

Decision No. 84172

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, tariffs, rates, rules, regulations, facilities, equipment, water supply, operations, service, contracts, and practices of CUYAMA VALLEY COMMUNITY, INC., a California corporation; ATLANTIC RICHFIELD COMPANY, a Pennsylvania corporation; FOUNDATION FOR AIRBORNE RELIEF, a California corporation; and ARKANSAS VALLEY DEVELOPMENT CORPORATION, an Oklahoma corporation.

Case No. 9661
(Filed February 13, 1974)

Stephen E. Wall, Attorney at Law, for Foundation for Airborne Relief;
L. Donald Boden, Attorney at Law, for Arkansas Valley Development Corporation; and O'Melveny & Myers, by Guido R. Henry, Jr., and Harold M. Messmer, Jr., Attorneys at Law, for Atlantic Richfield Company; respondents.
Peter Arth, Jr., Attorney at Law, and Robert C. Durkin, for the Commission staff.

INTERIM OPINION

This is an investigation on the Commission's own motion into the operations and practices of Cuyama Valley Community, Inc. (CVC), relative to the public utility status of the water production and distribution services being performed, and to the public utility status of the collection and treatment of waste water being discharged by residents and commercial establishments located in the community of New Cuyama, Santa Barbara County.

The purpose of the investigation is to determine:

1. Whether respondent CVC or any of the other respondents have operated or are now operating a water system in the area of New Cuyama as a water corporation as defined by Section 241 of the Public Utilities Code;
2. Whether respondent CVC or any of the other respondents have operated or are now operating a sewer system in the area of New Cuyama as a sewer system corporation as defined by Section 230.6 of the Public Utilities Code;
3. Whether any of the respondents have applied for or otherwise obtained a certificate of public convenience and necessity for either the water system or sewer system, apparently being operated by respondent CVC in the area of New Cuyama, as required by Section 1001 of the Public Utilities Code;
4. Whether any of the respondents have filed appropriate tariff schedules for either the water system or sewer system, apparently being operated by respondent CVC in the area of New Cuyama, as required by Section 489 of the Public Utilities Code;
5. Whether any of the respondents have maintained or are maintaining records of deposits, advances, contributions, or connection charges for either the water system or sewer system in the area of New Cuyama, apparently being operated by respondent CVC, and the extent and availability of such records, should any be found to exist;
6. Whether any of the respondents have established rates or received compensation for providing water or performing service from either the water system or sewer system, apparently being operated by respondent CVC in the area of New Cuyama, and the reasonableness of such rates or charges, if any be found to exist;

7. Whether any of the respondents have engaged in any operations, services, or practices in regard to either the water system or sewer system, apparently being operated by respondent CVC in the area of New Cuyama, and the reasonableness of such operations, services, or practices, if any be found to exist;

8. Whether the water supply and water quality of the water and sewer systems apparently being operated by respondent CVC in the area of New Cuyama are adequate;

9. Whether respondent Atlantic Richfield Company (ARCO) or respondent Foundation for Airborne Relief (FAR) has sold or otherwise disposed of or encumbered the outstanding stock of respondent CVC without first having secured from this Commission an order authorizing it to do so, in violation of Section 851 of the Public Utilities Code;

10. Whether respondent FAR or respondent Arkansas Valley Development Corporation (AVDC) has acquired control of respondent CVC without first securing authorization from this Commission, in violation of Section 854 of the Public Utilities Code;

11. Whether any of the respondents should be ordered to cease and desist from any and all unauthorized operations, services, or practices, should they be found to exist;

12. What steps should be ordered taken by respondents to comply with the laws, rules, regulations, and Commission's General Orders governing the establishment, operation, and services of either the water system or sewer system apparently being operated as public utilities, within the meaning of Section 216 of the Public Utilities Code, by respondent CVC in the area of New Cuyama; and

13. Whether any other order or orders should be issued by this Commission in the lawful exercise of its jurisdiction.

Respondent ARCO filed a Response and Motion to Dismiss on May 9, 1974. ARCO specifically denied all of the allegations in the Commission's order, except number 10 above, which is alleged to be inapplicable to ARCO, on the grounds that ARCO never charged or received compensation for water and sewer services during the time it owned or controlled CVC, and therefore it does not fall within the definition of a public utility contained in Section 216 of the Public Utilities Code.^{1/}

Respondent AVDC filed a Response and Motion for Exemption on May 16, 1974. The supporting memorandum of points and authorities was filed on May 17, 1974. AVDC admits having acquired a security interest in the outstanding stock of CVC without first having secured an order authorizing that encumbrance from the Commission

^{1/} All code references are to the Public Utilities Code, unless otherwise stated.

"216. (a) 'Public utility' includes every...water corporation, sewer system corporation,...where the service is performed for or the commodity delivered to the public or any portion thereof.

(b) Whenever any...water corporation, sewer system corporation,...performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such...water corporation, ...sewer system corporation,...is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service or delivers any commodity to any person, private corporation, municipality or other political subdivision of the State, which in turn either directly or indirectly, mediately or immediately, performs such service or delivers such commodity to or for the public or some portion thereof, such person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part."

as alleged in paragraph 9 above. AVDC also admits having been granted a security interest in the stock of CVC by respondent FAR pursuant to a promissory note and loan agreement dated July 20, 1973. However, AVDC denies that it has acquired control of CVC and alleges that FAR controls CVC. In all other respects AVDC denies the allegations enumerated above. AVDC requests that the Commission exercise the discretion given in Section 853 of the Code^{2/} and exempt the security transaction from the provisions of Sections 851 and 852 of the Code.^{3/}

2/ "853. The provisions of Sections 851 and 852 shall not apply to any person or corporation which transacts no business subject to regulation under this part, except performing services or delivering commodities for or to public utilities or municipal or other public corporations primarily for resale or use in serving the public or any portion thereof but shall nevertheless apply to any public utility if the commission finds, in a proceeding to which the public utility is or may become a party, that the application thereof is required by the public interest, the commission may from time to time by order or rule and subject to such terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from the provisions of Sections 851 and 852 if it finds that the application thereof with respect to such public utility or class of public utility is not necessary in the public interest."

3/ "851. No public utility other than a common carrier by railroad subject to Part I of the Interstate Commerce Act (Title 49, U.S.C.) shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the

(Continued)

A public hearing was held in New Cuyama on May 16 and 17, 1974 before Examiner Bernard A. Peeters, at which time the matter was taken under partial submission regarding the public utility status, reserving the matter of ownership of CVC to further hearing on a date to be set.

3/ (Continued)

order of the commission authorizing it is void. The permission and approval of the commission to the exercise of a franchise or permit under Article I (commencing with Section 1001) of Chapter 5 of this part, or the sale, lease, assignment, mortgage, or other disposition or encumbrance of a franchise or permit under this article shall not revive or validate any lapsed or invalid franchise or permit, or enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or waive any forfeiture.

"Nothing in this section shall prevent the sale, lease, encumbrance or other disposition by any public utility of property which is not necessary or useful in the performance of its duties to the public, and any disposition of property by a public utility shall be conclusively presumed to be of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser, lessee or encumbrancer dealing with such property in good faith for value; provided, however, that nothing in this section shall apply to the interchange of equipment in the regular course of transportation between connecting common carriers.

"852. No public utility shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under or by virtue of the laws of this State, without having been first authorized to do so by the commission. Every assignment, transfer, contract, or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this article is void and of no effect, and no such transfer shall be made on the books of any public utility. Nothing herein contained shall prevent the holding of stock heretofore lawfully acquired."

Four public witnesses were presented by the staff. A staff hydraulic engineer testified and sponsored three exhibits (Exhs. 5, 6, and 7). ARCO presented one witness and FAR presented two witnesses. CVC was not represented at the hearing. Eighteen exhibits were introduced of which 15 were received in evidence.

The Evidence

Staff

This investigation had its genesis in a complaint filed on behalf of the citizens of New Cuyama, which was subsequently withdrawn by the complainant.^{4/} The relief sought was that the Commission assume jurisdiction over the water and sewer systems in New Cuyama and investigate the alleged rate increases.

CVC's main office is located at 2680 East Wardlow Road, Long Beach, which is also the address of FAR. A local office of both companies is maintained in New Cuyama. The principal service area of CVC is the townsite of New Cuyama which is located on State Highway 166 approximately 35 miles west of Maricopa. There are 180 customers for both water and sewer service. CVC also serves the following: a few municipal buildings occupied by the Santa Barbara County Fire Department, Cuyama Valley High School, United States Forest Service, County Highway Maintenance Department, and FAR's office and service buildings adjacent to the airstrip.

The water distribution system consists of approximately 14,370 feet of cast iron mains, 4 and 6 inches in diameter, and 12,250 feet of steel mains, dipped and wrapped, which vary in diameter from 1-1/2 to 8 inches. There are 23 fire hydrants throughout the service area. The services within the townsite are one-inch copper tubing.

^{4/} Case No. 9568 filed June 13, 1973; withdrawn, Decision No. 82461 dated February 13, 1974.

Water is produced from three wells powered by 40 horsepower electric motors with a 100-horsepower natural gas engine as a standby power source. Water is pumped from the wells to two steel tanks which are used as sand separators. The water flows to two additional steel tanks which are used for storage and as supply to the booster pump facilities. Each of these tanks has a capacity of 84,000 gallons; they are located at the booster pumping facility at ground level. Water is boosted by three booster pumps, each driven by a 25-horsepower electric motor, with a 75-horsepower natural gas engine as standby power source, from the storage facility to a 42,000-gallon tank at a 100-foot elevation to provide pressure for the distribution system.

During the summer months more water is used than the system can produce. This excess demand is being met by production from the Cuyama Valley High School well under an oral agreement. The combined water supply and distribution facilities are adequate to supply sufficient water at reasonable pressures throughout the townsite, but are not sufficient to serve any additional area.

CVC operates the water system under a Department of Public Health permit dated June 19, 1956 which contains the following conditions:

1. Advise each consumer each month that the water supply is not potable due to the high sulfate concentration in the supply and that bottled water should be used for drinking and cooking purposes.
2. Refrain from installing any new services until a water supply of satisfactory quality is obtained.
3. Investigate a treatment plant or new source of water that will provide a satisfactory water quality.

A recent analysis of the water from CVC's wells indicates a sulfate content in excess of 1,200 ppm and a solids content of approximately 1,900 ppm.

CVC is presently charging a flat rate of \$15 per month for combined water and sewer service for each single-family residence.

Since CVC had no records of the original cost of the plant the staff estimated such costs for both the water and sewer systems. A depreciation schedule was also developed and a depreciation reserve was estimated as of the beginning of 1973. Annual operating expenses were also estimated by the staff. Proposed rate schedules were presented for adoption as the initial rates of the utility's two services.

The staff recommended that CVC be declared a public utility operating both water and sewer systems; that the water utility be restricted to the area presently served; that the utility should take immediate measures to reduce water wastage; that separate tariff schedules be filed for the water and sewer systems; that meters should be installed as soon as financially practical, starting with metering commercial establishments first; that the oral agreement with the high school for supplemental water be reduced to writing and filed with the Commission; that meters be installed to record both the well delivery and the water usage at the high school; and that since the water and sewer systems have been installed and operating for over 22 years an environmental impact statement is not required.

ARCO

ARCO's witness testified that he has been employed by ARCO for 41 years and was the attorney responsible for the formation of CVC as a wholly owned subsidiary of ARCO and for the development of the townsite. In his own words, the reason for forming CVC and developing the townsite was:

"...that when we discovered the second oil field in the Cuyama Valley, it was imperative, to my company that we obtain a labor force of quantity and of quality essential to the development, operation of those fields. To that end and in order to have that labor force residing in proximity to the oil fields, the corporation decided to build a town in a complete sense.

"I think if you look around, you will see that that objective was met.

"Naturally, one of the basic requirements is a water system, a sewer system street lighting, paved streets, stores, churches, recreation areas, landscaping, garbage disposal, all of which were developed when the CVC Corporation was incorporated, when it applied for a subdivision permit, when it proceeded with the subdivision, and by the natural steps in development got to the point where the town is today."

CVC made no charge nor assessed any fee to persons to whom water was delivered or who used the sewer system during the period it was the wholly owned subsidiary of ARCO. ARCO sold CVC to FAR on January 26, 1973.

FAR

FAR's evidence was presented through its president and resident manager at New Cuyama. FAR's president is also president and a director of CVC. FAR is a nonprofit, tax-exempt corporation whose primary objectives are: (1) to utilize advance technology particularly in the aviation field to improve the response to major disasters around the world as well as at home; (2) to engage in research and development to improve these types of technologies and logistics; and (3) to teach individuals involved in chronic disaster areas how to better meet and respond to those problems.

FAR acquired all of the stock and assets of CVC from ARCO for \$1,125,000 with a \$500,000 down payment and a \$625,000, 7 percent note, payable in annual installments of \$100,000, including principal and interest. The purpose of the acquisition was to establish an operation at the airport located in New Cuyama for the development of a flying hospital with four very large aircraft. Money for the down payment was procured through the sale of properties owned by CVC which were excess to FAR's needs, such as the Buckhorn Restaurant and Motel, the shopping center, and other properties. The sale was made to AVDC. Funds for the flying hospital project did not materialize. Negotiations were entered into with AVDC for a loan of \$125,000 in three installments, with the stock of CVC as collateral. Part of the loan agreement was that AVDC would advance certain monies for chlorination of the water and sewer systems. AVDC, at the time the second loan installment was due, advised FAR that it was in default on the loan. No further loan installments were made.

As of May 17, 1974 FAR was in default on its payments to ARCO. ARCO had not taken any action with respect to its default remedies against FAR at that time.

FAR commenced assessing a combined charge for water and sewer service through CVC in May, 1973. The charges are as stated in the staff's exhibits.

FAR's financial condition as of May 31, 1973 was: On a cost basis, it has total assets of \$760,304.37; total liabilities of \$766,552.27 and a negative fund balance of \$6,247.90. On an appraised value basis total assets amounted to \$2,026,177.90; total liabilities, \$766,552.27, and a positive fund balance of \$1,259,625.63. For the five months ended May 31, 1973 it had an excess of disbursements over receipts of \$121,245.61.

Issues

The issues to be determined at this time are:

1. Whether ARCO was required to obtain a certificate of public convenience and necessity for CVC as required by Section 1001 of the Code^{5/} and authority to transfer CVC's water and sewer systems to FAR?

5/ "1001. No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.

"This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

"The commission, as a basis for granting any certificate pursuant to the provisions of this section shall give consideration to the following factors:

- (a) Community values.
- (b) Recreational and park areas.
- (c) Historical and aesthetic values.
- (d) Influence on environment."

2. Whether CVC should be declared to be a public utility providing water and sewer service to the public as defined in Section 216 of the Code, supra, and if so, as of what date?

3. Whether FAR is a water corporation and a sewer system corporation within the meaning of Sections 241 and 230.6 of the Code?^{6/}

4. Whether the loan agreement between FAR and AVDC required prior authorization from the Commission pursuant to Section 851 of the Code?^{7/}

Discussion

ARCO argues that since its wholly owned subsidiary, CVC, did not charge for the water and sewer service provided during its period of ownership, the compensation element required in the statute is lacking and therefore public utility status cannot be declared. ARCO relies upon Millar Realty Company (1923) 23 CRC 922 and Graham v Ocean Shore Land Co. (1918) 16 CRC 108 as standing for the proposition that the Commission has no jurisdiction over companies which supply water without charge. A review of subsequent case law reveals no case that differs with the above proposition.

6/ "241. 'Water corporation' includes every corporation or person owning, controlling, operating, or managing any water system for compensation within this State."

"230.6. 'Sewer system corporation' includes every corporation or person owning, controlling, operating, or managing any sewer system for compensation within this State."

7/ "851. No public utility...shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its...plant, system, or other property necessary or useful in the performance of its duties to the public,...without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance,...made other than in accordance with the order of the commission authorizing it is void. . . ."

Sections 216, 230.6, and 241 clearly require compensation as one of the elements of public utility status. Section 2701 of the Code,^{8/} on the other hand, does not speak in terms of compensation, but rather of delivery, inferring dedication. It would appear that one who only delivers water is a public utility. A review of the cases interpreting Section 2701 involves not only dedication of the property to a public use, but also compensation for such public use. (Residents of Ponderosa Sky Ranch v Figgs (1970) 70 CPUC 845; Davis v Cavanaugh (1970) 71 CPUC 10.) The statute and cases are consistent in requiring compensation coupled with dedication before public utility status can be declared.

^{8/} "2701. Any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water system within this State, who sells, leases, rents, or delivers water to any person, firm, corporation, municipality, or any other political subdivision of the State, whether under contract or otherwise, is a public utility, and is subject to the provisions of Part 1 of Division 1 and to the jurisdiction, control, and regulation of the commission, except as otherwise provided in this chapter."

Although it is clear that compensation is one of the requirements for public utility status, the issue is what constitutes compensation?

The Commission has held that free transportation performed by passenger stage operators constitutes compensation. (C. F. Stahl dba Pioneer Skate Arena (1965) 64 CPUC 405; W. R. Tomson dba Skyway Charter Bus and Travel Tour Club (1965) 64 CPUC 312; and Peter J. Van Loben Sels dba Valley Transit Lines (1950) 49 CPUC 290.)

Here, ARCO through CVC built and operated water and sewer systems for the townsite of New Cuyama. Said townsite was constructed for the sole purpose of providing residences for ARCO's employees close to its oil fields. ARCO sold these residences to its employees on very favorable terms to induce them to move to New Cuyama. A further inducement was free water and sewer service. Thus, it can be said that the compensation ARCO received was a benefit in the form of improved labor relations and greater stability of its work force.

On this ground alone, ARCO's motion should be denied, but there is a further consideration for denial, which goes to the ultimate disposition of this matter. Although we find later in this opinion that CVC is a public utility, the ultimate issue is one of ownership of the utility. Since the record is not clear on this issue, and the parties agreed to further hearings to determine ownership, ARCO is an essential party to that determination and should remain as a respondent.

On the other hand, the facts adduced show that CVC's operations under FAR became those of a public utility, as defined in Section 216, on May 1, 1973 when charges for water and sewer service were instituted. It is also clear from the evidence that FAR owns and controls CVC and operates the water and sewer systems through CVC, all within the purview of Sections 241 and 230.6 of the Code.

With respect to the fourth issue, Exhibit 7 is a copy of the loan agreement entered into between AVDC and FAR. Attached to AVDC's motion is a copy of the promissory note for the \$50,000 advanced. The note is noninterest bearing and is for the term of one year. The loan agreement provides for the lending of \$125,000 to FAR by AVDC in accordance with the following schedule: \$50,000 on execution of the agreement (July 20, 1973), and delivery of pledged securities (assignment of a security interest in one C-133 Douglas Cargo-master aircraft, and 100 percent of the stock of CVC); \$30,000 within 90 days of the date of the agreement, and \$45,000 prior to January 1, 1974. AVDC is to receive 50 percent of CVC stock upon satisfaction of the loan and payment of installments. If FAR fails to repay any of the notes within 15 days of the date due, and if the security interest in the aircraft has been exhausted or terminated, and the total loan advanced has not been paid in full, then the escrow holder shall be authorized and directed to transfer 100 percent of the stock to AVDC or its nominee. In the event 100 percent of the stock is transferred, then the debt due by FAR will be fully satisfied and no deficiency will be allowed.

AVDC's motion denies all of the allegations set out above except 9 and 10. AVDC admits having acquired a security interest in CVC's stock without prior authorization from the Commission; that AVDC's attorney is the escrow holder of the stock, but denies that

AVDC has acquired control of CVC. AVDC requests the Commission to exercise its discretion under Section 853 of the Code,^{9/} and exempt the transaction from the application of Sections 851 and 852 of the Code^{10/} because it would not be in the public interest to void the transaction.

AVDC relies upon two cases (In re Irwin (1967) 67 CPUC 254 and In re Golconda Utilities Co. (1968) 68 CPUC 296) wherein the Commission exercised its discretion under Section 853, in support of its request. It is also pointed out that AVDC's president and principal stockholder own the Buckhorn Bar Restaurant and Motel, and other commercial properties in New Cuyama, as well as a tract of undeveloped land adjacent to the community, which contains a well whose water has been certified as fit for human consumption. It is planned to develop the tract and tie it in with existing water and sewer systems. Therefore, AVDC has a continuing interest in these utility systems, not only from a future development program, but for the uninterrupted service to its present commercial establishments in New Cuyama.

Knowing that FAR was in financial difficulties, AVDC agreed to loan money to FAR to protect its interests. AVDC avers that if the shares of CVC are transferred to it under the terms of the loan agreement, it will undertake to operate the systems to insure uninterrupted service to CVC's customers, which would be in the public interest, instead of voiding the transaction which it alleges would not be in the public interest.

^{9/} See Footnote 2.

^{10/} See Footnote 3.

Under the circumstances, and in view of the fact that there has been no objection to AVDC's motion, and the party seeking the exemption has a direct interest in keeping the putative utility viable and has stated that it will assume the obligation to operate the systems if it acquires CVC's stock, it is not in the public interest to void the transaction. In the event that AVDC should obtain title to CVC's stock, it is referred to the requirements of Section 854 of the Code.

Findings of Fact

1. ARCO organized CVC in 1950 to build a townsite named New Cuyama in Santa Barbara County complete with water and sewer systems for its oil field employees.
2. CVC was a wholly owned subsidiary of ARCO.
3. CVC provided water and sewer service to the inhabitants of New Cuyama without charge from its inception to January 26, 1973.
4. ARCO sold all of the stock and assets of CVC to FAR on January 26, 1973, including the water and sewer systems.
5. Authority to sell and transfer the water and sewer systems was not sought by nor granted to either ARCO or CVC.
6. FAR is presently operating the water and sewer systems through CVC. On May 1, 1973 FAR caused CVC to assess and collect a flat rate charge of \$15 per residence for both water and sewer service combined.
7. FAR has dedicated its water and sewer systems to a public use.
8. FAR's acts, through CVC, constitute it a water corporation and a sewer system corporation within the definitions of Sections 241 and 230.6 of the Code.
9. CVC is a public utility as defined in Sections 216 and 2701 of the Code.
10. Neither FAR nor CVC has sought a certificate of public convenience and necessity.
11. Tariff schedules have not been filed for either the water or sewer systems.

12. No records of deposits, advances, contributions, or connection charges have been kept by any respondent.
13. FAR is operating the water and sewer systems at a small loss.
14. FAR entered into a loan agreement with AVDC pledging, among other things, all of CVC's stock as security therefor.
15. No authorization was sought or received from the Commission by either FAR or AVDC for the evidence of indebtedness issued by FAR as required by Section 851 of the Code.
16. FAR is in arrears on its payments to ARCO.
17. FAR is in default on its note to AVDC.
18. It is in the public interest to exempt the loan transaction from the operation of Section 851 under the provisions of Section 853 of the Code.
19. Ultimate ownership of CVC cannot be determined on this record.
20. The staff's proposed rates containing separate charges for water and sewer service are reasonable and should be adopted.
21. FAR has entered into an oral agreement with the Cuyama Valley High School for an exchange of water. This agreement should be reduced to writing and filed with the Commission.
22. The present water supply, without production from the Cuyama Valley High School well, is inadequate to meet the peak water requirement of the present customers. ✓
23. There is an excessive consumption of water. Meters should be installed as soon as it is financially practical, starting first with commercial establishments. Pending such installation, a voluntary conservation program should be instituted.
24. Water service should be confined to present customers due to past water shortages.

25. Meters should be installed to record both the well delivery and the water usage at the Cuyama Valley High School well.

26. The staff's estimates of plant cost, depreciation rates, and depreciation reserve are reasonable and should be adopted.

27. The water and sewer systems have been installed and operating for over 22 years; therefore, there is no adverse impact on the environment.

Conclusions of Law

1. CVC's operation of a water and sewer system during the period it was a wholly owned subsidiary of ARCO did not constitute public utility operations as contemplated by Sections 216 and 2701 of the Code.

2. CVC's operation of a water and sewer system, under FAR, constitutes it a public utility as defined by Sections 216 and 2701 of the Code, subject to the jurisdiction of this Commission.

3. FAR's control, operation, and management of CVC constitute it a water corporation and a sewer system corporation, as defined in Sections 241 and 230.6 of the Code, subject to the jurisdiction of this Commission.

INTERIM ORDER

IT IS ORDERED that:

1. Atlantic Richfield Company's motion to dismiss is granted to the extent that it was not owning, controlling, or operating a public utility during the period it owned CVC. It is not dismissed as a respondent pending further hearing on the issue of ownership.

2. Arkansas Valley Development Corporation's motion for exemption from the requirements of Section 851 is granted.

3. Cuyama Valley Community, Inc. is declared to be a public utility subject to the jurisdiction of this Commission.

4. Foundation for Airborne Relief is declared to be a water corporation and a sewer system corporation subject to the jurisdiction of this Commission.

5. FAR is authorized and directed to file, within ten days after the effective date of this order, the following items as they relate to each utility:

- a. Schedule of rates set forth in Appendix A of this order.
- b. Tariff service area map clearly indicating the boundaries of the service area.
- c. Appropriate rules and copies of printed forms to be used in dealing with customers.

The filings shall conform to the Commission's General Order No. 96-A and shall become effective upon the fourth day after date of filing.

6. FAR shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within ninety days after the effective date of this order, FAR shall file with this Commission two copies of such map.

7. FAR shall book the estimated utility plant costs and related depreciation reserves developed by the staff for water plant installed prior to December 31, 1973. Formal books of account shall be set up in accordance with the Uniform System of Accounts for Class D Water Utilities.

8. For the sewer system FAR shall keep separate plant, revenue, and expense accounts; and shall book the estimated utility plant costs and related depreciation reserves developed by the staff for the sewer system installed prior to December 31, 1973.

9. For the year 1974 FAR shall apply the following depreciation rate to the original cost of depreciable plant:

Water system - 2.6 percent

Sewer system - 1.8 percent

Until review indicates otherwise, these rates shall be used. These rates shall be reviewed at intervals of five years and whenever a major change in depreciable plant occurs. Any revised depreciation

rate shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of the plant; (2) dividing the remainder by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of the plant. The results of each review shall be submitted promptly to the Commission.

10. FAR shall reduce to writing the oral agreement with the Cuyama Valley High School and file it with this Commission.

11. FAR shall arrange for the installation of a meter at the high school well to record both the well delivery and water usage.

12. FAR shall not extend, or offer to extend, the physical facilities of its water system, nor shall it add new customers to its water system until further order of this Commission.

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

Dated at San Francisco, California, this 4th
day of MARCH, 1975.

Vernon L. Stinson
President
William J. Smith
Donald D. Smith
Leonard Ross
Commissioners

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

		Per Meter Per Month
Service Charge:		
For 5/8 x 3/4-inch meter		\$ 3.30
For 3/4-inch meter		3.70
For 1-inch meter		5.00
For 1 1/2-inch meter		7.00
For 2-inch meter		9.00
For 3-inch meter		16.00
For 4-inch meter		22.00
For 6-inch meter		40.00
For 8-inch meter		55.00
For 10-inch meter		70.00

Quantity Rate:

For all water delivered, per 100 cu.ft. ... \$ 0.20

The Service Charge is a readiness-to-serve charge applicable to all metered service and to which is to be added the monthly charge computed at the Quantity Rate.

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Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICEAPPLICABILITY

Applicable to all residential water service furnished on a flat rate basis.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

	<u>Per Service Connection</u> <u>Per Month</u>
For a single-family residence.	\$5.50
a. For each additional residence on the same premises and served from the same service connection	3.00
b. For each evaporative-type cooler, in addition to regular flat rates, during the 6-month period May through October:	
Circulating type	1.50
Noncirculating type	3.00

SPECIAL CONDITIONS

1. The above residential flat rate charges apply to service connections no larger than one inch in diameter.
2. All service not covered by the above classification will be furnished only on a metered basis.
3. A meter may be installed at option of utility or customer for above classification in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service. When a meter is installed at option of customer, metered service must be continued for at least 12 months before service will again be furnished at flat rates.

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Schedule No. 2RS

LIMITED FLAT RATE SERVICEAPPLICABILITY

Applicable to commercial flat rate water service furnished on a limited basis.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

	Per Service Connection Per Month
For Cuyama Buckhorn Motel Complex	\$90.00
For CH Market	12.00
For Santa Barbara County Library	8.00
For Santa Barbara County Fire Department	15.00
For Administration Building and	
Service Buildings for Airstrip	30.00
For Laundromat	30.00
For United States Forest Service	15.00
For Cuyama Valley Community Hall	12.00
For Richardson County Park & Recreation Area	36.00
For Each Service Station	8.00
For County Highway Maintenance Department	5.00
For Each Church	10.00
For Each Store or Business Office	5.00
For United States Post Office	5.00

(Continued)

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Schedule No. 2RS

LIMITED FLAT RATE SERVICE
(Continued)

SPECIAL CONDITIONS

1. All service not covered by the above classification will be furnished only on a metered basis.
2. A meter may be installed at option of utility or customer for above classification in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service. When a meter is installed at option of customer, metered service must be continued for at least 12 months before service will again be furnished at flat rates.
3. Service under this schedule shall be limited to the customers being served as of the effective date of this tariff sheet.

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Schedule No. 1

GENERAL RESIDENTIAL SERVICE

APPLICABILITY

Applicable to General Residential Sewer Service.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

Single-Family Residence	\$5.50 per month per residence
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For each additional single-family residence on the same premises and served by the same service connection	\$3.50 per month per residence
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TERMS OF PAYMENT

All sewer charges are payable in advance on the first day of the period for which the bill is rendered.

SPECIAL CONDITIONS

All sewer service not applicable to this schedule will be supplied only on Schedule No. 2, Commercial and Industrial Service.

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Schedule No. 2

COMMERCIAL AND INDUSTRIAL SERVICE

APPLICABILITY

Applicable to Commercial and Industrial Sewer Service.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

	<u>Per Meter</u>
Quantity Rate:	
For all water delivered to the premises in excess of 2,000 cu.ft., per 100 cu.ft.	\$0.05
	<u>Per Service Connection</u>
	<u>Per Month</u>
Minimum Charge:	
For each commercial or industrial establishment per month	\$5.50

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Schedule No. 3

LIMITED FLAT RATE SERVICE

APPLICABILITY

Applicable to commercial flat rate sewer service furnished on a limited basis.

TERRITORY

New Cuyama and vicinity, Santa Barbara County.

RATES

	Per Service Connection Per Month
For Cuyama Buckhorn Motel Complex	\$25.00
For CH Market	7.00
For Santa Barbara County Library	5.50
For Santa Barbara County Fire Department	7.00
For Administration Building and	
Service-Buildings for Airstrip	15.00
For Laundromat	10.00
For United States Forest Service	7.00
For Cuyama Valley Community Hall	6.00
For Richardson County Park & Recreation Area	9.00
For Each Service Station	5.50
For County Highway Maintenance Department	5.50
For Each Church	5.50
For Each Store or Business Office	5.50
For United States Post Office	5.50

SPECIAL CONDITIONS

1. All service not covered by the above classification will be furnished only on a metered basis.
2. All flat rate service is payable in advance.
3. Service under this schedule shall be limited to the customers being served as of the effective date of this tariff sheet.