

ORIGINAL

Decision 89 09 050 SEP 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Yucca Water Company,)
Ltd., a California corporation, to)
borrow funds under the Safe Drinking)
Water Act of 1984 and establish a)
surcharge to existing water rates to)
repay the principal and interest on)
such a loan.)
CIS #U-372-W)

Application 86-07-026
(Filed July 9, 1986;
amended November 21, 1986)

John E. Sisson, Jr.,¹ Attorney at Law, and
Albert A. Webb Associates, by Reginald H.
Knaggs, for Yucca Water Company, Ltd.,
applicant.

Rebecca Hoepcke, for State Department of Water
Resources; Diane Barich, Jeffrey L. Stone, and
Izetta C. R. Jackson, Attorney at Law, for State
Department of Health Services; Russell C. Randolph,
for Yucca Water Company Improvement Plan Study
Committee; and Nelson Seligmann & Wright, by
Evan L. Smith, Attorney at Law, for Moyle's
Health Care, Inc.; interested parties.

Lillian E. Sartain, for Consumers of District,
protestant.

Catherine Johnson, Attorney at Law, and Harry P.
Aubright, III, for the Commission Advisory and
Compliance Division, Water Utilities Branch.

SECOND INTERIM OPINION

Summary

This decision finds that Yucca Water Company, Ltd.
(Yucca), a California public utility corporation, has failed to
comply with the requirements of Decision 87-04-064 and the
requirements of the Commission's General Order 103.

¹ John E. Sisson, Jr. replaces John E. Sisson, deceased, as
attorney for applicant.

Based on an extensive evidentiary record, the Commission finds that Yucca has been unable or unwilling to serve its ratepayers adequately and has been unresponsive to the rules and orders of the Commission.

The State Attorney General's Office has filed Complaint No. 244857, on behalf of the Department of Health Services (DHS), seeking a preliminary and permanent injunction enjoining Yucca from further violations of the provisions of Health and Safety Code Section 4010, et seq. The complaint further requested enforcement of a reasonable plan of compliance, including the appointment of a receiver, who will take charge of and operate this public water system.

On July 28, 1989, the terms of a preliminary injunction were established in the Superior Court of San Bernardino. The finalized order, with minor modifications, was issued by the Court on August 21, 1989. The Court did not appoint a receiver, but it did adopt a comprehensive list of prohibitions and directives which Yucca must follow. If Yucca fails to comply with the terms of the preliminary injunction, the DHS may petition and, if the evidence establishes a failure to comply, a receiver will be appointed.

Several of the directives contained in the preliminary injunction address the same issues as this decision.

Both Division of Ratepayer Advocates (DRA) and Yucca, in separate comments on the proposed decision, recommend that the Commission adopt directives and dates of compliance which are consistent with the recently issued preliminary injunction. The proposed decision has been modified accordingly.

Background

Interim Decision (D.) 87-04-064, dated April 22, 1987 authorized Yucca to borrow \$4,610,268 from the Safe Drinking Water (SDW) fund administered by the Department of Water Resources (DWR) to construct system improvements needed to bring the system up to minimum waterworks standards and to provide a safe source of water to

its customers. The project was designed to be completed in 20 months. The scope of the project is shown on Attachment A to that decision.

D.87-04-064 also ordered Yucca to do the following:

1. With the assistance of its consulting engineer to promptly hire a qualified field supervisor and a qualified office manager.
2. To file new proposed surcharge rates based on the passage of Proposition 55, within 15 days of the date of the decision.
3. To report to the Evaluation and Compliance Division (ECD) (renamed the Commission Advisory and Compliance Division (CACD)) on the feasibility of installing transient protection devices on its electric motors.

By D.88-01-043, the Commission reopened Application 88-07-026 for a prehearing conference and for further hearings to determine whether Yucca is complying with the requirements of D.87-04-064 and the requirements of the Commission's General Order (GO) 103. D.88-01-043 states in part:

"At the hearing in this proceeding, Yucca's consulting engineer testified that the company's existing distribution facilities, including its pipelines, booster pumps, and storage tanks, are incapable of meeting minimum daily water demands and adequate fire flows. This is due to inadequate pressures which, in turn, are caused by an insufficient water supply, undersized pipes, inadequate booster capacity, and insufficient storage.

"Ted W. Jurling, Yucca's president and sole shareholder testified that Yucca did not have the funds necessary to construct the needed facilities; its request to borrow construction funds needed from its bank was

2 This aspect of the decision is incorrect. We now understand that Mr. and Mrs. Jurling both own shares in Yucca.

denied. Subsequently he applied for a SDW fund loan. DWR made a loan commitment and a revised commitment to loan the necessary funds subject to Commission approval, including authorization to apply surcharges needed to amortize the loan. DWR also required Yucca to hold a public meeting to consider the feasibility of the project.

"The interim decision authorized Yucca to enter into a SDW loan agreement with DWR for \$4,610,268 and to file the interim rates contained in its amended application after the execution of a loan agreement. Ordering Paragraph 6 states:

- '6. Yucca with the assistance of its consulting engineer shall promptly undertake to hire a qualified field supervisor and a qualified office manager. Yucca shall advise the Evaluation and Compliance Division [renamed the Commission Advisory and Compliance Division] in writing five days after hiring each of these individuals. Its filing shall describe the qualifications of its new personnel.'

"Yucca's hiring of a qualified field supervisor is needed for the safe operation of the system. A qualified office manager is needed for proper accounting of funds, including segregation of surcharge revenues to repay the DWR loan.

"Yucca has not advised the Commission that it had hired a qualified field supervisor or a qualified office manager.

"Since issuance of D.87-04-064 the Commission has been advised of several outages on the system. The Health Officer of San Bernardino County (County) certified to the Chairman of the County Board of Supervisors (Chairman) that, pursuant to Sections 450 and 458 of the California Health and Safety Code, there is a substantial public health hazard. The Chairman then issued an emergency proclamation that a health emergency exists for Yucca's 2,800

customers. (See Attachment A to this decision.)

"On August 20, 1987, the State Department of Health Services issued its compliance order No. 04-007 to Yucca (Attachment B to this decision).

"Further information furnished to the Commission Advisory and Compliance Division indicates that Yucca is not fulfilling the requirements of D.87-04-064 in that it is not taking necessary action to prevent further threats to public health and safety. In addition to its noncompliance with that decision, it is not complying with the minimum standards for design and construction of water service facilities set forth in the Commission's General Order (GO) 103.

"Furthermore, Yucca has filed an advice letter transmitting loan surcharge rates. These rates are substantially below the level of interim rates authorized in D.87-04-064, e.g. the filed surcharge for 5/8-inch by 3/4-inch meter is \$5.63 rather than the \$9.43 interim rate authorized. The filed rates are apparently based on the DWR loan charge criteria established after passage of Proposition 55, the Safe Drinking Water Bond Act of 1986.

"Based on the foregoing information, we conclude that this proceeding should be reopened for further hearing to determine what measures Yucca has undertaken to comply with D.87-04-064 and GO 103. We put Yucca on notice that if we find it has been unresponsive to the requirements of D.87-04-064 and GO 103 we may consider taking action under Public Utilities Code Section 855,..." (See Footnote 2.)

Hearings

After notice, including personal service of D.88-01-043 on Ted W. Jurling, Yucca's president, a prehearing conference and three days of hearing on the reopened proceeding were held before an administrative law judge (ALJ) in Yucca Valley and in Los

Angeles. The matter was submitted subject to receipt of a late-filed exhibit which has been received.

Testimony on behalf of Yucca was presented by Ted W. Jurling; Fred Hanson, Albert A. Webb Associates (Webb), project engineer for design and construction of the system improvements funded by the SDWBA loan; Marie Simpson, a recently employed office employee of Yucca; Thomas Higgins, a field employee of Yucca; Reginald Knaggs, a special consultant to Webb for securing Yucca's Safe Drinking Water Bond Act (SDWBA) loan and for processing the loan and rate surcharge schedules with the Commission. In addition, Knaggs, Hanson, and Sam Gershon, Webb's vice-president, presented further testimony on behalf of Webb. At the initial hearings in this proceeding Webb agreed to work with Yucca to carry out certain tasks. Webb presented evidence to show its actions in carrying out its responsibilities. At the prehearing conference, a Mr. Ellis, representing the Blue Skies Golf Course, indicated his support for Jurling.

The DRA subpoenaed Gary M. Garrett, a discharged field employee of Yucca. The staff also called Rebecca Koepcke, a program analyst for the California Department of Water Resources, who had administrative responsibilities related to Yucca's SDWBA loan, and Harry P. Aubright, III, a financial examiner with CACD, who is the supervisor in charge of SDWBA loan processing for the Commission staff. Aubright also made a statement for CACD at the prehearing conference of the reopened proceeding. He was a witness at the original hearings in this proceeding.

Jeff Stone, a sanitary engineer with DHS, a witness in the original hearings in this proceeding, made a statement for DHS at the prehearing conference in the reopened proceeding. Diane L. Barich, the San Bernardino District Engineer for DHS, testified in the reopened proceeding for DHS.

Two former office employees of Yucca, Doris Cary Von Tesmar and John P. Harmon, testified on their own behalf to

provide the Commission with information on Yucca's operations. Russell C. Randolph testified as spokesperson for the Yucca Improvement Plans Study Committee (Committee) to recommend appointment of a receiver for Yucca. Kenneth Williamson made a statement in support of a receivership for Yucca on his own behalf. Evan L. Smith represented Moyles Health Care, Inc. (Moyles), a health care operator whose operations were threatened because Yucca had not fulfilled its obligations. Due to funding delays of the SDWBA project, Moyles offered to loan \$150,000 to Webb to construct a transmission line needed to supply its 56-bed skilled nursing facility without further interruption of water service. Webb referred the inquiry to Hoepcke. Smith requested Commission action to compel Yucca to hire competent and qualified persons to manage its office and field operations and to end further construction delays.

Discussion

Meeting Loan Requirements

D.87-04-064 authorized Yucca to enter into a Safe Drinking water loan agreement with the Department of Water Resources for \$4,610,268.

Von Tesmar, a former office employee of Yucca, testified that Jurling did not want the SDWBA loan; he delayed opening up bank accounts and setting up books related to the loan. Due to Jurling's reluctance to fill out loan paper work, she and Knaggs filed out much of the paper work for him.

Although he was repeatedly requested to do so, Jurling did not sign an application for a fidelity bond until about six months after it was mailed. He did so at that time because of the intervention of Aubright, Hoepcke, and Hanson to have Jurling sign the bonding application to start processing the loan, obtain loan funding, and start construction. Processing of the bonding application was then delayed because it lacked Mrs. Jurling's signature; it was then stopped because Yucca had not filed its

Franchise Tax returns through calendar year 1986 and its corporate status was suspended. Work on the bonding application was delayed until Knaggs could prepare Yucca's 1986 annual report in 1988. His work was slowed because Yucca was not keeping its books in accordance with the Commission's revised Uniform System of Accounts. Knaggs then arranged for preparation of Yucca's 1986 income tax filings. He hand-carried the state tax filing to obtain restoration of Yucca's corporate status. Furthermore, Yucca was required to file an amendment to its contract with DWR to extend the disbursement date due to its late filing of the bonding application. In addition, DWR again informed Yucca to complete a property survey to enable DWR to file a deed of trust against all of the easements, leases, and fee ownerships of property on which water company assets are located. By letter Hanson repeatedly asked Jurling to sign documents related to property titles.

Because Yucca's loan is about three times larger than any loan previously issued under SDWBA authorization, all of the underwriters for the bonding company generally used by DWR required an audit by a CPA of Yucca's current financial statements³ before they would issue a fidelity bond for the SDWBA loan. Due to the potential further delay for the CPA audit, the ALJ requested DWR to ask the bonding company to consider splitting the fidelity bond to allow loan funds to be released for necessary emergency work during the audit.

A bonding company representative proposed an alternate proposal, subject to further review, which was accepted by Yucca. His proposal contained the following requirements:

- "1. A separate bank account will be established with all checks under the control of a C.P.A.

³ Knaggs was engaged to prepare Yucca's 1987 annual report. It has been received by the Commission.

- "2. All checks issued by the State Dept. of Water Resources will be directed to the special account identified above.
- "3. The C.P.A. firm will be responsible for generating any checks from this account following receipt of documentation to do so from D.W.R. and the independent project engineering firm.
- "4. Two signatures will be required on each check, one from a group A signator and one from group B. Group A signators shall consist of Theodore Jurling or Alice Jurling and Group B signators shall consist of Fred H. Hanson or David M. Algranti, independent engineers.
- "5. The bond would be issued for a three year prepaid period, with the premium payable out of D.W.R. proceeds. Premium must be paid within thirty days of bond issuance.

"A new updated bond application is being mailed to Yucca Water Company for signature. Upon receipt by us we will rush to the underwriter, who must submit to their Home Office due to the size of the bond."

After a long delay, Yucca finally entered into the loan and obtained the needed funds in June 1989. We find that Jurling could and should have avoided the delays in obtaining the loan, as described above.

The Office Manager

Ordering Paragraph 6 of D.87-04-064 required Yucca to hire a qualified office manager, to advise ECD in writing within five days of hiring the manager, and in its filing to describe the qualifications of its new office manager.

Jurling testified that he hired three successive office managers, one on a consulting basis. But the testimony of these individuals, namely Von Tesmar, Harmon, and Simpson, denied that they were managers. Their testimony that they were not given managerial responsibility or authority is supported by Hanson's

correspondence with Jurling. Von Tesmar and Harmon testified on Jurling's resistance to completing paper work related to the loan. Their work was focused on general office work and billing. They were not given access to or responsibility for Yucca's general ledgers, mail, payroll records, plant or depreciation accounting, preparation of annual reports, or tax returns.

Von Tesmar and Harmon were not given access to Yucca's mail, but they received calls from DHS, Aubright, and Webb on why they had received no responses from Jurling. In order to know what was going on and to respond to those inquiries, the employees sought duplicate copies of correspondence.

In addition, these witnesses testified that Mrs. Jurling and another employee instructed other office employees to take orders from them, rather than from the "office managers". Yucca's books and ledgers were kept in the bookkeeper's home and not in the office.

Although Jurling hired three successive individuals to work in the office, the evidence does not indicate that these individuals (other than Harmon) were qualified office managers, that they were given authority to actually manage, or that Yucca ever informed CACD in writing that it had complied with this requirement.

This record demonstrates the immediate need for a competent manager of Yucca's office and administrative operations. All of the witnesses who addressed the adequacy of Yucca's staffing, with the exception of Jurling, testified that additional office and/or field staffing was needed. Work was not being done due to lack of staff. Work was impeded by improper organization,

protection of turf,⁴ employee turnover due in part to low pay (e.g. Simpson's monthly salary was \$1,200), and the need to use inadequate, broken, antiquated, or unsafe equipment. Instead of utilizing the computer for billing, billings were computed on a meter sheet and office employees collectively typed out the bills in the office and at their homes. The office typing equipment was in disrepair. Employees used their own typewriters. Over an extended period of time both office and field workers and a Committee volunteer attempted to gather the meter size and premises occupancy data necessary for computation of the SDWBA surcharges. The testimony indicates a question about the accuracy of the portion of the surcharge billing information completed.

Von Tesmar, Garrett, and Higgins testified that Jurling did not purchase supplies, parts, and/or repair equipment needed for company operations. The testimony is unequivocal that the single telephone in Yucca's office is inadequate.

The Field Manager

Ordering Paragraph 6 of D.87-04-064 also required Yucca to hire a qualified field manager, to advise ECD in writing within five days of hiring the manager and in its filing to describe the qualifications of its new field manager.

Aubright could not find any notification from Yucca on its compliance with Ordering Paragraph 6 nor was he aware that Yucca had complied.

Garrett testified that he was hired as acting field superintendent until he passed the examination for a Grade II Water Treatment Operator. However, Jurling conveyed future assignments through evening phone calls to Higgins rather than by calling

⁴ Harmon asked for the consumption report to find out what it was and how to prepare it. That report was removed from the office to the bookkeeper's house.

Garrett directly. Furthermore, Jurling vehemently objected to Garrett's ordering brake replacements and new tires on the dangerous unregistered trucks that Yucca was operating. Garrett testified while he was nominally superintendent Jurling did not give him permission to take care of certain things but, when a crisis erupted, upbraided him for not having cured the problem.

Garrett argued with Jurling about his requests that employees work seven days a week and on Jurling's refusal to pay time-and-a-half for overtime work.

Garrett drafted an employment contract (RO12) for himself with Yucca which included an increase in pay from \$1,500 per month to \$2,500 per month after passing the Water Treatment Operator examination; it defined duties, responsibilities, and benefits. Garrett further testified that he sought to discuss his duties, responsibilities, and compensation with Jurling on several occasions, but Jurling repeatedly refused to discuss it with him and/or gave the excuse that he was reviewing the matter with his attorney. Garrett, supported by Hanson, sought to reduce his duties and responsibilities to a written agreement with Jurling. In rebuttal testimony Jurling adamantly refused to put job descriptions in writing. However, at the ALJ's direction Yucca produced a statement setting forth the duties, responsibilities, and supervisory control of a proposed superintendent and of an office manager.

Jurling believed Garrett's predecessor field superintendent, who had worked for Yucca for several years, could qualify as Class 2 Water Treatment Operator. Jurling arranged for him to take the examination; but he resigned before taking the examination. Another potential superintendent quit after one day on the job. Jurling then hired Garrett. Jurling originally testified that Garrett was fully qualified as superintendent and he planned to make arrangements for him to take the Class 2 Water Treatment Operator Test. Jurling felt he was a man with a lot of

water company experience who could take care of all sorts of water problems, maintenance, meter reading and installation, caring for equipment, "he is an all-round man and actually the best man that has come to my attention." About nine weeks later he discharged Garrett.

We find that Yucca has failed to hire and employ a person who is qualified to perform the duties of field manager. We also find that Yucca failed to notify CACD in writing that it had complied with this requirement.

General Order 103

Water Quality and Supply

The purpose of GO 103 is to promote good public utility practices, to encourage efficiency and economy, and to establish minimum standards to be observed in the design, construction, and operation of waterworks. The record in this proceeding demonstrates that Yucca is not complying with the minimum standards of GO 103 in many significant respects.

Section II of GO 103 addresses the standards of service, including the quality of water, water supply, testing of water, continuity of service and pressures. In each of these areas, the evidence indicates that Yucca is seriously deficient.

Specifically, Section II.1.a of GO 103 requires a utility to comply with the regulations of the state or local Department of Public Health.

Approximately 11 months after Commission's authorization of the loan and interim rate surcharges to amortize the loan, Barich presented the following testimony on violations of Yucca's October 3, 1985⁵ water supply permit in Exhibit R03:

"The permit contains a number of provisions directing the Company to take action. Among other provisions the permit contains

5 Amended December 18, 1987.

requirements that the Company complete improvements to the system within a time schedule acceptable to the Department. Provision No. 12 of the permit requires that the Company provide adequate operation and maintenance of the system. There are extensive violations of this provision including but not limited to:

- "1. Failure to protect the system from contamination by backflow.
- "2. Failure to prevent unreasonable physical deterioration of facilities.
- "3. Failure to protect facilities from vandalism or sabotage.
- "4. Failure to provide staff that are adequately trained to operate and maintain the system and are certified in accordance with State regulations.
- "5. Failure to maintain facilities in good repair and working conditions.
- "6. Failure to maintain as-built maps and drawings.
- "7. Failure to provide appropriate equipment, tools and repair parts for emergency repairs.
- "8. Failure to provide appropriate surface construction features on wells.
- "9. Failure to maintain daily water treatment records.
- "10. Failure to provide an emergency disinfection plan.
- "11. Failure to provide a chlorine residual test kit for field personnel.
- "12. Failure to maintain distribution system reservoirs in good condition, clean and free of leaks.

- "13. Failure to ensure that all vents on storage facilities are properly screened.
- "14. Failure to maintain leak records.
- "15. Failure to disinfect new and repaired mains."

Exhibit R03 contains copies of the permit and its amendment, a series of findings and citations applicable to Yucca, operating and maintenance guidelines for water systems, standards for disinfection of water mains, and a summary of problems involving Yucca between December 22, 1983⁶ and March 23, 1988. The summary of the report states:

"Yucca Water Company, Ltd. has had numerous water outages which have resulted in significant hazards to public health. There have been extensive violations of the California Health and Safety Code, the Code of California Regulations, and domestic water supply permit provisions. Because of these violations the Department has taken enforcement action in the form of compliance orders and citations. The Company has repeatedly failed to comply with the directives and time schedules established by these documents.

"In addition to continued violations of Departmental directives, action and failure of action by Company management has resulted in the cessation of vital system improvements, the funding for which could be provided by the State of California. Because work cannot proceed the community is facing significant water outages during the rapidly approaching hot weather season.

6 D.87-04-064 cites testimony of a DHS sanitary engineering witness who testified that DHS began contacting Yucca in 1979 seeking corrective action including the preparation of an improvement plan.

"We request PUC to direct the Company to immediately resolve the fiscal and management problems that are preventing progress on the Safe Drinking Water Bond Law improvement project, provide office and field personnel with authority to address the daily crises that plague the water system, and prevent recurrence of the problems that have resulted in the project delays."

It should not have been necessary to repeatedly cite and to fine Yucca to secure compliance with DHS directives; e.g., to secure additional well supplies and construct the project; provide for emergency pumping installations; chlorinate wells, storage, and mains; and to eliminate pollution hazards to the system.

Yucca is obligated to complete needed improvements whether or not SDWBA funds are available.

Yucca has continued to violate DHS orders by using unapproved sources during water shortages. It has not connected its new Well 7 to the system, installed a casing vent and a meter, destroyed an abandoned well on the same site, or obtained title to the site. Jurling planned to move equipment from Well 4 to Well 7. Yucca was ordered to complete that well as an additional water supply not as a substitute source.

Yucca lacked main transmission capacity across the state highway. It delayed restoration of mains crossing the highway which were severed to accommodate a Caltrans project which was not built; the effective size and capacity of other older mains is only a small fraction of what is needed.

Barich further testified that Yucca had obtained a chlorine residual kit (Item 11 above) and Yucca had brought its practices into conformity with DHS requirements on Item 15. That conformity apparently followed her issuance of a field order to Yucca to make provision for disinfection of a main; install a properly designed blowoff for flushing the main, which contained dirt and could contain other debris or dead animals; and obtain

bacteriological tests. Yucca residents notified DHS of an improper main installation being made by Yucca during a holiday weekend. Their call precipitated Barich's field inspection and order. Jurling later notified Barich by telephone that bacteriological tests on that main were negative. Consequently, she authorized placing the main in service. She subsequently discovered that the bacteriological tests were invalid because Yucca improperly used nitrate sampling bottles.

Garrett testified that Jurling ordered him and Higgins to install the pipeline discussed above without provision for disinfection or flushing of the dead end line; he and Higgins suggested to Jurling that they install a temporary hydrant on the line. But Jurling refused; he gave them direct orders to weld a plate across the line without worrying about a flush (valve) or a hydrant at the end of the line. Garrett's testimony was confirmed by Barich.

Higgins was called by Yucca immediately after Garrett left the stand to rebut Garrett's testimony on malfunctioning meters, repairing leaks, and on a citation given for transportation of pipe. Higgins confirmed Garrett's testimony that Yucca's truck and trailer had bald tires, no registration, or insurance. In addition, the crew had not installed tie downs or a red flag on the load. Yucca also attempted to establish through Higgins that Garrett stole a radio from one of Yucca's vehicles and to recount a conversation in which Garrett favored appointment of a receiver for Yucca. But Higgins was not asked about the improper main installation for which Yucca was cited. In rebuttal later that day, Jurling testified that Garrett improperly welded a plate over the pipe before the line was flushed out. Jurling also testified that the pipeline was to a subdivision where the developer had permits for five homes under construction and he was not constructing the main in violation of DHS's moratorium on installing new services.

Garrett testified about Jurling's refusal to install a blow off on a dead end on another pipeline sealed by a welded plate which developed a leak. He fixed that leak temporarily by screwing a steel plug into it.

Garrett testified that the six major leaks Jurling ordered him to repair pursuant to the direction of DHS had been there before he had been hired by Yucca. Jurling asked Higgins not to advise Garrett of another leak.

There are quantitative differences in estimates of the magnitude of six leaks made by DHS and Garrett and those of Jurling and Higgins. Jurling deprecates the problem; but his testimony shows a disregard for the back syphonage health hazard potential from longstanding leak-created pools of water. In the past Yucca's customers had to boil water due to fecal contamination.

Garrett testified that Yucca had no main disinfection program for installing new mains or for making main repairs. He questioned whether the chlorine residual test kit had ever been taken out of its box. The kit was not furnished to the field crew until the main line repair they were working on "when the Health Department showed up and caught us." (RT 526.)

Water Meters

GO 103 requires that all water sold by a utility shall be on the basis of metered volume sales, except in specific instances, and specifies the manner in which such meters shall be maintained, tested and repaired.

Garrett testified that Yucca has been scavenging parts from old meters for parts to repair its meters. It does not have any means of calibrating meters. Thus, repaired meters are likely to be inaccurate. Garrett was not familiar with the meter testing standards of GO 103. Garrett had not seen all of Yucca's meters during the 2-1/2 months he was employed by the company. He made several varying estimates of needed service and meter repair work, namely 99% of the meters need repairs; there were over 300

outstanding work orders for leaking and stuck meters; there were another 400 or 500 services with unreported problems, including seepage or leaks around curb stops filling meter boxes with water; 50% of the services had problems such as a need for meter replacements, leak repairs, repair or replacement of meter boxes or box lids, unreadable meters lacking top registers, and unmetered services. Yucca did not have a pump to remove water from excavations or a pipe locator.

Yucca called Higgins, a serviceman who had worked for Yucca for 2-1/2 years, in rebuttal to Garrett's testimony. Higgins estimated that 70% to 80% of Yucca's meters were functioning; but he was unsure of the accuracy of the meters. He was aware that partially functioning meters were generally slow. Higgins was unfamiliar with the Commission's GO 103 requirements for meter testing; but Yucca had no meter testing facility. He could not get new parts for meter repairs; therefore, he salvaged parts from old meters.

Von Tesmar testified that Yucca charged monthly minimum charges of \$5.05 for a number of customers because there was no record of consumption due to stuck meters, larger meters' readings were generally estimated for that reason; the meters were not repaired due to the lack of parts; several customers were not billed including service to properties owned by Jurling, and Yucca employees received reduced water bills.

Hanson testified that a system with only 70% to 80% of its meters functioning is neither normal nor satisfactory. He also characterized Yucca's meter repair procedures as being neither normal nor satisfactory. He further testified that Yucca's older better quality meters would have a high trade-in value and that smaller replacement meters could be purchased for about the cost of repairing the malfunctioning meters.

Based on the foregoing evidence, we conclude that Yucca has failed to comply with the requirements of Sections VI and VII.3.c of GO 103.

Additional Problems

In addition to the specific violations of GO 103 and D.87-04-064 enumerated above, this record indicates serious problems in the operation and management of the Yucca system. These problems are summarized below.

Adequacy of Facilities

In spite of rapid customer growth Yucca did not timely develop new sources of supply, transmission, and storage.

As a result of outages in 1987 Jurling drilled a new well but he did not equip it or properly connect it to the system. For an extended period of time Jurling failed to destroy an adjacent well properly to prevent contamination and thus could not obtain DHS approval to put the new well in service.

Jurling's testimony blaming Desert for his supply problems is unconvincing. The basin is being overdrafted; as water tables fall, well capacities drop. Jurling considered but did not file suit against District to halt the damage he claims District is causing Yucca. Barich and Randolph pointed out that outages had been occurring for many years before the 1987 outages. In D.87517 dated September 6, 1977, we authorized Yucca to enter into the terms of an stipulated agreement for judgment on the then overdrafted Warren Basin. The safe yield of the Basin was estimated at 200 acre feet per year (AF/Y). Extractions from that Basin at that time were 2,224 AF/Y including 726 AF/Y by Yucca.

Adequacy of Yucca's Records

Yucca's books are not kept in accordance with the revised Uniform System of Accounts resulting in extra work for consultants. The records are not in satisfactory condition. Yucca's office staff is not adequate if it is incapable of preparing annual reports, dealing with the public, or responding to individuals

involved with the project. Its meter and billing records appear to be in deplorable condition. The purported office managers testified that they were not given authority to run the office. Portions of company's books and records are kept in employees' homes, including records kept by an employee collecting disability payments. Yucca's office "managers" were not given access to the company's computer. The person with access to the computer could not operate it. Due to Jurling's failure to keep Yucca's books and records up, he could not file an application for rate relief.

There is a need to prepare and file Yucca's 1988 annual report and possibly its 1987 and 1988 State and Federal Income Tax returns.

Yucca must also produce an updated, audited balance sheet for Yucca conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca. At this time we will not order Yucca to retain a CPA to conduct a three-year audit of its operations as recommended by Aubright. That information appears to be of limited value for further ratemaking purposes.

Advances and Contributions

Jurling has not collected funds for Yucca from developers for construction which should have been paid for by advances or contributions as provided in Yucca's tariffs. Within the provisions of statutes of limitations, collection of such funds should be sought from developers. If recovery cannot be obtained from developers the amounts in question should be deducted from Yucca's corporate surplus. State and Federal tax law revisions reclassified amounts received for advances for construction and for contributions in aid of construction as taxable income.

D.87-09-026 authorized utilities to elect a method for obtaining additional funds from the person(s) advancing or contributing funds to pay an additional amount of the present value of the future tax burden of the taxable income. Yucca did not file tariffs electing

one of the authorized methods. Following a general rate proceeding, Yucca could benefit from choosing an option and filing a revised main extension rule.

Billings

Yucca is not properly recording consumption or billing in conformity with its filed tariffs. Broken or malfunctioning meters should be promptly repaired. Yucca is losing revenues due to its failure to bill in accordance with its filed tariffs. Except for a closed limited flat rate schedule, all consumption should be billed based on accurate meter readings including service to Jurling's properties.

Service Establishment

Yucca has the obligation to process service requests promptly on a nondiscriminatory bases and without harassment. Residents or businesses within Yucca's service area who sought service to their premises or had a building permit or completed improvement prior to the moratorium deadline established by DHS should have been and should be served.

Summary and Conclusions

Jurling has operated Yucca from its inception over 43 years ago. Yucca grew from serving one or two customers initially to approximately 2,800. Jurling testified that Yucca has been providing adequate and efficient service, equipment, and facilities; he was familiar with DHS recent orders and citations to Yucca. He believes that he can operate the Yucca system with two field men better than he had with Garrett. He believes that the existing office staff can set up the procedures for billing and collecting and segregating surcharge revenues, but the procedures to accomplish that are not in place.

Jurling continues to paint an optimistic picture of Yucca's operations and of the adequacy of those operations. But his claims are not supported by this record.

The Commission, DHS, and DWR made it possible for Yucca to expeditiously cure the major service problems it faced through completion of the project. Instead of organizing to make use of those funds, Jurling has delayed and obstructed the efforts of Webb and of the agencies involved in obtaining and administering the loan funds. His actions worked to the detriment of Yucca's customers.

Yucca is not adequately operating or maintaining its existing system as evidenced by the testimony of several witnesses. Yucca is failing to meet the requirements of its amended water supply permit. It has not engaged needed additional qualified office and field employees.

The testimony of Randolph and present and past employees of the company reinforce the testimony of Yucca's consultants and of the agency witnesses to indicate that there is a need for a new operator to protect the health and safety of Yucca's customers, to adequately staff Yucca's field and other operations, and to straighten out the affairs of the company. The Jurlings have been unable or unwilling to meet those objectives.

Findings of Fact

1. D.87-04-064 authorized Yucca to enter into an SDWBA loan agreement with DWR for \$4,610,268 and authorized Yucca to file interim rates and to file lower revised surcharge rates. The lower surcharge rates were to be based on DWR criteria to implement passage of the SDWBA of 1986 (Proposition 55).

2. Inadequacies of Yucca's then existing water system needed to be rectified to eliminate further safety hazards to Yucca's customers. Construction of the facilities described in Attachment A to D.87-04-064 is needed to bring the system up to minimum DHS standards.

3. Yucca filed lower revised surcharge rates and corrected surcharge rates to provide a reasonable balance between surcharge rates of different sized meters. Rate surcharge criteria for

certain master metered customers were worked out cooperatively between Committee and Yucca; and adopted by the Commission.

4. D.87-04-064 incorrectly states Ted W. Jurling was Yucca's sole shareholder. He owns the company with his wife Alice Jurling.

5. Jurling caused delays in Yucca's obtaining SDWBA funds by failing to timely meet DWR's loan requirements for a fidelity bond application; failing to keep Yucca's books in accordance with the Commission's revised Uniform System of Accounts; failing to keep its books up to date to prepare annual reports; failing to file Federal Income Tax and State Franchise Tax returns; and failing to complete a property survey to enable DWR to file a deed of trust against all of the easements, leases, and fee ownership of property on which water company assets are located.

6. Jurling repeatedly failed to take actions to cure violations of Yucca's amended water supply permit.

7. Jurling failed to take the necessary actions to put a new well in service.

8. The Department of Health Services has obtained a preliminary injunction which directs the operation of Yucca with specific prohibitions and requirements.

9. If Yucca fails to comply with the terms of the preliminary injunction there will be a need to appoint a receiver to run the company.

10. There is a need to hire qualified staff to comply with Ordering Paragraph 6 of D.87-04-064, provide an adequately sized staff for Yucca's field office operations, and to obtain an adequately sized office for Yucca's operations.

11. There is a need to inventory Yucca's services and meters, to determine the appropriate surcharges, computerize Yucca's regular and surcharge billings, and incorporate the company's books and records in computer files.

12. Yucca's vehicles and motorized equipment are largely obsolete, non-operative, and/or unsafe. The deficient equipment

should be replaced and/or repaired or scrapped. Vehicle licenses and insurance should be obtained.

13. A large portion of Yucca's meters are malfunctioning in violation of Section VI.3. of GO 103. The malfunctioning meters should be replaced or repaired.

14. Yucca has underbilled certain customers by not charging for consumption. It has not timely repaired or replaced malfunctioning meters. Its meter repairs have not been made in accordance with Section VI.3. of GO 103. Some of its billings do not conform with Section VI. of GO 103 for measuring and billing for service.

15. Yucca lacks sufficient telephone equipment to transact its business adequately.

16. Yucca failed to process customer complaints, including informal complaints filed with the Commission timely, in violation to Section I.8. of GO 103.

17. Yucca's consultant testified that Yucca is operating at a loss. Yucca has failed to keep its records up to date as required by the Commission's Uniform System of Accounts for water utilities to enable it to file for a general rate increase.

18. Yucca has not complied with GO 104 in not filing timely annual reports with the Commission.

19. Yucca failed to collect for construction costs for main extensions and for contributions in aid of construction as required by its main extension rule. State and Federal tax law revisions reclassified amounts received for advances for construction and for contributions in aid of construction as taxable income.

D.87-09-026 authorized utilities to elect a method for obtaining additional funds from the person(s) advancing or contributing funds by requiring additional payment of the present value of the future tax burden. Yucca did not file tariffs electing one of the authorized methods.

20. Yucca has not billed certain customers, including properties owned by the Jurlings, in violation of its tariffs.

21. Yucca failed to notify the DHS and the Commission of outages. Records of interruptions and reports to the Commission are required by Section II.2. of GO 103.

22. Yucca has not maintained water production or chlorination records or chlorinated its supplies and facilities in compliance with DHS orders.

23. Yucca has not timely repaired system leaks or set up a backflow prevention program creating potential health hazards.

24. Yucca has not maintained accurate as-built maps with the Commission as required by Section I.10 of GO 103. It has not recorded changes in facilities on its maps.

25. Yucca was unable to replace needed transmission lines across the state highway because its workmen could not find control valves. It has not established a system for operation of its valves nor has it established a valve tie program.

26. Yucca has not timely constructed adequate sources of supply, storage, booster pumps, and transmission capacity. Yucca needs to improve its water transmission across the state highway; between its wells and its booster pumps and storage facilities; and to supply its distribution system. It has not complied with Section II. of GO 103, Standards of Service.

27. Yucca has installed dead-end mains on its system without providing blowouts in violation of Section IV.3.b. of GO 103.

Conclusions of Law

1. Yucca has not met its responsibilities as a water utility operator to provide an adequate, continuous, wholesome, potable supply of water to its customers. Yucca has not complied with the provisions of its amended water supply permit or with the provisions of GO 103.

2. The Commission should support the terms of the recent preliminary injunction directing the operations of Yucca. If Yucca

fails to comply with the court order, the Commission should support court appointment of a receiver, approved by DHS, to operate Yucca.

3. Since lower superseding surcharge rates have been filed there is no need to file the interim rates authorized in D.87-04-064.

4. A 1988 annual report for Yucca should be filed with the Director of CACD on or before October 1, 1989.

5. Yucca should file any past due state and federal income tax returns by October 15, 1989 and provide the Commission with proof of filing by October 15, 1989.

6. A qualified office manager and a qualified field supervisor for Yucca should be engaged by October 1, 1989. A filing should be made with the Director of CACD not later than October 1, 1989 for CACD review containing detailed duty statements specifically setting forth all areas of responsibility and authority for those positions. A second filing containing a summary of the qualifications of the individuals hired and a statement that contracts setting forth the areas of responsibility and authority, salary, and benefits of the individuals holding those positions have been executed should be filed with the Director of CACD within five days of the hiring dates.

7. In the event that any individual hired in accordance with Conclusion of Law 6 above, is dismissed, resigns, or otherwise terminates employment, Yucca should hire another individual who meets the requirements within 45 days of the dismissal, resignation, or termination of the employment. Yucca should give notification of the hiring as specified in Conclusion of Law 6.

8. On or before October 1, 1989, Yucca should obtain the services of an independent company approved by the Department of Health Services with experience in water meter calibration, repair, and replacement. Yucca should have the independent company promptly complete a field survey of Yucca's meters to ascertain the accuracy of the meters; repair or replace non-functioning and malfunctioning meters; and establish meter sizes for regular billing purposes.

9. Yucca should establish appropriate surcharges for master metered services; post the meter survey results on a computer for billing purposes; and establish a billing schedule to collect the filed surcharges as needed for SDWBA repayments. Yucca should computerize all billing by October 1, 1989. Yucca should check for the correctness of its surcharge billings within six months after the meter survey.

10. Within 10 days of the effective date of this order, Yucca should notify any person refused service within its service area for any reason not specified in its tariffs or for not having filed for a building permit by August 20, 1987 under the DHS moratorium, and still unserved, of the authorized reason for refusing service or to make arrangements for providing service. A copy of such letters should be concurrently filed with the Director of CACD.

11. Yucca should hire a certified public accounting firm with experience in water systems and Commission systems of accounting to produce an updated, audited balance sheet as of December 31, 1988, conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca within 90 days of the effective date of this decision.

12. This decision should be made interim to permit amendment if additional SDWBA funding is applied for. The order should be made effective today to expedite prompt compliance.

13. A court-appointed operator may apply for temporary interim relief to carry out the requirements of this decision.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Yucca Water Company, Ltd. (Yucca) shall complete the meter survey, meter repairs, and computerization of billing data by October 1, 1989.

2. A 1988 annual report for Yucca along with a notice of the date Yucca filed its 1987 and 1988 State Franchise Tax and Federal Income Tax returns shall be filed with the Director of the Commission Advisory and Compliance Division (CACD) within 30 days after the effective date of this decision.

3. Yucca shall promptly comply with Conclusions of Law 4 through 11.

4. Yucca shall notify any potential customer within Yucca's service area denied service for any reason not set forth in Yucca's tariffs or GO 103 or for not having filed a building permit by August 20, 1987 under the moratorium established by the Department of Health Services, in writing, of the reasons for refusal of service or shall be afforded service. Copies of that correspondence shall be concurrently forwarded to the Director of CACD within 15 days of the effective date of this decision.

5. Yucca shall prepare and file with the Commission, within 90 days of the effective date of this decision, an updated, audited balance sheet conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca.

This order is effective today.

Dated September 7, 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Yucca Water Company,)
Ltd., a California corporation, to)
borrow funds under the Safe Drinking)
Water Act of 1984 and establish a)
surcharge to existing water rates to)
repay the principal and interest on)
such a loan.)
CIS #U-372-W)

Application 86-07-026
(Filed July 9, 1986;
amended November 21, 1986)

John E. Sisson, Jr.,¹ Attorney at Law, and
Albert A. Webb Associates, by Reginald H.
Knaggs, for Yucca Water Company, Ltd.,
applicant.

Rebecca Hoepcke, for State Department of Water
Resources; Diane Barich, Jeffrey L. Stone, and
Izetta C. R. Jackson, Attorney at Law, for State
Department of Health Services; Russell C. Randolph,
for Yucca Water Company Improvement Plan Study
Committee; and Nelson Seligmann & Wright, by
Evan L. Smith, Attorney at Law, for Moyle's
Health Care, Inc.; interested parties.

Lillian F. Sartain, for Consumers of District,
protestant.

Catherine Johnson, Attorney at Law, and Harry P.
Aubright, III, for the Commission Advisory and
Compliance Division, Water Utilities Branch.

SECOND INTERIM OPINION

Summary

This decision finds that Yucca Water Company, Ltd.
(Yucca), a California public utility corporation, has failed to
comply with the requirements of Decision 87-04-064 and the
requirements of the Commission's General Order 103.

¹ John E. Sisson, Jr. replaces John E. Sisson, deceased, as
attorney for applicant.

Based on an extensive evidentiary record, the Commission finds that Yucca has been unable or unwilling to serve its ratepayers adequately and has been unresponsive to the rules and orders of the Commission.

The State Attorney General's Office has filed Complaint No. 244857, on behalf of the Department of Health Services (DHS), seeking a preliminary and permanent injunction enjoining Yucca from further violations of the provisions of Health and Safety Code Section 4010, et seq. The complaint further requests enforcement of a reasonable plan of compliance, including the appointment of a receiver, who will take charge of and operate this public water system. The Commission strongly supports the complaint filed by DHS and the relief requested thereunder.

Background

Interim Decision (D.) 87-04-064, dated April 22, 1987 authorized Yucca to borrow \$4,610,268 from the Safe Drinking Water (SDW) fund administered by the Department of Water Resources (DWR) to construct system improvements needed to bring the system up to minimum waterworks standards and to provide a safe source of water to its customers. The project was designed to be completed in 20 months. The scope of the project is shown on Attachment A to that decision.

D.87-04-064 also ordered Yucca to do the following:

1. With the assistance of its consulting engineer to promptly hire a qualified field supervisor and a qualified office manager.
2. To file new proposed surcharge rates based on the passage of Proposition 55, within 15 days of the date of the decision.
3. To report to the Evaluation and Compliance Division (ECD) (renamed the Commission Advisory and Compliance Division (CACD)) on the feasibility of installing transient protection devices on its electric motors.

By D.88-01-043, the Commission reopened Application 88-07-026 for a prehearing conference and for further hearings to determine whether Yucca is complying with the requirements of D.87-04-064 and the requirements of the Commission's General Order (GO) 103. D.88-01-043 states in part:

"At the hearing in this proceeding, Yucca's consulting engineer testified that the company's existing distribution facilities, including its pipelines, booster pumps, and storage tanks, are incapable of meeting minimum daily water demands and adequate fire flows. This is due to inadequate pressures which, in turn, are caused by an insufficient water supply, undersized pipes, inadequate booster capacity, and insufficient storage.

"Ted W. Jurling, Yucca's president and sole shareholder" testified that Yucca did not have the funds necessary to construct the needed facilities; its request to borrow construction funds needed from its bank was denied. Subsequently he applied for a SDW fund loan. DWR made a loan commitment and a revised commitment to loan the necessary funds subject to Commission approval, including authorization to apply surcharges needed to amortize the loan. DWR also required Yucca to hold a public meeting to consider the feasibility of the project.

"The interim decision authorized Yucca to enter into a SDW loan agreement with DWR for \$4,610,268 and to file the interim rates contained in its amended application after the execution of a loan agreement. Ordering Paragraph 6 states:

- '6. Yucca with the assistance of its consulting engineer shall promptly undertake to hire a qualified field supervisor and a qualified office

2 This aspect of the decision is incorrect. We now understand that Mr. and Mrs. Jurling both own shares in Yucca.

manager. Yucca shall advise the Evaluation and Compliance Division [renamed the Commission Advisory and Compliance Division] in writing five days after hiring each of these individuals. Its filing shall describe the qualifications of its new personnel.'

"Yucca's hiring of a qualified field supervisor is needed for the safe operation of the system. A qualified office manager is needed for proper accounting of funds, including segregation of surcharge revenues to repay the DWR loan.

"Yucca has not advised the Commission that it had hired a qualified field supervisor or a qualified office manager.

"Since issuance of D.87-04-064 the Commission has been advised of several outages on the system. The Health Officer of San Bernardino County (County) certified to the Chairman of the County Board of Supervisors (Chairman) that, pursuant to Sections 450 and 458 of the California Health and Safety Code, there is a substantial public health hazard. The Chairman then issued an emergency proclamation that a health emergency exists for Yucca's 2,800 customers. (See Attachment A to this decision.)

"On August 20, 1987, the State Department of Health Services issued its compliance order No. 04-007 to Yucca (Attachment B to this decision).

"Further information furnished to the Commission Advisory and Compliance Division indicates that Yucca is not fulfilling the requirements of D.87-04-064 in that it is not taking necessary action to prevent further threats to public health and safety. In addition to its noncompliance with that decision, it is not complying with the minimum standards for design and construction of water service facilities set forth in the Commission's General Order (GO) 103.

"Furthermore, Yucca has filed an advice letter transmitting loan surcharge rates. These rates are substantially below the level of interim rates authorized in D.87-04-064, e.g. the filed surcharge for 5/8-inch by 3/4-inch meter is \$5.63 rather than the \$9.43 interim rate authorized. The filed rates are apparently based on the DWR loan charge criteria established after passage of Proposition 55, the Safe Drinking Water Bond Act of 1986.

"Based on the foregoing information, we conclude that this proceeding should be reopened for further hearing to determine what measures Yucca has undertaken to comply with D.87-04-064 and GO 103. We put Yucca on notice that if we find it has been unresponsive to the requirements of D.87-04-064 and GO 103 we may consider taking action under Public Utilities Code Section 855,..." (See Footnote 2.)

Hearings

After notice, including personal service of D.88-01-043 on Ted W. Jurling, Yucca's president, a prehearing conference and three days of hearing on the reopened proceeding were held before an administrative law judge (ALJ) in Yucca Valley and in Los Angeles. The matter was submitted subject to receipt of a late-filed exhibit which has been received.

Testimony on behalf of Yucca was presented by Ted W. Jurling; Fred Hanson, Albert A. Webb Associates (Webb), project engineer for design and construction of the system improvements funded by the SDWBA loan; Marie Simpson, a recently employed office employee of Yucca; Thomas Higgins, a field employee of Yucca; Reginald Knaggs, a special consultant to Webb for securing Yucca's Safe Drinking Water Bond Act (SDWBA) loan and for processing the loan and rate surcharge schedules with the Commission. In addition, Knaggs, Hanson, and Sam Gershon, Webb's vice-president, presented further testimony on behalf of Webb. At the initial hearings in this proceeding Webb agreed to work with Yucca to carry out certain tasks. Webb presented evidence to show its actions in

carrying out its responsibilities. At the prehearing conference, a Mr. Ellis, representing the Blue Skies Golf Course, indicated his support for Jurling.

The Division of Ratepayer Advocates of the Commission staff subpoenaed Gary M. Garrett, a discharged field employee of Yucca. The staff also called Rebecca Hoepcke, a program analyst for the California Department of Water Resources, who had administrative responsibilities related to Yucca's SDWBA loan, and Harry P. Aubright, III, a financial examiner with CACD, who is the supervisor in charge of SDWBA loan processing for the Commission staff. Aubright also made a statement for CACD at the prehearing conference of the reopened proceeding. He was a witness at the original hearings in this proceeding.

Jeff Stone, a sanitary engineer with DHS, a witness in the original hearings in this proceeding, made a statement for DHS at the prehearing conference in the reopened proceeding. Diane L. Barich, the San Bernardino District Engineer for DHS, testified in the reopened proceeding for DHS.

Two former office employees of Yucca, Doris Cary Von Tesmar and John P. Harmon, testified on their own behalf to provide the Commission with information on Yucca's operations. Russell C. Randolph testified as spokesperson for the Yucca Improvement Plans Study Committee (Committee) to recommend appointment of a receiver for Yucca. Kenneth Williamson made a statement in support of a receivership for Yucca on his own behalf. Evan L. Smith represented Moyles Health Care, Inc. (Moyles), a health care operator whose operations were threatened because Yucca had not fulfilled its obligations. Due to funding delays of the SDWBA project, Moyles offered to loan \$150,000 to Webb to construct a transmission line needed to supply its 56-bed skilled nursing facility without further interruption of water service. Webb referred the inquiry to Hoepcke. Smith requested Commission action to compel Yucca to hire competent and qualified persons to manage

its office and field operations and to end further construction delays.

Discussion

Meeting Loan Requirements

D.87-04-064 authorized Yucca to enter into a Safe Drinking water loan agreement with the Department of Water Resources for \$4,610,268.

Von Tesmar, a former office employee of Yucca, testified that Jurling did not want the SDWBA loan; he delayed opening up bank accounts and setting up books related to the loan. Due to Jurling's reluctance to fill out loan paper work, she and Knaggs filed out much of the paper work for him.

Although he was repeatedly requested to do so, Jurling did not sign an application for a fidelity bond until about six months after it was mailed. He did so at that time because of the intervention of Aubright, Hoepcke, and Hanson to have Jurling sign the bonding application to start processing the loan, obtain loan funding, and start construction. Processing of the bonding application was then delayed because it lacked Mrs. Jurling's signature; it was then stopped because Yucca had not filed its Franchise Tax returns through calendar year 1986 and its corporate status was suspended. Work on the bonding application was delayed until Knaggs could prepare Yucca's 1986 annual report in 1988. His work was slowed because Yucca was not keeping its books in accordance with the Commission's revised Uniform System of Accounts. Knaggs then arranged for preparation of Yucca's 1986 income tax filings. He hand-carried the state tax filing to obtain restoration of Yucca's corporate status. Furthermore, Yucca was required to file an amendment to its contract with DWR to extend the disbursement date due to its late filing of the bonding application. In addition, DWR again informed Yucca to complete a property survey to enable DWR to file a deed of trust against all of the easements, leases, and fee ownerships of property on which

water company assets are located. By letter Hanson repeatedly asked Jurling to sign documents related to property titles.

Because Yucca's loan is about three times larger than any loan previously issued under SDWBA authorization, all of the underwriters for the bonding company generally used by DWR required an audit by a CPA of Yucca's current financial statements³ before they would issue a fidelity bond for the SDWBA loan. Due to the potential further delay for the CPA audit, the ALJ requested DWR to ask the bonding company to consider splitting the fidelity bond to allow loan funds to be released for necessary emergency work during the audit.

A bonding company representative proposed an alternate proposal, subject to further review, which was accepted by Yucca. His proposal contained the following requirements:

- "1. A separate bank account will be established with all checks under the control of a C.P.A.
- "2. All checks issued by the State Dept. of Water Resources will be directed to the special account identified above.
- "3. The C.P.A. firm will be responsible for generating any checks from this account following receipt of documentation to do so from D.W.R. and the independent project engineering firm.
- "4. Two signatures will be required on each check, one from a group A signator and one from group B. Group A signators shall consist of Theodore Jurling or Alice Jurling and Group B signators shall consist of Fred H. Hanson or David M. Algranti, independent engineers.

³ Knaggs was engaged to prepare Yucca's 1987 annual report. It has been received by the Commission.

"5. The bond would be issued for a three year prepaid period, with the premium payable out of D.W.R. proceeds. Premium must be paid within thirty days of bond issuance.

"A new updated bond application is being mailed to Yucca Water Company for signature. Upon receipt by us we will rush to the underwriter, who must submit to their Home Office due to the size of the bond."

After a long delay, Yucca finally entered into the loan and obtained the needed funds in June 1989. We find that Jurling could and should have avoided the delays in obtaining the loan, as described above.

The Office Manager

Ordering Paragraph 6 of D.87-04-064 required Yucca to hire a qualified office manager, to advise ECD in writing within five days of hiring the manager, and in its filing to describe the qualifications of its new office manager.

Jurling testified that he hired three successive office managers, one on a consulting basis. But the testimony of these individuals, namely Von Tesmar, Harmon, and Simpson, denied that they were managers. Their testimony that they were not given managerial responsibility or authority is supported by Hanson's correspondence with Jurling. Von Tesmar and Harmon testified on Jurling's resistance to completing paper work related to the loan. Their work was focused on general office work and billing. They were not given access to or responsibility for Yucca's general ledgers, mail, payroll records, plant or depreciation accounting, preparation of annual reports, or tax returns.

Von Tesmar and Hanson were not given access to Yucca's mail, but they received calls from DHS, Aubright, and Webb on why they had received no responses from Jurling. In order to know what was going on and to respond to those inquiries, the employees sought duplicate copies of correspondence.

In addition, these witnesses testified that Mrs. Jurling and another employee instructed other office employees to take orders from them, rather than from the "office managers". Yucca's books and ledgers were kept in the bookkeeper's home and not in the office.

Although Jurling hired three successive individuals to work in the office, the evidence does not indicate that these individuals (other than Harmon) were qualified office managers, that they were given authority to actually manage, or that Yucca ever informed CACD in writing that it had complied with this requirement.

This record demonstrates the immediate need for a competent manager of Yucca's office and administrative operations. All of the witnesses who addressed the adequacy of Yucca's staffing, with the exception of Jurling, testified that additional office and/or field staffing was needed. Work was not being done due to lack of staff. Work was impeded by improper organization, protection of turf,⁴ employee turnover due in part to low pay (e.g. Simpson's monthly salary was \$1,200), and the need to use inadequate, broken, antiquated, or unsafe equipment. Instead of utilizing the computer for billing, billings were computed on a meter sheet and office employees collectively typed out the bills in the office and at their homes. The office typing equipment was in disrepair. Employees used their own typewriters. Over an extended period of time both office and field workers and a Committee volunteer attempted to gather the meter size and premises occupancy data necessary for computation of the SDWBA surcharges.

⁴ Harmon asked for the consumption report to find out what it was and how to prepare it. That report was removed from the office to the bookkeeper's house.

The testimony indicates a question about the accuracy of the portion of the surcharge billing information completed.

Von Tesmar, Garrett, and Higgins testified that Jurling did not purchase supplies, parts, and/or repair equipment needed for company operations. The testimony is unequivocal that the single telephone in Yucca's office is inadequate.

The Field Manager

Ordering Paragraph 6 of D.87-04-064 also required Yucca to hire a qualified field manager, to advise ECD in writing within five days of hiring the manager and in its filing to describe the qualifications of its new field manager.

Aubright could not find any notification from Yucca on its compliance with Ordering Paragraph 6 nor was he aware that Yucca had complied.

Garrett testified that he was hired as acting field superintendent until he passed the examination for a Grade II Water Treatment Operator. However, Jurling conveyed future assignments through evening phone calls to Higgins rather than by calling Garrett directly. Furthermore, Jurling vehemently objected to Garrett's ordering brake replacements and new tires on the dangerous unregistered trucks that Yucca was operating. Garrett testified while he was nominally superintendent Jurling did not give him permission to take care of certain things but, when a crisis erupted, upbraided him for not having cured the problem.

Garrett argued with Jurling about his requests that employees work seven days a week and on Jurling's refusal to pay time-and-a-half for overtime work.

Garrett drafted an employment contract (RO12) for himself with Yucca which included an increase in pay from \$1,500 per month to \$2,500 per month after passing the Water Treatment Operator examination; it defined duties, responsibilities, and benefits. Garrett further testified that he sought to discuss his duties, responsibilities, and compensation with Jurling on several

occasions, but Jurling repeatedly refused to discuss it with him and/or gave the excuse that he was reviewing the matter with his attorney. Garrett, supported by Hanson, sought to reduce his duties and responsibilities to a written agreement with Jurling. In rebuttal testimony Jurling adamantly refused to put job descriptions in writing. However, at the ALJ's direction Yucca produced a statement setting forth the duties, responsibilities, and supervisory control of a proposed superintendent and of an office manager.

Jurling believed Garrett's predecessor field superintendent, who had worked for Yucca for several years, could qualify as Class 2 Water Treatment Operator. Jurling arranged for him to take the examination; but he resigned before taking the examination. Another potential superintendent quit after one day on the job. Jurling then hired Garrett. Jurling originally testified that Garrett was fully qualified as superintendent and he planned to make arrangements for him to take the Class 2 Water Treatment Operator Test. Jurling felt he was a man with a lot of water company experience who could take care of all sorts of water problems, maintenance, meter reading and installation, caring for equipment, "he is an all-round man and actually the best man that has come to my attention." About nine weeks later he discharged Garrett.

We find that Yucca has failed to hire and employ a person who is qualified to perform the duties of field manager. We also find that Yucca failed to notify CACD in writing that it had complied with this requirement.

General Order 103

Water Quality and Supply

The purpose of GO 103 is to promote good public utility practices, to encourage efficiency and economy, and to establish minimum standards to be observed in the design, construction, and operation of waterworks. The record in this proceeding

demonstrates that Yucca is not complying with the minimum standards of GO 103 in many significant respects.

Section II of GO 103 addresses the standards of service, including the quality of water, water supply, testing of water, continuity of service and pressures. In each of these areas, the evidence indicates that Yucca is seriously deficient.

Specifically, Section II.1.a of GO 103 requires a utility to comply with the regulations of the state or local Department of Public Health.

Approximately 11 months after Commission's authorization of the loan and interim rate surcharges to amortize the loan, Barich presented the following testimony on violations of Yucca's October 3, 1985⁵ water supply permit in Exhibit R03:

"The permit contains a number of provisions directing the Company to take action. Among other provisions the permit contains requirements that the Company complete improvements to the system within a time schedule acceptable to the Department. Provision No. 12 of the permit requires that the Company provide adequate operation and maintenance of the system. There are extensive violations of this provision including but not limited to:

- "1. Failure to protect the system from contamination by backflow.
- "2. Failure to prevent unreasonable physical deterioration of facilities.
- "3. Failure to protect facilities from vandalism or sabotage.
- "4. Failure to provide staff that are adequately trained to operate and maintain the system and are certified in accordance with State regulations.

⁵ Amended December 18, 1987.

- "5. Failure to maintain facilities in good repair and working conditions.
- "6. Failure to maintain as-built maps and drawings.
- "7. Failure to provide appropriate equipment, tools and repair parts for emergency repairs.
- "8. Failure to provide appropriate surface construction features on wells.
- "9. Failure to maintain daily water treatment records.
- "10. Failure to provide an emergency disinfection plan.
- "11. Failure to provide a chlorine residual test kit for field personnel.
- "12. Failure to maintain distribution system reservoirs in good condition, clean and free of leaks.
- "13. Failure to ensure that all vents on storage facilities are properly screened.
- "14. Failure to maintain leak records.
- "15. Failure to disinfect new and repaired mains."

Exhibit R03 contains copies of the permit and its amendment, a series of findings and citations applicable to Yucca, operating and maintenance guidelines for water systems, standards for disinfection of water mains, and a summary of problems

involving Yucca between December 22, 1983⁶ and March 23, 1988.
The summary of the report states:

"Yucca Water Company, Ltd. has had numerous water outages which have resulted in significant hazards to public health. There have been extensive violations of the California Health and Safety Code, the Code of California Regulations, and domestic water supply permit provisions. Because of these violations the Department has taken enforcement action in the form of compliance orders and citations. The Company has repeatedly failed to comply with the directives and time schedules established by these documents.

"In addition to continued violations of Departmental directives, action and failure of action by Company management has resulted in the cessation of vital system improvements, the funding for which could be provided by the State of California. Because work cannot proceed the community is facing significant water outages during the rapidly approaching hot weather season.

"We request PUC to direct the Company to immediately resolve the fiscal and management problems that are preventing progress on the Safe Drinking Water Bond Law improvement project, provide office and field personnel with authority to address the daily crises that plague the water system, and prevent recurrence of the problems that have resulted in the project delays."

It should not have been necessary to repeatedly cite and to fine Yucca to secure compliance with DHS directives; e.g., to secure additional well supplies and construct the project; provide

⁶ D.87-04-064 cites testimony of a DHS sanitary engineering witness who testified that DHS began contacting Yucca in 1979 seeking corrective action including the preparation of an improvement plan.

for emergency pumping installations; chlorinate wells, storage, and mains; and to eliminate pollution hazards to the system.

Yucca is obligated to complete needed improvements whether or not SDWBA funds are available.

Yucca has continued to violate DHS orders by using unapproved sources during water shortages. It has not connected its new Well 7 to the system, installed a casing vent and a meter, destroyed an abandoned well on the same site, or obtained title to the site. Jurling planned to move equipment from Well 4 to Well 7. Yucca was ordered to complete that well as an additional water supply not as a substitute source.

Yucca lacked main transmission capacity across the state highway. It delayed restoration of mains crossing the highway which were severed to accommodate a Caltrans project which was not built; the effective size and capacity of other older mains is only a small fraction of what is needed.

Barich further testified that Yucca had obtained a chlorine residual kit (Item 11 above) and Yucca had brought its practices into conformity with DHS requirements on Item 15. That conformity apparently followed her issuance of a field order to Yucca to make provision for disinfection of a main; install a properly designed blowoff for flushing the main, which contained dirt and could contain other debris or dead animals; and obtain bacteriological tests. Yucca residents notified DHS of an improper main installation being made by Yucca during a holiday weekend. Their call precipitated Barich's field inspection and order. Jurling later notified Barich by telephone that bacteriological tests on that main were negative. Consequently, she authorized placing the main in service. She subsequently discovered that the bacteriological tests were invalid because Yucca improperly used nitrate sampling bottles.

Garrett testified that Jurling ordered him and Higgins to install the pipeline discussed above without provision for

disinfection or flushing of the dead end line; he and Higgins suggested to Jurling that they install a temporary hydrant on the line. But Jurling refused; he gave them direct orders to weld a plate across the line without worrying about a flush (valve) or a hydrant at the end of the line. Garrett's testimony was confirmed by Barich.

Higgins was called by Yucca immediately after Garrett left the stand to rebut Garrett's testimony on malfunctioning meters, repairing leaks, and on a citation given for transportation of pipe. Higgins confirmed Garrett's testimony that Yucca's truck and trailer had bald tires, no registration, or insurance. In addition, the crew had not installed tie downs or a red flag on the load. Yucca also attempted to establish through Higgins that Garrett stole a radio from one of Yucca's vehicles and to recount a conversation in which Garrett favored appointment of a receiver for Yucca. But Higgins was not asked about the improper main installation for which Yucca was cited. In rebuttal later that day, Jurling testified that Garrett improperly welded a plate over the pipe before the line was flushed out. Jurling also testified that the pipeline was to a subdivision where the developer had permits for five homes under construction and he was not constructing the main in violation of DHS's moratorium on installing new services.

Garrett testified about Jurling's refusal to install a blow off on a dead end on another pipeline sealed by a welded plate which developed a leak. He fixed that leak temporarily by screwing a steel plug into it.

Garrett testified that the six major leaks Jurling ordered him to repair pursuant to the direction of DHS had been there before he had been hired by Yucca. Jurling asked Higgins not to advise Garrett of another leak.

There are quantitative differences in estimates of the magnitude of six leaks made by DHS and Garrett and those of Jurling

and Higgins. Jurling deprecates the problem; but his testimony shows a disregard for the back syphonage health hazard potential from longstanding leak-created pools of water. In the past Yucca's customers had to boil water due to fecal contamination.

Garrett testified that Yucca had no main disinfection program for installing new mains or for making main repairs. He questioned whether the chlorine residual test kit had ever been taken out of its box. The kit was not furnished to the field crew until the main line repair they were working on "when the Health Department showed up and caught us." (RT 526.)

Water Meters

GO 103 requires that all water sold by a utility shall be on the basis of metered volume sales, except in specific instances, and specifies the manner in which such meters shall be maintained, tested and repaired.

Garrett testified that Yucca has been scavenging parts from old meters for parts to repair its meters. It does not have any means of calibrating meters. Thus, repaired meters are likely to be inaccurate. Garrett was not familiar with the meter testing standards of GO 103. Garrett had not seen all of Yucca's meters during the 2-1/2 months he was employed by the company. He made several varying estimates of needed service and meter repair work, namely 99% of the meters need repairs; there were over 300 outstanding work orders for leaking and stuck meters; there were another 400 or 500 services with unreported problems, including seepage or leaks around curb stops filling meter boxes with water; 50% of the services had problems such as a need for meter replacements, leak repairs, repair or replacement of meter boxes or box lids, unreadable meters lacking top registers, and unmetered services. Yucca did not have a pump to remove water from excavations or a pipe locator.

Yucca called Higgins, a serviceman who had worked for Yucca for 2-1/2 years, in rebuttal to Garrett's testimony. Higgins

estimated that 70% to 80% of Yucca's meters were functioning, but he was unsure of the accuracy of the meters. He was aware that partially functioning meters were generally slow. Higgins was unfamiliar with the Commission's GO 103 requirements for meter testing; but Yucca had no meter testing facility. He could not get new parts for meter repairs; therefore, he salvaged parts from old meters.

Von Tesmar testified that Yucca charged monthly minimum charges of \$5.05 for a number of customers because there was no record of consumption due to stuck meters, larger meters' readings were generally estimated for that reason; the meters were not repaired due to the lack of parts; several customers were not billed including service to properties owned by Jurling, and Yucca employees received reduced water bills.

Hanson testified that a system with only 70% to 80% of its meters functioning is neither normal nor satisfactory. He also characterized Yucca's meter repair procedures as being neither normal nor satisfactory. He further testified that Yucca's older better quality meters would have a high trade-in value and that smaller replacement meters could be purchased for about the cost of repairing the malfunctioning meters.

Based on the foregoing evidence, we conclude that Yucca has failed to comply with the requirements of Sections VI and VII.3.c of GO 103.

Additional Problems

In addition to the specific violations of GO 103 and D.87-04-064 enumerated above, this record indicates serious problems in the operation and management of the Yucca system. These problems are summarized below.

Adequacy of Facilities

In spite of rapid customer growth Yucca did not timely develop new sources of supply, transmission, and storage.

As a result of outages in 1987 Jurling drilled a new well but he did not equip it or properly connect it to the system. For an extended period of time Jurling failed to destroy an adjacent well properly to prevent contamination and thus could not obtain DHS approval to put the new well in service.

Jurling's testimony blaming Desert for his supply problems is unconvincing. The basin is being overdrafted; as water tables fall, well capacities drop. Jurling considered but did not file suit against District to halt the damage he claims District is causing Yucca. Barich and Randolph pointed out that outages had been occurring for many years before the 1987 outages. In D.87517 dated September 6, 1977, we authorized Yucca to enter into the terms of an stipulated agreement for judgment on the then overdrafted Warren Basin. The safe yield of the Basin was estimated at 200 acre feet per year (AF/Y). Extractions from that Basin at that time were 2,224 AF/Y including 726 AF/Y by Yucca.

Adequacy of Yucca's Records

Yucca's books are not kept in accordance with the revised Uniform System of Accounts resulting in extra work for consultants. The records are not in satisfactory condition. Yucca's office staff is not adequate if it is incapable of preparing annual reports, dealing with the public, or responding to individuals involved with the project. Its meter and billing records appear to be in deplorable condition. The purported office managers testified that they were not given authority to run the office. Portions of company's books and records are kept in employees' homes, including records kept by an employee collecting disability payments. Yucca's office "managers" were not given access to the company's computer. The person with access to the computer could not operate it. Due to Jurling's failure to keep Yucca's books and records up, he could not file an application for rate relief.

There is a need to prepare and file Yucca's 1988 annual report and possibly its 1987 and 1988 State and Federal Income Tax returns.

Yucca must also produce an updated, audited balance sheet for Yucca conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca. At this time we will not order Yucca to retain a CPA to conduct a three-year audit of its operations as recommended by Aubright. That information appears to be of limited value for further ratemaking purposes.

Advances and Contributions

Jurling has not collected funds for Yucca from developers for construction which should have been paid for by advances or contributions as provided in Yucca's tariffs. Within the provisions of statutes of limitations, collection of such funds should be sought from developers. If recovery cannot be obtained from developers the amounts in question should be deducted from Yucca's corporate surplus. State and Federal tax law revisions reclassified amounts received for advances for construction and for contributions in aid of construction as taxable income.

D.87-09-026 authorized utilities to elect a method for obtaining additional funds from the person(s) advancing or contributing funds to pay an additional amount of the present value of the future tax burden of the taxable income. Yucca did not file tariffs electing one of the authorized methods. Following a general rate proceeding, Yucca could benefit from choosing an option and filing a revised main extension rule.

Billings

Yucca is not properly recording consumption or billing in conformity with its filed tariffs. Broken or malfunctioning meters should be promptly repaired. Yucca is losing revenues due to its failure to bill in accordance with its filed tariffs. Except for a closed limited flat rate schedule, all consumption should be billed

based on accurate meter readings including service to Jurling's properties.

Service Establishment

Yucca has the obligation to process service requests promptly on a nondiscriminatory bases and without harassment. Residents or businesses within Yucca's service area who sought service to their premises or had a building permit or completed improvement prior to the moratorium deadline established by DHS should have been and should be served.

Summary and Conclusions

Jurling has operated Yucca from its inception over 43 years ago. Yucca grew from serving one or two customers initially to approximately 2,800. Jurling testified that Yucca has been providing adequate and efficient service, equipment, and facilities; he was familiar with DHS recent orders and citations to Yucca. He believes that he can operate the Yucca system with two field men better than he had with Garrett. He believes that the existing office staff can set up the procedures for billing and collecting and segregating surcharge revenues, but the procedures to accomplish that are not in place.

Jurling continues to paint an optimistic picture of Yucca's operations and of the adequacy of those operations. But his claims are not supported by this record.

The Commission, DHS, and DWR made it possible for Yucca to expeditiously cure the major service problems it faced through completion of the project. Instead of organizing to make use of those funds, Jurling has delayed and obstructed the efforts of Webb and of the agencies involved in obtaining and administering the loan funds. His actions worked to the detriment of Yucca's customers.

Yucca is not adequately operating or maintaining its existing system as evidenced by the testimony of several witnesses. Yucca is failing to meet the requirements of its amended water

supply permit. It has not engaged needed additional qualified office and field employees.

The testimony of Randolph and present and past employees of the company reinforce the testimony of Yucca's consultants and of the agency witnesses to indicate that there is a need for a new operator to protect the health and safety of Yucca's customers, to adequately staff Yucca's field and other operations, and to straighten out the affairs of the company. The Jurlings have been unable or unwilling to meet those objectives. Therefore, this Commission will support court appointment of an operator recommended by DHS.

Findings of Fact

1. D.87-04-064 authorized Yucca to enter into an SDWBA loan agreement with DWR for \$4,610,268 and authorized Yucca to file interim rates and to file lower revised surcharge rates. The lower surcharge rates were to be based on DWR criteria to implement passage of the SDWBA of 1986 (Proposition 55).

2. Inadequacies of Yucca's then existing water system needed to be rectified to eliminate further safety hazards to Yucca's customers. Construction of the facilities described in Attachment A to D.87-04-064 is needed to bring the system up to minimum DHS standards.

3. Yucca filed lower revised surcharge rates and corrected surcharge rates to provide a reasonable balance between surcharge rates of different sized meters. Rate surcharge criteria for certain master metered customers were worked out cooperatively between Committee and Yucca; and adopted by the Commission.

4. D.87-04-064 incorrectly states Ted W. Jurling was Yucca's sole shareholder. He owns the company with his wife Alice Jurling.

5. Jurling caused delays in Yucca's obtaining SDWBA funds by failing to timely meet DWR's loan requirements for a fidelity bond application; failing to keep Yucca's books in accordance with the Commission's revised Uniform System of Accounts; failing to keep

its books up to date to prepare annual reports; failing to file Federal Income Tax and State Franchise Tax returns; and failing to complete a property survey to enable DWR to file a deed of trust against all of the easements, leases, and fee ownership of property on which water company assets are located.

6. Jurling repeatedly failed to take actions to cure violations of Yucca's amended water supply permit.

7. Jurling failed to take the necessary actions to put a new well in service.

8. There is a need to appoint an operator who will appoint qualified staff to comply with Ordering Paragraph 6 of D.87-04-064; provide an adequately sized staff for Yucca's field office operations; obtain an adequately sized office for Yucca's operations.

9. There is a need to inventory Yucca's services and meters, to determine the appropriate surcharges, computerize Yucca's regular and surcharge billings, and incorporate the company's books and records in computer files.

10. Yucca's vehicles and motorized equipment are largely obsolete, non-operative, and/or unsafe. The deficient equipment should be replaced and/or repaired or scrapped. Vehicle licenses and insurance should be obtained.

11. A large portion of Yucca's meters are malfunctioning in violation of Section VI.3. of GO 103. The malfunctioning meters should be replaced or repaired.

12. Yucca has underbilled certain customers by not charging for consumption. It has not timely repaired or replaced malfunctioning meters. Its meter repairs have not been made in accordance with Section VI.3. of GO 103. Some of its billings do not conform with Section VI. of GO 103 for measuring and billing for service.

13. Yucca lacks sufficient telephone equipment to transact its business adequately.

14. Yucca failed to process customer complaints, including informal complaints filed with the Commission timely, in violation to Section I.8. of GO 103.

15. Yucca's consultant testified that Yucca is operating at a loss. Yucca has failed to keep its records up to date as required by the Commission's Uniform System of Accounts for water utilities to enable it to file for a general rate increase.

16. Yucca has not complied with GO 104 in not filing timely annual reports with the Commission.

17. Yucca failed to collect for construction costs for main extensions and for contributions in aid of construction as required by its main extension rule. State and Federal tax law revisions reclassified amounts received for advances for construction and for contributions in aid of construction as taxable income.

D.87-09-026 authorized utilities to elect a method for obtaining additional funds from the person(s) advancing or contributing funds by requiring additional payment of the present value of the future tax burden. Yucca did not file tariffs electing one of the authorized methods.

18. Yucca has not billed certain customers, including properties owned by the Jurlings, in violation of its tariffs.

19. Yucca failed to notify the DHS and the Commission of outages. Records of interruptions and reports to the Commission are required by Section II.2. of GO 103.

20. Yucca has not maintained water production or chlorination records or chlorinated its supplies and facilities in compliance with DHS orders.

21. Yucca has not timely repaired system leaks or set up a backflow prevention program creating potential health hazards.

22. Yucca has not maintained accurate as-built maps with the Commission as required by Section I.10 of GO 103. It has not recorded changes in facilities on its maps.

23. Yucca was unable to replace needed transmission lines across the state highway because its workmen could not find control valves. It has not established a system for operation of its valves nor has it established a valve tie program.

24. Yucca has not timely constructed adequate sources of supply, storage, booster pumps, and transmission capacity. Yucca needs to improve its water transmission across the state highway; between its wells and its booster pumps and storage facilities; and to supply its distribution system. It has not complied with Section II. of GO 103, Standards of Service.

25. Yucca has installed dead-end mains on its system without providing blowouts in violation of Section IV.3.b. of GO 103.

Conclusions of Law

1. Yucca has not met its responsibilities as a water utility operator to provide an adequate, continuous, wholesome, potable supply of water to its customers. Yucca has not complied with the provisions of its amended water supply permit or with the provisions of GO 103.

2. The Commission should support court appointment of a receiver, approved by DHS, to operate Yucca.

3. Since lower superseding surcharge rates have been filed there is no need to file the interim rates authorized in D.87-04-064.

4. A 1988 annual report for Yucca accompanied by a notice of the date it filed its 1987 and 1988 State Franchise Tax and Federal Income Tax returns should be filed with the Director of CACD within 30 days after the effective date of this decision.

5. A qualified office manager and a qualified field supervisor for Yucca should be engaged within 75 days of this decision. A filing should be made with the Director of CACD not later than 45 days after the effective date of this decision for CACD review containing detailed duty statements specifically setting forth all areas of responsibility and authority for those

positions. A second filing containing a summary of the qualifications of the individuals hired and a statement that contracts setting forth the areas of responsibility and authority, salary, and benefits of the individuals holding those positions have been executed should be filed with the Director of CACD within 5 days of the hiring dates.

6. Yucca should promptly cause the completion of a field survey of Yucca's meters to ascertain the accuracy of the meters; repair or replace non-functioning and malfunctioning meters; establish meter sizes for regular billing purposes; establish appropriate surcharges for master metered services; post the survey results on a computer for billing purposes; and establish a billing schedule to collect the filed surcharges as needed for SDWBA repayments.

7. Within 10 days of the effective date of this order, Yucca should notify any person refused service within its service area for any reason not specified in its tariffs or for not having filed for a building permit by August 20, 1987 under the DHS moratorium, and still unserved, of the authorized reason for refusing service or to make arrangements for providing service. A copy of such letters should be concurrently filed with the Director of CACD.

8. A court-appointed operator may apply for temporary interim relief to carry out the requirements of this decision.

9. This decision should be made interim to permit amendment if additional SDWBA funding is applied for. The order should be made effective today to expedite prompt compliance.

10. Yucca should produce an updated, audited balance sheet conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca.

fails to comply with the court order, the Commission should support court appointment of a receiver, approved by DHS, to operate Yucca.

3. Since lower superseding surcharge rates have been filed there is no need to file the interim rates authorized in D.87-04-064.

4. A 1988 annual report for Yucca should be filed with the Director of CACD on or before October 1, 1989.

5. Yucca should file any past due state and federal income tax reports by October 15, 1989 and provide the Commission with proof of filing by October 15, 1989.

6. A qualified office manager and a qualified field supervisor for Yucca should be engaged by October 1, 1989. A filing should be made with the Director of CACD not later than October 1, 1989 for CACD review containing detailed duty statements specifically setting forth all areas of responsibility and authority for those positions. A second filing containing a summary of the qualifications of the individuals hired and a statement that contracts setting forth the areas of responsibility and authority, salary, and benefits of the individuals holding those positions have been executed should be filed with the Director of CACD within five days of the hiring dates.

7. In the event that any individual hired in accordance with Conclusion of Law 6 above, is dismissed, resigns, or otherwise terminates employment, Yucca should hire another individual who meets the requirements within 45 days of the dismissal, resignation, or termination of the employment. Yucca should give notification of the hiring as specified in Conclusion of Law 6.

8. On or before October 1, 1989, Yucca should obtain the services of an independent company approved by the Department of Health Services with experience in water meter calibration, repair, and replacement. Yucca should have the independent company promptly complete a field survey of Yucca's meters to ascertain the accuracy of the meters; repair or replace non-functioning and malfunctioning meters; and establish meter sizes for regular billing purposes.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Yucca Water Company, Ltd. (Yucca) shall complete the meter survey, meter repairs, and computerization of billing data within 45 days of the effective date of this decision.

2. A 1988 annual report for Yucca along with a notice of the date Yucca filed its 1987 and 1988 State Franchise Tax and Federal Income Tax returns shall be filed with the Director of the Commission Advisory and Compliance Division (CACD) within 30 days after the effective date of this decision.

3. Yucca shall promptly comply with Conclusion of Law 5.

4. Yucca shall notify any potential customer within Yucca's service area denied service for any reason not set forth in Yucca's tariffs or GO 103 or for not having filed a building permit by August 20, 1987 under the moratorium established by the Department of Health Services, in writing, of the reasons for refusal of service or shall be afforded service. Copies of that correspondence shall be concurrently forwarded to the Director of CACD within 15 days of the effective date of this decision.

9. Yucca should establish appropriate surcharges for master metered services; post the meter survey results on a computer for billing purposes; and establish a billing schedule to collect the filed surcharges as needed for SDWBA repayments. Yucca should computerize all billing by October 1, 1989.

10. Within 10 days of the effective date of this order, Yucca should notify any person refused service within its service area for any reason not specified in its tariffs or for not having filed for a building permit by August 20, 1987 under the DHS moratorium, and still unserved, of the authorized reason for refusing service or to make arrangements for providing service. A copy of such letters should be concurrently filed with the Director of CACD.

11. A court-appointed operator may apply for temporary interim relief to carry out the requirements of this decision.

12. This decision should be made interim to permit amendment if additional SDWBA funding is applied for. The order should be made effective today to expedite prompt compliance.

13. Yucca should hire a certified public accounting firm with experience in water systems and Commission systems of accounting to produce an updated, audited balance sheet as of December 31, 1988, conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Yucca Water Company, Ltd. (Yucca) shall complete the meter survey, meter repairs, and computerization of billing data within 45 days of the effective date of this decision.

2. A 1988 annual report for Yucca along with a notice of the date Yucca filed its 1987 and 1988 State Franchise Tax and Federal Income Tax returns shall be filed with the Director of the

5. Yucca shall prepare and file with the Commission, within 90 days of the effective date of this decision, an updated, audited balance sheet conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca.

This order is effective today.

Dated _____, at San Francisco, California.

Commission Advisory and Compliance Division (CACD) within 30 days after the effective date of this decision.

3. Yucca shall promptly comply with Conclusion of Law 5.

4. Yucca shall notify any potential customer within Yucca's service area denied service for any reason not set forth in Yucca's tariffs or GO 103 or for not having filed a building permit by August 20, 1987 under the moratorium established by the Department of Health Services, in writing, of the reasons for refusal of service or shall be afforded service. Copies of that correspondence shall be concurrently forwarded to the Director of CACD within 15 days of the effective date of this decision.

5. Yucca shall prepare and file with the Commission, within 90 days of the effective date of this decision, an updated, audited balance sheet conforming to the Commission's Uniform System of Accounts now in effect, including a detailed analysis of the inventory, equipment, and plant owned and operated by Yucca.

This order is effective today.

Dated SEP 7 1989 at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. CHANIAN
PATRICIA M. ECKERT
Commissioners