant have been allowed since that date.

Public testimony received at the hearings indicates that applicant is still experiencing odors and overflows.

The Simi Valley County Sanitation District was formed by the Board of Supervisors of Ventura County on October 1, 1968 under provisions of the Health & Safety Code of the State of California. Under the Health & Safety Code, the district is governed by the City Council of the city of Simi Valley sitting as the Board of Directors. This record shows that the district intends to take over applicant's system. The record also shows that if the district and applicant cannot agree on a price the district has the power of condemnation.

Until such time as the district does in fact take over applicant's system applicant is entitled to its reasonable out-of-pocket expenses.

For purposes of this interim increase we will adopt the staff engineer's expense estimates except for property taxes as reasonably representing applicant's operations. We will add to his revenue estimate the sum of \$18,900. Applicant therefore is entitled to no increase based on operating and maintenance expenses.

Applicant is, however, entitled to recover in rates taxes it must lawfully pay.

According to the staff accountants, applicant is billed \$39,088 per year in property taxes by the county of Ventura. This record reveals that MONY, unbeknownst to applicant, finally paid four or five years of applicant's back taxes in order to avoid a tax sale of the properties but that applicant has not paid its current tax bill. The record also reveals that applicant has made no attempt, since it became a public utility, to have Ventura County reduce the taxes it charges applicant.

With this history before us, we can only conclude that applicant, if granted an increase in rates to pay its taxes, would more than likely use such funds for other purposes. While we must allow rates to produce monies for tax payments, we can require that such monies be used only to pay property taxes. Subtracting \$9,670 from \$39,090 we find that revenues should be increased by about \$29,500. There are 1,539 connections. Thus, each connection should pay \$19.20 per annum more.

Applicant bills bimonthly. Therefore, each bill rendered should be increased by \$3.20. The amount thus collected should be impounded in a separate interest-bearing account in a California bank or insured savings and loan association. The amount and accrued interest are to be expended only for payment of property taxes, and only after specific authorization has been obtained by means of a letter signed by the Secretary of the Commission. Applicant should provide the Commission, attention of the Finance and Accounts Division, two copies of an annual statement no later than April 15 of each year, detailing the amount of all additions, interest earned, and withdrawals from the fund during the prior calendar year, together with the balances in the fund at the close of the year.

The service complaints testified to by the public are in the hands of other state agencies. The question of connection fees is moot because of the limitation on new services. The remaining issues will be resolved at the next series of hearings.

Findings

1. For the year ended September 30, 1973, applicant's present monthly rates for sewer service result in a cash flow, before depreciation, and property taxes of \$9,670.

2. Applicant requires interim rate relief designed to raise its gross annual revenues by approximately \$29,500 to pay its property taxes. The amounts collected should be impounded pending further action of this Commission.

Conclusion

The application should be granted, to the extent described in the preceding findings, upon the conditions set forth in the following order.

INTERIM ORDER

IT IS ORDERED that:

1. After the effective date of this order applicant is authorized to file, on an interim basis, the revised rate schedules attached to this order as Appendix A. Such filing shall comply with General Order No. 96-A. The effective date of the revised schedules shall be five days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date of the revised schedules.

2. Applicant is authorized to collect additional bimonthly revenue of \$3.20 per connection. These amounts shall be impounded in a separate interest-bearing account in a California bank or insured savings and loan association. The fees and accrued interest are to be expended only for property taxes, and only after specific authorization has been obtained by means of a letter signed by the Secretary of the Commission. Applicant shall provide the Commission,

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attention of the Finance and Accounts Division, two copies of an annual statement no later than April 15 of each year, detailing the proper distribution and amount of all additions, interest earned, and withdrawals from the fund during the prior calendar year, together with the balances in the fund at the close of the year.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of DECEMBER, 1974.

Vernon L. Stenger
President
William J. Symons Jr.
Thomas M. Moran
Robert E. Myland
Commissioners

APPENDIX A
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Schedule No. 1

GENERAL RESIDENTIAL SERVICE

APPLICABILITY

Applicable to general residential sewer service.

TERRITORY

Area in northeastern portion of City of Simi Valley (Tracts 1198, 1260, 1399, 1612, 1625, and 1943), Ventura County.

RATES

	Per Service Connection <u>Per Month</u>	(T) ↓ (T)
Single Family Residence	\$6.60	(I)

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Schedule No. 2

COMMERCIAL AND INDUSTRIAL SERVICE

APPLICABILITY

Applicable to commercial and industrial sewer service.

TERRITORY

Area in northeastern portion of City of Simi Valley (Tracts 1198, 1260, 1399, 1612, 1625, and 1943), Ventura County.

RATES

	Per Service Connection <u>Per Month</u>	(T) (T)
Belwood School	\$ 141.60	(I)
Big Springs School	66.60	
Valley View School	156.60	
Township School	106.60	(I)