ALJ/md

Decision 84 10 057

OCT 17 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Greenbelt Water Company for general rate increase, Santa Cruz County. (Adv. Ltr.)

Application 83-10-44 (Filed October 26, 1983)

In the Matter of the Application of the Greenbelt Water Company, Inc., a California Corporation, to modify D.82-07-113 to borrow an additional \$62,483 and revise surcharge rates.

Application 83-10-30 (Filed October 10, 1983)

John S. Cavanaugh and Evelyn Cavanaugh, for applicant. Gordon Salisbury, Attorney at Law, for customers of the Greenbelt Water Company, protestants. Diane I. Fellman, Attorney at Law, and Harry Aubright for the Commission staff.

<u>O P I N I O N</u>

Greenbelt Water Company, Inc. (Greenbelt), wholly owned by John S. Cavanaugh and Evelyn Cavanaugh, applied for a general rate increase for its water service in Santa Cruz County and for authority to borrow an additional \$62,483 from the Department of Water Resources to complete improvements to the system which were authorized in Decision (D.) 82-07-113, July 21, 1982.

Applicant's customers (customers), opposing both the rate increase and the additional borrowing, employed independent counsel and appeared at the duly noticed public hearing held on May 3, 1984 in Santa Cruz, and on May 4 and 7, 1984 in San Francisco before Administrative Law Judge (ALJ) Orville I. Wright.

13

John S. Cavanaugh and Evelyn Cavanaugh testified for applicant. Corinne Farley-King, Robert Wilde, Mark Kallin, Ron Henricksen, Carlene Merrill, Peggy Karlene, Maynard R. Pulak, Mary Orr, Michael Mills, Barry Disdero, Geoffrey Fischer, Jack Flanagan, James Register, and Carol Pogue testified as and for customers. Dan Peterson testified for the Santa Cruz County Evironmental Health Services (SCCEHS). Barbara Cross and Rebecca Hoepcke testified for the California Department of Water Resources (DWR). Harry Aubright and Yolanda S. Hood gave Commission staff's testimony.

The matter was to be submitted on June 25, 1984 upon the filing of concurrent briefs. Applicant, however, requested permission to file a response to customers' brief. Permission was given on condition that applicant notify the other parties of the extension of time and of their privilege to also file responsive briefs. While the record does not show that applicant notified other parties, it did file a further brief on July 12, 1984.

SCCEHS mailed the ALJ a copy of a letter dated July 3, 1984 addressed to Ms. Barbara Cross, State Department of Water Resources, setting forth its position in the loan proceeding. As copies of this letter were sent to all parties, it is accepted as a statement of position.

DWR notified the ALJ by letter on July 27, 1984 that the required 3% administrative fee should be added to applicant's estimate of remaining project costs.

Background

In 1960, Cavanaughs and others acquired about 190 lots in an area known as Rio del Mar Lodge about 2½ miles north of Aptos in Santa Cruz County. It was estimated that the lots may comprise 125 building sites.

Commission decisions since 1960 covered both complaints by customers concerning adequate service and applications by the Cavanaughs to add new connections to their water system in order to

sell their buildable sites which they improved with residences.

In 1972, Cavanaughs were ordered to commence a program of improvements to comply with General Order (GO) 103, and requested extensions of service were denied (D.80469, August 31, 1972).

In 1973, the Commission approved 20 additional services for a total of 37 services and, as Cavanaughs represented that they had no funds to make required health department and GO 103 improvements, it was ordered that:

> "Applicants shall agree to establish a plant improvement and replacement fund from the proceeds of sales of lots which they own within the certificated area. The amount deposited in the fund shall be \$200 for each unimproved lot sold and \$500 for each lot with residence sold. The funds are to be deposited in an interestbearing special account in a bank or savings and loan association, separate from applicants' other cash accounts. The fund, including earned interest, shall be used only for additions to or replacements of plant facilities. Wthdrawals from the fund shall be made only after letter approval signed by the Commission's Secretary. A report shall be filed in this proceeding by applicants by March 31 every year, detailing additions to and expenditures from the fund

during the preceding year and the year-end balance in the fund."

Cavanaughs agreed. (D.80999, January 30,1973.)

In 1976, Cavanaughs were found to have partially complied with D.80469 and were authorized an additional 36 water services, for a total of 73 connections (D.86054, July 7, 1976). This remains the number of connections to date.

In 1980, 35 new connections were authorized when an automatic control for pumping water had been installed and when a new well and storage facilities had been connected to the system. Cavanaughs were permitted at this time to sell and transfer their

water system to Greenbelt Water Company, Inc. subject to the following conditions:

- "(a) John S. Cavanaugh and Evelyn Cavanaugh shall provide the corporation with adequate initial financing sc as to insure its ability to continue maintenance and operation of the system.
- "(b) The plant improvement and replacement fund established under Ordering Paragraph 4.(b) of Decision No. 80999 shall be transferred to the corporation and shall be maintained and reported as directed with an initial response to be made within thirty days after the effective date of this order. The fund is to be used only for additions to or replacement of plant facilities, and no withdrawal shall be made without a letter of approval signed by the Commission's Executive Director."

As of June 30, 1979, Cavanaughs' balance sheet was summarized as follows:

Assets	
Current Assets	\$ 5,715
Net Utility Plant	_24,621
Total	\$30,336
Liabilities and Net W	orth
Current and accrued liabilities	\$ 4,001
Net Worth	26,335
Total	\$30,336

(D.91980, July 2, 1980).

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In 1981, D.91980 was modified to permit 24 additional water service connections based upon then available water supply and storage (D.93036, May 19, 1981.)

In 1982, Commission approval was given to Greenbelt to borrow \$128,440 under the Safe Drinking Water Bond Act (SDWBA) and to add a surcharge to water rates to repay the principal and interest

- 4 -

on the loan. The items of construction and estimated costs as proposed by applicant and SCCEHS are detailed as follows:

	Description of Item	Estimated Cost
1.	Install 8,000 feet of 8-inch transmission and distribution mains.	\$ 65,000
2.	Drill new well and install new pump.	15,000
3.	Construct a 50,000-gallon storage tank.	30,000
4_	Replace booster tank, pump, wiring, and flow meter due to storm damage.	3,200
5.	Reconstruct pump and well due to storm damage.	2,000
	Subtotal	\$123,200
	Engineering Fees	1,500
	DWR Administrative Fee 3%	3,740
	Total	\$128,440

(D.82-07-113, July 21, 1982).

Applicant's Evidence

The Commision authorized Greenbelt to borrow \$128,440 to replace 8,000 feet of water main along Redwood Drive in its service area and to make other specified improvements to its system at specified estimated costs.

Applicant seeks authority to borrow an additional \$64,358 to complete the project and to revise surcharge rates accordingly. Its application states that increased funding is required because the time lapse from the date of its original bids until the time that materials and labor were supplied resulted in inflated costs. Compounding this inflation, according to Greenbelt, were the facts that October rains delayed the work and the DWR had no funds available to pay project costs from December 3, 1982 until April 6, 1983, a further delay of 4 months.

- 5 -

Cavanaughs support their request by a letter dated April 24, 1984, from Greenbelt to DWR summarizing costs to date for completing the project of \$69,527.52, as follows:

Invoices	\$47,899.02
Labor	5,379.50
Bid on well	9,000.00
Bid on pump	3,249.00
Complete paving of the road	4,000-00
Total	\$69,527.52

DWR states that this estimate should be further increased to \$71,614 by addition of the required 3% DWR administrative fee.

Cavanaughs provided no documentary support for any of the figures supplied in their letter to DWR. They could not identify the numbers in their own worksheets. It is their testimony that they always end up a few thousand dollars more than their estimates.

While the letter states that Greenbelt has bids on drilling a well, supplying a pump, and paving the road, none were submitted. The figures given for well and pump are evidently oral price quotations; the bid for paving is Cavanaughs' estimate.

The work remaining to be completed is to put a control on the new booster pump, provide a new well and pumping system, and pave the remaining one-third of Redwood Drive, according to Cavanaughs. Cavanaughs present no evidence relating the claimed unfinished work to the work authorized in D.82-07-113.

Cavanaughs' presentation is further complicated by their testimony that they borrow money on their own account, lend it to Greenbelt, spend it on system improvements, and reimburse themselves from SDWBA funds. In this regard, Greenbelt's unaudited financial statements show a reduction of \$27,484 (\$36,656 - \$9,172) in loans from officers during 1983 and net income of \$7,810 for the year. At year's end, the loan payable to DWR is shown at \$128,440. The outward appearance conveys the impression that Greenbelt, the corporation, is paying general loans from its officers with SDWBA funds.

- 6 -

Customers' Evidence

Customers' evidence was presented by 14 witnesses. More witnesses were in attendance but could not testify because of time constraints. The Commission's correspondence file contains additional complaints.

Of the 72 customers on the water system, 63 contributed to the fund to pay legal costs of expressing their opposition to additional funding under the SWDBA. Of 53 full-time owner residents on the private road of Greenbelt, 52 gave money to oppose Cavanaughs' application.

Customers testified that they received repeated assurances that the authorized construction project which they are paying for would cost \$128,440. They urge that Cavanaughs should be required to complete the improvements at the represented cost.

In 1979, Greenbelt's customers established a fund of \$50,000 for the paving of two miles of Redwood Drive. Cavanaughs contributed to the fund, also. Customers contend that Cavanaughs have not adequately repaired the road after their trenching activities. This contention is supported by many photographs of unrepaired damage to the pavement.

Customers assert that Cavanaughs' trenching along Redwood Drive was unmarked on many occasions, causing an unsafe condition of piled soil along the roadway. At least one customer's vehicle was driven into the trench because of lack of warning devices.

Water was turned off without notice to the affected customers, and complaints called in or mailed to the Cavanaughs were unanswered.

The Commission is asked to require Cavanaughs to comply with its order that a plant improvement and relacement fund be established and that no withdrawal be made without a letter of approval signed by the Commission's Executive Director (D.80999, January 30, 1973).

Customers contend that there is no evidence that a new well and pumping system are necessary to serve existing customers as Greenbelt has acquired sufficient additional supply.

Customers obtained DWR's file for the Greenbelt contract, and, at the hearing, a number of discrepancies were shown which prompted the staff to recommend that the contract be audited by the State Controller.

Position of SCCEHS

The position of SCCEHS is set forth in a letter dated July 3, 1984 as follows:

> "This letter is intended to clarify several issues surrounding Mr. Cavanaugh's application for additional funding from the Safe Drinking Water Loan Program. Mr. Cavanaugh's original application in 1979 included as part of the proposed project, '...a new well or wells'. The intention was to serve an additional 35 customers, and a new water source would indeed have been necessary. Subsequent to that time a new well was purchased by Mr. Cavanaugh, the 'Dennison' well, and included in the system. In a May, 1981 amendment to the original decision, the PUC decided that Mr. Cavanaugh would be allowed 14 additional connections upon improvement of storage, transfer of the Dennison well into the system, and installation of automatic controls. These improvements have been completed with exception of automatic controls on the Dennison well.

"There are seven building permits being held for completion of the required improvements. The County's position is that completion requires:

- "1. Road repair as necessary. To be done by a qualified firm, under bid. To be inspected by County Public Works as to satisfactory completion.
- "2. Connection of automatic controls to the Dennison well.

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- 8 -

"3. Sign-off by the designing engineer stating that the system improvements were made in conformance with the approved design and specifications.

"When the work has been satisfactorily completed, the seven building permits plus seven additional connections will be allowed."

Staff Position

Applicant and staff have stipulated to staff's findings with respect to the general rate increase sought in A.83-10-44.

Staff also suggests that Greenbelt has adequately demonstrated that additional funds are needed to complete the improvements authorized in D.82-07-113. However, based on the concerns of staff and those raised by customers, staff recommends that the Commission include the following conditions in its approval of the rate and surcharge increase:

- "1. The rate increase should become effective upon completion of the additional improvements following the issuance of the Commission decision.
- "2. The surcharge increase should go into effect on January 1, 1985 or upon completion of the work, whichever is later.
- "3. Redwood Drive should be paved as expeditiously as possible in the area affected by the water system improvements.
- "4. Written notice of potential outages shall be given to the customers by the Greenbelt Water Company before any planned outages or any construction work that may lead to outages.

"5. The Commission should request DWR to ask the State Comptroller to perform an audit of Greenbelt's performance under the loan and disallow any duplicative or unwarranted expenditures.

- 9 -

- "6. Any future work performed by the applicant shall include written evidence of competitive bids under the provisions of the current SDWBA load.
- "7. The applicant shall comply with the provisions of PUC GO 103.
- "8. The applicant shall notify the Commission's Hydraulics Branch in writing when the work is completed and a staff member shall inspect the completed work and the applicant's records of construction work under this loan."

Cavanaughs' Response to Customers

Cavanaughs contend that there is no basis for 99% of the customers' complaints.

Greenbelt states that the contract figure of \$128,440 was too low from the beginning and that DWR knew of it. According to Cavanaughs, the estimated cost was given 37 months prior to the authorization by DWR to commence the project, and it was known that an inflation rate of 1% per month for 37 months should have been included.

In seeming contradiction of itself, Greenbelt next states that the reasonable cost at the time of presentation was accurate, but that additional funds are needed because of the unforeseen delay of DWR having been temporarily out of funds between November 1983 and April 1984.

With respect to the damage to Redwood Drive alleged by customers, Cavanaughs state that the deficiencies are all the result of the deterioration of the paving contracted for by the customers. The road's failure is due to lack of base rock and maintenance, according to applicant, as follows: The contract between customers and contractor called for 350 tons of base rock but none was used; the contract called for 1/2-inch screenings but none was used; oil

- 10 -

was improperly applied; 60 tons of screening remained after the job was completed; an unlicensed contractor did the job using girls to do the shovel work.

Cavanaughs do not explain why they, having contributed \$6,000 to this written contract, allowed themselves and customers to remain the victims of contractor's alleged performance failures.

To all customers' complaints of unmarked piles of soil along Redwood Drive during construction, Cavanaughs claim that in only one instance did they not fill the trench at the end of the day. In that one instance, the mound of earth was properly marked, according to the witness.

To the customers' charge that their complaints on shutoffs without notice and the like were not answered, Cavanaughs testified that each complaint was recorded and answered in accordance with the provisions of GO 103. They later admitted that the required files are not maintained and the record by which they could show proper treatment of customers' complaints was not kept by them.

To customers' assertion that the plant improvement and replacement fund order by the Commission was not implemented by Greenbelt, Cavanaughs state they have sold 19 homes and 4 lots in the service area since 1973, but they have spent \$82,798 in improvements and additions since that time. They argue that the ordered fund is impractical to maintain as Greenbelt cannot wait for lots to be sold or houses to be built if a new pump or other improvements are needed to provide service to customers. No documentary evidence of deposits to the ordered fund nor any of the required letters of authorization for fund expenditures was produced for the record. Discussion of Additional Funding

A review of the record in the proceeding establishes that Greenbelt has failed to prove that it should be authorized to contract further with DWR. Cavanaughs have not established what work

- 11 -

remains to be done nor what the cost of that work should be on the basis of competitive bidding.

As staff recommends in its testimony, we will order Greenbelt to comply with the completion requirements of SCCEHS as given in its statement of position. Greenbelt will obtain bids on the work which is reasonably necessary to meet SCCEHS requirements and the cost shall be charged against the fund for replacements and improvements ordered in D.80999. If, upon a proper accounting of the funds available pursuant to D.80999, it is shown that the bid cost of doing the remaining work at Greenbelt is in excess of the funds available, Cavanaughs may again meet with their customers to present a program for requesting further funds from DWR on the basis of a new loan.

General Rate Increase

Greenbelt requests a general rate increase of \$8,640 or 76.92% in 1984 over 1983 rates. At the hearings, Greenbelt agreed to all staff adjustments for test year 1984 resulting in the summary of earnings shown in Table.

Table 1

Summary of Earnings Test Year 1984

Operating Revenues	\$18,670
Deductions Operating Expenses Depreciation Property Tax Income Tax	8,440 2,182 20 1,859
Total Deductions	12,501
Net Revenue	6,169
Rate Base	\$70,576
Rate of Return	8.74%

Staff's adjustments result in an increase of \$7,298, rather than \$8,640, in order to maintain the 8.74% return requested by applicant. We adopt the results shown.

As the public interest dictates that the system improvements requested by SCCEHS be made without delay and from Greenbelt's funds, we will encourage Greenbelt to act promptly by ordering that the increased rates will take effect only upon Greenbelt's completion of the required work.

Findings of Fact

1. The adopted estimates of operating revenues, expenses, rate base, and rate of return for test year 1984 shown on Table 1 are reasonable.

2. A rate of return of 8.74% on the adopted rate base of \$70,576 for test year 1984 is reasonable.

3. The increases in rates and charges authorized are just and reasonable, and the present rates and charges are for the future unjust and unreasonable.

4. Applicant has failed to prove that the system improvements it requests to be financed by a further DWR loan are required by SCCEES

5. Applicant has failed to prove the cost of the requested improvements if the work was put out to competitive bidding.

6. SCCEHS, staff, and customers request that future system improvement work be let out by competitive bid.

7. Greenbelt has neglected to repair or improperly repaired portions of Redwood Drive disturbed by its trenching activities.

8. Road repair is necessary on Redwood Drive together with repaving of the road along the entire length of water main installation.

9. All ordered road repair and repaving should be done by licensed contractors, under bid, and inspected by Santa Cruz County Public Works as to satisfactory completion.

10. Automatic controls should be connected to Greenbelt's additional or Dennison well.

11. The engineer who designed the system improvements for which DWR granted a loan should sign off that the improvements have been made in conformance with the approved design and specifications.

12. Greenbelt has not complied with Ordering Paragraph 4(b) of D.80999, January 30, 1973.

13. Greenbelt has not complied with the complaint record keeping requirements of § I.8 of GO 103.

Conclusions of Law

1. A.83-10-44 should be granted to the extent provided in the following order.

2. A.83-10-30 should be denied to the extent provided in the following order.

<u>O R D E R</u>

IT IR ORDERED that:

1. Greenbelt Water Company, Inc. is authorized to file the revised rate schedules set forth in Appendix A to this decision. The effective date of the revised schedules shall be the first day of the month following the effective date of this decision.

2. The revised schedules shall not be filed unless accompanied by a statement of Santa Cruz County Environmental Health Services that the requirements it set forth in its letter of July 3, 1984 to the Department of Water Resources have been met by the applicants.

3. Within 90 days of the date of this decision, applicant shall file an accounting of the funds ordered to be deposited in D.80999, dated January 30, 1973, and request expenditure of those funds for system improvements, giving first priority to expenditures to meet the requirements of Santa Cruz County Environmental Health Services.

4. Applicant shall forthwith commence compliance with the complaint record keeping required by § I.8 of General Order 103.

5. Applicant's request to borrow additional funds from the Department of Water Resources is denied without prejudice to its being renewed in accordance with the views experessed in this decision.

This order becomes effective 30 days from today. Dated ________, at San Francisco, CAlifornia.

> VICTOR CALVO PRISCILLA C. GREW DONALD VIAL WILLIAM T. BAGLEY Commissionors

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSICHERS TODAY. Cooph E. Bodovitz, Erec

APPENDIX A Page 1

GREENBELT WATER COMPANY

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Rio del Mar Lodge Sites Subdivisions Nos. 1 and 2, and parcels identified as Tax Code Areas 105-364-1 and 105-364-2, Santa Cruz County.

RATES

Service Charge:		Per Meter Per Month Charge	
For 5/8 x 3/4-inch meter For 3/4-inch meter	•••••		

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 Rates.

Quantity Rates:

First 300 cu.ft., per 100 cu.ft. \$ 0.44 (I) Over 300 cu.ft., per 100 cu.ft. 0.58 (I)

* Those customers who prefer to make the one-time, upfront cash payment for surcharge shall be required to pay \$1,760 each.

METERED SERVICE SURCHARGE

NOTE:

This surcharge is in addilion to the regular monthly metered water bill. The total monthly surcharge must be identified on each bill. This surcharge is specifically for the repayment of the California Safe Drinking Water Bond Act loan as authorized by Decision \$2-07-113.

APPENDIX A Page 2

GREENBELT WATER COMPANY

Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential and commercial water service.

TERRITORY

Rio del Mar Lodge Sites Subdivisions Nos. 1 and 2, and parcels identified as Tax Code Areas 105-364-1 and 105-364-2, Santa Cruz County.

RATES

	Per Service Per Servic Connection Connection Per Month Per Month	
	Charge	Surcharge*
For a single-family residential unit	\$ 21.34 (I)	\$14.50

SPECIAL CONDITIONS

1. The above flat rates apply to a service connection not larger than one- inch in diameter.

2. Service is limited to the number of connections authorized by the Public Utilities Commission, subject to any restrictions imposed by the County of Santa Cruz.

3. Meters may be installed at option of utility for above classification, in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service.

*Those customers who prefer to make the one-time, upfront cash payment for surcharge shall be required to pay \$1,760 each.

FLAT RATE SERVICE SURCHARGE

NOTE:

This surcharge is in addition to the regular charge of \$21.34 per one-inch or less service connection, per month. The total monthly surcharge must be identified on each bill. This surcharge is specifically for the repayment of the California Safe Drinking water Bond Act loan as authorized by Decision 82-07-113.

APPENDIX B Page 1

ADOPTED QUANTITIES Test Year 1984

Name of Company: Greenbelt Water Company

Federal Tax Rates: State Tax Rate: 15% 9.6%

Offset Items

1. Purchased Power:

Pacific Gas & Electric Company

Total Cost kWh Eff. Sch. Date \$kWh used \$ 3,680 46,724 October 19, 1983 0_07221

Amount

2. Purchased Water: None

3. Source of Supply: None

4. Payroll and Employee Benefits:

Office Salaries.

Total

Pension and Benefits

· 5. Ad Valoren Taxes

Ad Valoren Taxes

\$1,000 -

none

\$20

APPENDIX B Page 2

ADOPTED SERVICES EY METER SERVICE (all classes) Test Year 1984

Meter Size	•	Number
5/8" x 3/4		1
3/4		0
	, i	1

Metered Water Sales Used to Design Rates:

	Range - Cef	<u>Usage - Cof</u>
Block 1	0-3	36
Block 2	Over 3	

190

APPENDIX B Page 3

ADOPTED TAX CALCULATIONS Test Year 1984

Line		Amount	
No.	Item	CCFT	FIT
7 2 3 4 5 6	Operating Revenue O&M Expenses Taxes Other Than Income Tax Depreciation Interest CCFT	\$18,670 8,440 20 2,180 -	\$18,670 8,440 20 2,180
7	Sub-total Deductions	10,640	10,640
8	State Taxable Revenue CCFT @ 9.6% (\$200 min.)	8,030 770	-
9	Federal Taxable Revenue	-	7,260
10	Total Income Tax	770	1,090

(END OF APPENDIX B)

APPENDIX C

COMPARISON OF RATES

A comparison of present and Branch's recommended rates for metered service is shown below:

METERED SERVICE	Per Mete	r Per Month
Quantity Rates:	Present Rates	Recommended Rates
First 300 cu.ft., per 100 cu.ft. Over 300 cu.ft., per 100 cu.ft.	\$ 0.25 0.33	\$ 0_44 0_58
Monthly Service Charge:	к. т.	
For 5/8 x 3/4-inch meter For 3/4-inch meter	6.50 7-15	10_40 11_40
FLAT RATE SERVICE		

For a single-family residential unit \$13.00 \$21.34

A monthly bill comparison for a $5/8 \ge 3/4$ -inch meter is shown below:

Usage	Present	Recommended	Percent
100 cu_ft.	Bill	Bill	Increase
0	\$ 6.50	\$ 10_40	60%
3	7.25	11_72	62
10	9.56	15_78	65
20	12.86	21_58	68
30	16.16	27_38	69
50	22.76	38_98	71