

ALJ/ec

Decision 82 12 073 December 15, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of GIBBS RANCH WATER COMPANY for authority to increase its rates and charges for water service, Application 82-04-55 (Filed April 26, 1982)

In the Matter of Application of GIBBS RANCH SEWER COMPANY for authority to increase its rates and charges for sewer service, Application 82-05-04 (Filed May 3, 1982)

- William G. Polley, Attorney at Law, for Gibbs Ranch Sewer Company and Gibbs Ranch Water Company, applicants;
Thomas M. Marovich, Attorney at Law, for Race Track Homeowners Association, interested party.
Catherine A. Johnson, Attorney at Law, for the Commission staff.

INTERIM OPINION

By its Application (A.) 82-04-55 filed April 26, 1982, Gibbs Ranch Water Company (Water Co.) requests authority to increase its rates and charges for water service provided to Gibbs Ranch Estates, and vicinity, Tuolumne County.

By its A. 82-05-04 filed May 3, 1982, Gibbs Ranch Sewer Company (Sewer Co.) requests authority to increase its rates and charges for sewer service provided to Gibbs Ranch Estates, and vicinity, Tuolumne County.

Summary

We are authorizing Water Co. a \$19,320 or 20.4% increase, based on the staff proposed rate design, rather than Water Co.'s which would give the largest increases to those who use

the least quantity of water; we adopt a lifeline rate design for the first 300 cubic feet of use.

We are also authorizing Sewer Co. any increase subject to refund. Sewer Co. is ordered to stop charging its excess connection fees and to refund the overcharges.

The revenue requirement, \$114,000 for Water Co. and \$52,600 for Sewer Co., are based upon a 11.5% rate of return for the test year.

Also we have authorized an attrition allowance for both utilities. The effective date of the allowance will be 18 months from the effective date of the new rates authorized. Such increases are being applied to the service charges. The attrition allowances are for Water Co. and Sewer Co. 6.4% and 2.7%, respectively. In authorizing the one-step attrition allowance after 18 months, it is expected that the applicant will not file a general rate increase request more often than once in three years.

Background

Water Co. by draft advice letter filed October 1981, requested authority under Section VI of General Order (G.O.) 96-A and Public Utilities (PU) Code Section 454 to increase rates by 56%. Water Co. estimated its proposal would produce a rate of return of 14.5%. Its present rates have been in effect since March 2, 1982. Its last general rate increase was granted by Decision (D.) 90368 dated June 5, 1979.

Sewer Co. by draft advice letter filed October 1981 similarly requested authority to increase its rates by 34.3%. Its present rates have been in effect since October 22, 1980. Its last general rate increase was granted by Resolution W-1899 on May 1, 1976.

When applicants did not receive staff support to place their draft advice letters before the Commission for approval, they filed these rate increase applications.

A number of customers filed letters protesting the proposed increases and requesting hearings in Sonora. Hearing

A duly noticed public hearing was held before Administrative Law Judge J. J. Doran in Sonora on November 16 and 17, 1982. Statements due November 30, 1982. These matters were consolidated for hearing. Applicants presented their testimony through two witnesses, Harrison Gibbs, president, and Sanford Blank, outside CPA, who prepares the annual and other reports and income tax returns. Testimony for the staff was presented by Mike Hajian, civil engineer in the Hydraulic Branch.

Public Witnesses

Eight public witnesses spoke against the proposed increases, citing large increases in the past. One witness wanted water lifeline for all units in his mobilehome park; one stated he was being over-charged for sewer service to his duplex; and one wanted inverted rates. The party requesting lifeline for each unit in the mobilehome park was informed that the staff would soon be exploring this subject on a statewide basis and therefore relief would not be obtained in this proceeding. The utility has contacted the duplex customer and is seeking further discussion with him. The utility shows that it is using his signed application for service as the basis for rates.

Thomas Marovich, attorney, appeared for the Race Track Homeowners Association (HOA), as an interested party. The HOA participated in cross-examination and made a statement. Marovich complained that Sewer Co. is assessing a new sewer customer connection fee of \$1,000. This matter is discussed below.

Testimony

Applicants offered their water and sewer applications in evidence through witness Gibbs. Witness Gibbs also gave specific

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testimony on Operating and Maintenance Expense and Office Supplies and Expense in an attempt to rebut the staff report on these items. The witness was asked on cross-examination to prepare two late-filed exhibits showing a comparison of utility bills at present and at proposed rates.

Witness Gibbs testified on cross-examination that there is a \$1,000 sewer connection fee. He states that \$408 of the fee goes to the Tuolumne County Water District, the collector of Sewer Co.'s raw sewage.

Applicants' witness Blank testified about accounting and legal expenses and about employees' pensions and benefit expense in rebuttal to the staff report. Further, on cross-examination, the witness testified about income taxes and deviations.

Staff witness Hajian testified about the staff report on the applicants' operations. He also testified that prior to the hearing he had only been aware of the \$408 part of the sewer connection fee that is paid to the water district. The witness does not know of any other privately owned sewer utility charging a \$1,000 fee.

Discussion

Summary of Earnings

A comparison of the Water Co.'s and staff's 1982 test year summary of earnings is shown on Table 1. Table 2 shows similar data for the Sewer Co.

The applicants' witnesses testified about the staff estimates with which they did not agree; and applicants cross-examined the staff witness on the same items. Only four of staff's operating expense estimates were questioned by applicants. Applicants did not challenge the staff's revenues, taxes, depreciation, and rate base estimates.

Rate of Return

Applicants seek a 14.5% rate of return. They do not have any debt. Water Co.'s advances for construction are about 20% of

EXHIBIT

EXHIBIT 1 - FINANCIAL DATA

plant in service and about 35% of rate base. Sewer Co. shows no advances. Applicants cite a 14.5% rate of return authorized in two prior California Water Service Company proceedings as support for its proposal.

The staff report recognizes that utility plant has been financed entirely by equity capital and that the utility does not propose doing any financing during the test year. The staff witness testified that the staff Revenue Requirements Division informed him that a rate of return of 11.5% would be fair and reasonable for Water Co. and for Sewer Co. We find the 11.5% rate of return to be reasonable and we adopt it for both companies.

Item	Water Co.	Sewer Co.	Water Co.	Sewer Co.	Water Co.	Sewer Co.	Description
1	100,000	100,000	100,000	100,000	100,000	100,000	Investment
2	100,000	100,000	100,000	100,000	100,000	100,000	Investment
3	100,000	100,000	100,000	100,000	100,000	100,000	Investment
4	100,000	100,000	100,000	100,000	100,000	100,000	Investment
5	100,000	100,000	100,000	100,000	100,000	100,000	Investment
6	100,000	100,000	100,000	100,000	100,000	100,000	Investment
7	100,000	100,000	100,000	100,000	100,000	100,000	Investment
8	100,000	100,000	100,000	100,000	100,000	100,000	Investment
9	100,000	100,000	100,000	100,000	100,000	100,000	Investment
10	100,000	100,000	100,000	100,000	100,000	100,000	Investment

(continued)

TABLE 1

Gibbs Ranch Water Company

Comparison of Summary of Earnings at Present Rates

Item	Applicant		Staff		Applicant Exceeds Staff	
	Present Rates	Proposed Rates	Present Rates	Proposed Rates	Present	Proposed
Operating Revenue	\$94,470	\$147,210	\$94,680	\$147,980	\$(210)	\$(770)
<u>Deductions</u>						
Operating Expenses	63,820	63,820	51,722	51,722	12,098	12,098
Taxes Other Than Income	5,480	5,480	5,010	5,010	470	470
Depreciation	13,380	13,380	13,090	13,090	290	290
Income Taxes	2,840	16,530	3,982	18,177	(1,142)	(1,647)
Total Operating Expenses	85,520	99,210	73,804	87,999	11,716	11,211
Net Operating Revenues	8,950	48,000	20,876	59,981	(11,926)	(11,981)
Depreciated Rate Base	334,250	334,250	305,150	305,150	29,100	29,100
Rate of Return	2.68%	14.36%	6.85%	19.66%	(4.17%)	(5.30%)
Average Number of Customers	388	388	390	390	(2)	2

(Red Figure)

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TABLE 2

Gibbs Ranch Sewer Company

Comparison of Summary of Earnings at Present Rates : .00

Item	1982 Test Year		1983		1984	
	Applicant Estimated Present Rates	Staff Estimated Present Rates	Applicant Proposed Rates	Staff Estimated Proposed Rates	Applicant Exceeds Staff Present	Staff Exceeds Applicant Proposed
Operating Revenues	\$44,600	\$60,450	\$45,030	\$61,050	\$17,430	(\$600)
<u>Deductions</u>						
Operating Expenses	41,400	41,400	36,880	36,880	4,520	4,520
Taxes Other Than Income	1,450	1,450	1,450	1,450	-	-
Depreciation	4,860	4,860	3,800	3,960	1,060	(\$900)
Income Taxes	200	3,120	278	1,981	(78)	1,139
<u>Total-Operating Expenses</u>	47,910	50,830	42,408	44,271	6,559	6,559
Net Operating Revenues	-	9,620	2,622	16,779	(2,622)	(7,159)
Depreciated Rate Base	66,350	66,350	72,478	72,478	(6,128)	(6,128)
Rate of Return	Loss	14.5%	3.62%	23.15%	(3.62%)	(8.65%)
Average Number of Customers	277	277	280	280	(3)	(3)

(Red Figure)

Operating Expenses

The following tabulation compares the test year estimates for the four accounts which were at issue during the hearing for Water Co.:

<u>Item</u>	<u>Applicant</u>	<u>Staff</u>	<u>Applicant Exceeds Staff</u>	<u>Adopted</u>
Oper. and Maint.				
Materials Expense	\$4,110	\$2,780	\$1,330	\$3,050
Office Supplies and Expense	3,550	2,220	1,330	2,500
Accounting and Legal Expense	6,340	2,700	3,640	3,000
Employee Pension and Benefit Expense	1,800	-	1,800	-

The following tabulation shows similar data for

Sewer Co.:

<u>Item</u>	<u>Applicant</u>	<u>Staff</u>	<u>Applicant Exceeds Staff</u>	<u>Adopted</u>
Oper. and Maint.				
Materials Expense	\$ 540	\$540	\$ -	\$540
Office Supplies and Expense	2,450	850	1,600	970
Accounting and Legal Expense	670	390	310	430
Employee Pension and Benefit Expense	2,100	-	2,100	-

Witness Gibbs testified that the staff estimate for Operations and Maintenance Expense does not provide for extraordinary repairs. His estimate is based on a seven-year average.

Witness Gibbs reviewed his Office Supplies and Expense estimate. He pointed out that he was going back to the old bill form at an additional cost of two cents per bill because of customers' dissatisfaction. Further, his estimate included the equipment rental and repairs.

Witness Blank testified that the outside accounting services fee is at the hourly rate of \$75 and the legal fee is at the rate of \$85. He stated that applicants' estimate for accounting and legal is closer to the recorded data over the last few years than the staff estimate. The witness stated that the retirement plan was qualified with the Internal Revenue Service and that two or three persons (including the applicants' president) are covered by the plan. He stated that the records are maintained by the plan administrator. In response to staff requests, he filed as exhibits the retirement plan and trustee annual report.

The staff witness testified that his estimates of the contested expenses were based on judgment. He analyzed the applicants' annual reports filed with the Commission for the last four years and compared their operations with utilities of similar sizes.

In his Operations and Maintenance Expense estimate, he considered that the test year rate of expansion would not be as great as 1981. The Office Supplies and Expense estimate is stated to be based on current costs. The Accounting and Legal Expense estimate was based on judgment for the size of utility. No allowance was included for the Pension and Benefit Expense estimate for the retirement plan because the staff did not have confirmed data from the applicants to justify the expense.

During cross-examination, the president deferred questions on the retirement plan to the accountant. When the accountant

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testified later he failed to provide proof of a currently active plan. He could not identify the trustee of the plan or the plan administrator. He was not able to provide a federal tax filing for the plan later than 1979. The utility was not able to furnish proof regarding the current status of the plan. We do not know if payments are being currently made into the plan. We do not know if the retirement plan is a reasonable one.

The staff's summary statement of position filed on November 29, 1982 adjusted all of its contested operating expenses estimates for the Water Co. except pension and benefits on the basis of evidence presented at the hearing. These new estimates reduce the utility-staff differences and are shown in the Commission-adopted column above.

Sewer Connection Fee

No new estimates were submitted by the staff for the Sewer Co. Instead, the staff recommends that general rate relief be withheld until the Sewer Co. makes reparations in connection with the \$1,000 sewer sewer connection fee being charged to new customers, which is in excess of the tariff charges of \$75 for residential connection plus \$15 for inspection, and the \$408 service connection fee levied by Tuolumne County Water District.

During cross-examination witness Gibbs acknowledged that for approximately two years he has been charging new customers a \$1,000 connection fee. Of that amount he passes \$408 on to the district as its hook-up fee for new services. Gibbs testified that Sewer Co. pays the remaining amount, \$592, to himself as a separate entity because he installed the lateral sewer from the collector line in the street to the customer's property line. (This segment of lateral was installed at the same time as the street collector mains.) Gibbs explained that he charges \$592 for each hook-up although the

length could vary considerably depending on where the collector main is located in the street. He said he considers this to be an "average" charge which is fair to everyone. This charge is not recorded in the books of account of Sewer Co.

Sewer Co. has filed one schedule concerning connection and charges (Schedule 4). Under this schedule the company can charge \$75 per residence for connection and \$15 per residence for inspection. Sewer Co. is, therefore, operating in violation of filed tariffs and should cease this violation immediately. Sewer Co. should file an amended Schedule 4 showing the current \$75 and \$15 connection fees and the \$408 connection fee levied by Tuolumne County Regional Water District.

Sewer Co. should make reparation of the excessive fees with interest from the date of collection, to all customers who were wrongfully charged. However, we will not withhold rate relief, as explained below.

Income Taxes

Based upon information received at hearing concerning investment tax credit (ITC), the staff has reduced its estimate of total income tax liability for the test year as shown in Tables 1 and 2 to reflect additional ITC. Water Co. data at hearing shows that it has accumulated \$14,000 in ITC since 1975. The staff now estimates an annual average ITC of \$2,000 for Water Co., which is a direct deduction from taxes in calculating income taxes.

Sewer Co. has accumulated \$2,139 in ITC since 1979. The staff now estimates an annual average ITC of \$500 for Sewer Co.

To preserve Water Co. and Sewer Co. rights under Economic Tax Recovery Act of 1981 (ERTA) we will require them to normalize all ITC in the books of account and for ratemaking purposes and to continue straight-line depreciation for ratemaking and income tax purposes.

Both utilities use straight-line depreciation with the same lives, both in their books of account and for ratemaking and income tax purposes. Test year developed ITCs as distinguished from carryover credits are small. Therefore, we will not require the utilities to notify their customers of the effects of ERTA.

An increase in Water Co. rates is required by January 1, 1983 to comply with ERTA Transitional Rules.

An increase in Sewer Co. rates is required by January 1, 1983 to comply with ERTA Transitional Rules. However, these rates will be subject to refund because of the collection of nonauthorized service connection fees.

For Water Co., the staff summary of earnings estimates in Table 1 adjusted by staff's November 29 filing for operating expenses and income taxes are reasonable and adopted. Table 3 shows the adopted results at present and authorized rates.

For Sewer Co., we have adjusted the staff's operating expense estimates for two of the four accounts by the same percentage increase of the staff adjusted data over its original estimate. The other two accounts do not warrant change. The staff summary of estimates in Table 2 adjusted by staff's November 29 filing for income taxes and as increased above are reasonable.

We are authorizing a rate increase for Sewer Co. at this time; however, the increase will be subject to refund pending resolution of the connection fee matter. Table 4 shows the adopted results at present and authorized rates.

TO preserve Water Co. and Sewer Co. rates their respective staffs were determined as annual ITCs for Water Co. and Sewer Co. Tax Recovery Act of 1981 (ERTA) will require that the carrying of ITC in the books of account for ratemaking purposes and the straight-line depreciation for ratemaking and income tax purposes.

TABLE 3

Gibbs Ranch Water Company

Adopted Summary of Earnings

1982 Test Year

	Present Rates	Adopted Rates
Operating Revenue	\$ 94,680	\$114,000
<u>Operating Expenses</u>		
Operating Expenses	51,722	51,722
Taxes Other Than Income	5,010	5,010
Income Taxes (Federal & State)	3,982	9,079
Depreciation Expenses	13,090	13,090
Total Operating Expenses	73,804	78,901
Net Operating Revenue	20,876	35,099
Adjusted Rate Base	305,150	305,150
Rate of Return	6.85%	11.5%
Number of Customers	390	390

TABLE 4

Gibbs Ranch Sewer Company

Adopted Summary of Earnings

1982 Test Year

	Present Rates	Adopted Rates
Operating Revenue	\$45,030	\$52,600
<u>Operating Expenses</u>		
Operating Expenses	36,880	36,880
Taxes Other Than Income	1,450	1,450
Income Taxes (Federal & State)	278	1,981
Depreciation Expenses	3,800	3,960
<u>Total Operating Expenses</u>	<u>42,408</u>	<u>44,271</u>
Net Operating Revenue	2,622	8,329
Adjusted Rate Base	72,478	72,478
Rate of Return	3.62%	11.50%
Number of Customers	280	280

Service

Staff engineer's water tests showed that the pressures were within the requirements of G.O. 103. The quality of water was found free from objectionable odors, taste, and color. Staff engineer considers the water service is good, and the facilities are running smoothly and adequately.

Staff engineer made a field inspection of the sewer system. Eleven customers, including the president of HOA, were interviewed. About 100 customers are on septic tanks and they have no desire to connect their service line to Sewer Co. Interviews with those customers who are being served indicated that they have no problem with the sewer service.

Rates

For Water Co. a comparison of monthly bills at the adopted rates for a 3/4-inch meter is shown below:

Usage 100 Cu.Ft.	Present Rates	Adopted Rates	Increase	
			Amount	Percent
10	\$ 8.00	\$ 9.65	\$1.65	20.63
13	10.10	12.26	2.16	21.39
15	12.17	14.63	2.46	20.22
13 (Avg.)	20.13	24.11	3.98	19.78
15	22.12	26.48	4.36	19.71

For Sewer Co. a comparison of monthly bills at the potentially adopted rates for flat sewer service:

	Present Rates	Potential Rates	Increase Amount	Increase Percent
Single-family residence or mobilehome exclusive of bedroom	\$7.46	\$8.84	\$1.38	18.5
For each bedroom in the same premises (or mobile) and served by the same service connection.	1.55	1.83	.28	18.07

Attrition Allowances

The staff recommended a one-step attrition allowance of 6.4% for Water Co. and 2.7% for Sewer Co.

Attrition allowances give recognition to changes in cost levels that occur beyond the test year that are not offset by future revenue at the test year authorized level. Attrition is the decline in the rate of return following the test year caused by increases in expenses and rate base which cannot be offset by increases in productivity or revenues. The attrition allowance is designed to compensate for the attrition 18 months after the test year rates become effective.

The staff recommendation is reasonable and adopted. However, it is expected that applicants will not file a general rate increase request more often than once in three years.

Findings of Fact

1. Evidence in the record raises doubts about the reasonableness of the employee retirement plan.
2. Water Co. and Sewer Co. have not demonstrated that their employee retirement plan is currently active.
3. Sewer Co. has collected connection fees in excess of its filed tariff Schedule 4.

4. Sewer Co. has paid \$592 of each customer's connection fee to Harrison L. Gibbs personally.

5. Staff's estimates of customers' water use, and summary of earnings as adjusted for the test year 1982 for Water Co. and Sewer Co. are reasonable.

6. The authorized increases in rates for Water Co. are expected to increase revenues from \$94,680 to \$114,000, an increase of \$19,320 or 20.41% for the test year 1982, and are reasonable.

7. The authorized increase in the Sewer Co. flat rate is expected to increase revenues from \$45,030 to \$52,600, an increase of \$7,570 or 16.8% for the test year 1982, and is reasonable, if it is subject to refund pending resolution of the connection fee matter.

8. Water Co. and Sewer Co. services are adequate.

9. Staff's recommended attrition allowance of 6.4% for Water Co. and 2.7% for Sewer Co. after 18 months are reasonable.

10. The increases in rates authorized in Appendix A are just and reasonable, and present rates insofar as they differ from those prescribed are for the future unjust and unreasonable.

Conclusions of Law

1. Applicant's retirement plan expenses should be disallowed.

2. Sewer Co. should cease charging connection fees which exceed its filed Tariff Schedule 4.

3. Sewer Co. should file an amended Schedule 4 which should include the currently filed \$75 and \$15 fees and the \$408 fee levied by Tuolumne County Water District.

4. Sewer Co. should, within 30 days of the effective date of this order, provide the staff with the names and addresses of all customers who have been charged fees which exceed filed Tariff Schedule 4.

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5. Sewer Co. should, within 90 days of this order, make reparation of all excessive fees plus interest at 7%.

6. Sewer Co.'s application should be granted to the extent provided by the following order. However, the increase should be made subject to refund if the connection fee matter is not resolved as ordered.

7. Water Co.'s application should be granted to increase water rates to the extent provided by the following order.

The effective date of this order should be the date of signature because of the ERTA requirement.

INTERIM ORDER

IT IS ORDERED that:

1. After the effective date of this order Gibbs Ranch Water Company is authorized to file the revised rate schedules attached to this order as Appendix A and to concurrently withdraw and cancel its present schedules. Such filings shall comply with General Order Series 96.

2. After the effective date of this order Gibbs Ranch Sewer Company is authorized to file the revised rate schedules attached to this order as Appendix B and to concurrently withdraw and cancel its present schedules. Such filings shall comply with General Order Series 96. However, this increase shall be subject to refund if the connection fee matter is not resolved as ordered.

3. Upon five days' notice to the Commission the revised rate schedules shall be effective on January 1, 1983 and shall apply only to service rendered on and after their effective date.

4. Gibbs Ranch Sewer Company (Sewer Co.) shall cease charging connection fees in excess of Tariff Schedule 4.

5. Sewer Co. should file an amended Schedule 4 to include the \$408 fee levied by Tuolumne County Water District in addition to the presently stated fees.

6. Within 30 days after the effective date of this order, Sewer Co. shall provide the staff with the names and addresses of all customers who have been charged in excess of filed Tariff Schedule 4.

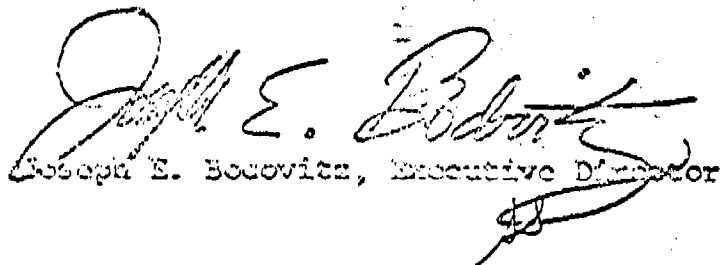
7. Within 90 days after the effective date of this order, Sewer Co. shall make reparations of all excess fees collected with interest at 7%.

This order is effective today.

Dated December 15, 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

APPENDIX A

GIBBS RANCH WATER COMPANY

Schedule No. 1

Metered Service

Service Charge:	Per Meter Per Month	Effective * <u>7/1/84</u> Per Meter Per Month
For 5/8 x 3/4-inch meter	\$ 9.65 (I)	\$ 11.17 (I)
For 3/4-inch meter	9.65	11.17
For 1-inch meter	12.80	14.80
For 1 1/2-inch meter	17.05	21.05
For 2-inch meter	23.30 (I)	27.30 (I)

Quantity Rate:	
First 300 cubic feet, per 100 cubic feet	0.87 (I)
Over 300 cubic feet, per 100 cubic feet	1.185 (I)

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

* An attrition allowance of 6.4% to compensate for future decline in the rate of return as authorized by this decision.

(END OF APPENDIX A)

APPENDIX B

Gibbs Ranch Sewer Company

Schedule No. 1

Flat Rate Service

<u>Rates</u>		<u>Effective</u> <u>7/1/84*</u>
Single-Family Residence or Mobilehome (Basic charge exclusive of bedrooms)	\$8.84 per month per residence	\$8.93 per mo./res. (I)
For each bedroom on the same premises and served by the same service connection	\$1.83 per month per bedroom	\$1.91 per mo./bedrm. (I)

Special Condition

A bedroom is any room with a minimum area of 80 square feet and contains a closet.

* An attrition allowance of 2.7% to compensate for future decline in the rate of return as authorized by this decision.

(END OF APPENDIX B)