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ORIGINAL

Decision No. 90008 FEB 27 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LAGUNA HILLS SANITATION, INC., for an Order Authorizing an Increase in Rates.)

Application No. 58275 (Filed August 2, 1978)

Latham & Watkins, by Michael C. Kelcy, Attorney at Law, for applicant. Martin E. Whelan, Jr., Attorney at Law, for Professional Community Management, Golden Rain Foundation, and various mutual housing corporations inside Leisure World, protestants. Peter Fairchild, Attorney at Law, and John Brown, for the Commission staff.

INTERIM OPINION

Applicant, Laguna Hills Sanitation, Inc., filed on August 2, 1978 this application containing requests for interim and permanent rate relief. Public hearing on the request for interim rate relief was held before Administrative Law Judge A. E. Main on November 8 and 9, 1978 in Laguna Hills and on December 5, 1978 in Los Angeles. Applicant presented evidence through three witnesses and the staff through one witness. Concurrent briefs due December 15, 1978 have been received and the interim phase of this proceeding is under submission.

The evidence amply demonstrated that applicant is confronted by a financial emergency. In that regard it was estimated that applicant will have approximately \$249,000 on hand available for construction of backbone plant at the beginning of calendar year 1979 and, during calendar year

1979, will, at present rates, generate approximately \$32,000 from operations, which may be used for construction, and will receive approximately \$131,000 in connection charges. The record further reflected that during 1979 applicant will have to upgrade its plant to meet effluent discharge standards at a cost of approximately \$493,000. In addition, work already under construction, committed to, or clearly needed will require an additional \$179,000, for total construction requirements during 1979 of \$672,000. As a consequence, applicant projected a cash shortfall for construction of approximately \$260,000 for 1979. The construction projects which form the basis of the cash shortfall are either under contract or are urgently needed, and are clearly in the best interests of Laguna Hills Sanitation, Inc. and its ratepayers.

It is the Commission staff's position that applicant is confronted by a financial emergency in the form of a serious cash-flow deficiency; that the financial emergency was caused by applicant's using subdivider contributions which were intended to finance future construction of backbone plant to cover operating losses and interest expense; and that applicant's proposed interim rates should be authorized.

It is protestant's position that, although there is no cash-flow emergency to meet operating expenses, a shortage of funds for desirable capital expenditures exists. Because delay in needed plant construction is not to its benefit, protestant does not oppose, subject to implementation of the following two items, applicant's proposed interim rates being authorized:

- (1) Connection fees, which are contributions for construction of backbone plant, should be kept as a separate fund in trust and should be substantially increased.

- (2) The gross income from any interim increase should be placed in the separate fund for connection fees.

With reference to the protestant's position, which was set forth in its brief, the record has not thus far been sufficiently developed to determine whether connection fees should be increased and/or whether they should be placed in a trust fund. Accordingly, these matters are deferred to the final decision.

In any event, the interim rate relief authorized by this decision will be made subject to refund to the extent, if any, it exceeds final rate relief. A comparative summary of earnings estimated for the 12-month period ending December 31, 1979 at present rates and at applicant's proposed interim rates follows:

Item	Present Rates	Proposed Interim Rates
	(Dollars in Thousands)	
Operating Revenues	\$1,548.5	\$1,683.7
Deductions:		
Operating Expenses	1,297.4	1,298.0
Depreciation Expense	77.0	77.0
Taxes Other Than Income	67.5	67.5
Income Taxes	5.7	76.6
Total Deductions	1,447.6	1,519.1
Net Operating Revenues	100.9	164.6
Rate Base as Estimated by Applicant	2,254.4	2,254.4
Rate of Return	4.5%	7.3%
Rate Base as Estimated by Staff	2,118.9	2,118.9
Rate of Return	4.8%	7.8%

For purposes of the interim rate relief request, the staff used applicant's estimates of operating revenues and expenses. Under the staff estimate of rate base of \$2,118,900, present rates yield a 4.8 percent rate of return and applicant's proposed interim rates yield a 7.8 percent rate of return. The last authorized general rate increase for applicant was authorized in Decision No. 88079 dated November 8, 1977 in Application No. 56296. The authorized rates were designed to yield a 9.0 percent rate of return on rate base for test year 1976.

The interim rate increase sought by applicant will only partially relieve the cash-flow problem. Applicant is exploring alternate means to further alleviate this problem.

Findings

1.a. Applicant is experiencing difficulties in financing its construction program.

b. Applicant's construction projects, which form the basis of the cash shortfall, are either under contract or are urgently needed, and are clearly in the best interests of applicant and its ratepayers.

c. The foregoing constitutes a financial emergency.

2.a. The last authorized rate of return found reasonable for applicant is 9.0 percent (Decision No. 88079, supra).

b. Applicant's proposed interim rates are estimated to yield a 7.8 percent rate of return on a rate base of \$2,118,900 for calendar year 1979.

3.a. In this interim rate proceeding, with reliance being placed on less than a full staff study, it is appropriate to impose the requirement that the interim rates, which we authorize, be made subject to refund to the extent, if any, that interim rate relief exceeds final rate relief.

b. Subject to the foregoing refund requirement, the increase of \$135,200, or 8.7 percent, in annual gross revenues which results from applicant's proposed interim rates is justified.

4. The interim increases in rates, as authorized herein subject to refund, are reasonable; and the present rates, insofar as they differ from those prescribed in Appendix A to this decision, are for the immediate future unjust and unreasonable.

Conclusion

The Commission concludes that applicant's request for interim relief should be granted as set forth in the order which follows. In view of the financial emergency confronting the applicant, the following order should be effective on the date of signature.

On January 30, 1979, the Commission issued Resolution No. M-4704 ordering:

"All utilities and regulated entities requesting general rate increases shall submit an exhibit to accompany their applications to show whether the requested increase complies with the Voluntary Wage and Price Standards issued by the Council on Wage and Price Stability. Offset rate increases, such as for energy and purchased water increases, shall be exempt from this requirement."

Because of applicant's financial plight it is warranted that the interim emergency rate relief phase of this proceeding be exempted from the foregoing requirement.

INTERIM ORDER

IT IS ORDERED that:

1. Applicant, Laguna Hills Sanitation, Inc., is authorized to file with this Commission, after the effective date of this order, the revised rate schedules attached to this order as Appendix A. Such filing shall comply with General Order No.

96-A. The effective date of each revised schedule shall be four days after the date of filing. The revised schedule shall apply only to service rendered on and after the effective date thereof.

2. Once the revised rate schedules attached to this order as Appendix A become effective, applicant shall be bound by the refund requirement prescribed in Finding 3.a. of this decision.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 27th
day of FEBRUARY, 1979.

John E. Ryan
President
William L. Stevenson
Robert W. Shook
Robert J. Friedrich
Lawrence J. Quinn
Commissioners

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SCHEDULE NO. 1

GENERAL RESIDENTIAL SERVICE

Applicability

Applicable to General Residential Sewer Service.

Territory

El Toro, Laguna Hills, Rossmoor Leisure World and vicinity,
Orange County.

Rates for Sewer Service

Unrestricted Family Residence (U)	\$6.60 per month, per residential dwelling unit	(I)
Restricted Family Residence (R)	\$5.75 per month, per residential dwelling unit	(I)

Terms of Payment

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

Associations, Apartments, Condominiums, and other Multiple
Residences

When more than one residential dwelling unit is connected
to the system of Laguna Hills by service connections less in
number than the number of residential dwelling units services,
the rate per residential dwelling unit, as set forth above,
shall be due and payable for each and every living or dwelling
unit connected to the system.

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SCHEDULE NO. 2

COMMERCIAL AND INDUSTRIAL SERVICE

Applicability

Applicable to Commercial and Industrial service.

Territory

El Toro, Laguna Hills, Rossmoor Leisure World and vicinity,
Orange County.

Service Charges to Commercial and Industrial Service

- (A) The service charge to commercial and industrial customers, hereinafter in this rule referred to as "customer", shall be based on the actual amount of sewage to be discharged into the Laguna Hills Sanitation, Inc., system.
- (B) The basic service charge shall be \$0.82 per 1,000 gallons of sewage to be discharged. The minimum service charge shall be the amount equal to the charge for single family residences, as set forth in Tariff Schedule No. 1 of Laguna Hills Sanitation, Inc. (I)
- (C) The actual amount of sewage so discharged shall be defined and determined by Laguna Hills Sanitation, Inc., in accordance with one of the following methods:

Method 1:

By the application of a water use factor to the amount of metered domestic water use of the customer's establishment.

The customer's establishment shall be classified as to the ratio between the rate of sewage discharge and the actual metered rate of domestic water use. Said ratio shall be determined by Laguna Hills Sanitation, Inc., and shall be termed "factor".

Example: Class 1 establishment

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Metered water use by customer's establishment for a two-month billing period - 20,000 gallons - Factor 0.9.

Service charge for the two-month billing period equals (I)
 $20 \times 0.9 \times \$0.82 = \$14.76.$

Method 1 shall be used initially for all commercial and industrial establishments.

Laguna Hills Sanitation, Inc., may change said factor or estimated discharge rate from time to time on the basis of the increase or the decrease in the estimated sewage discharge rate.

Method 2:

By the actual measurement by meter of sewage discharge from the customer's establishment and the application of the service charge to the measured discharge.

Example: Measured total sewage discharge from customer's establishment for a two-month billing period - 22,000 gallons.

Service charge for the two-month billing period equals (I)
 $22 \times \$0.82 = \$18.04.$

This method shall be used only when requested by the customer, and only where metering of the sewage discharge is possible and practical. All metering shall be performed by or under the supervision of Laguna Hills Sanitation, Inc., and at the expense of the customer.

Method 3:

By the estimation by Laguna Hills Sanitation, Inc., of the sewage discharge rate from the customer's establishment.

The estimated sewage discharge rate shall be based on standard and accepted methods such as fixtures, unit count, etc.

Example: Estimated total sewage discharge for a two-month billing period - 22,000 gallons.

Service charge for the two-month billing period equals (I)
 $22 \times \$0.82 = \$18.04.$

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This method shall be used only where no records of actual water use are available and where metering of sewage discharge is impractical.

Laguna Hills Sanitation, Inc., may change said factor or estimated discharge rate from time to time on the basis of the increase or the decrease in the estimated sewage discharge rate.

- (D) The basic rate of \$0.82 per 1,000 gallons for sewage service shall apply where sewage discharged is equivalent in strength to ordinary domestic sewage. For the purpose of these rules ordinary sewage shall be defined as sewage continually having a suspended solids concentration not exceeding 300 ppm, a 5 day B.O.D., of not more than 300 ppm, and having no usual concentration of chemicals or minerals which would have an adverse effect on the Laguna Hills Sanitation, Inc., sewage system. (I)

- (E) Should sewage discharged by any commercial or industrial establishment be determined to have suspended solids or B.O.D. concentration in excess of 300 ppm for significant periods of time, the basic rate for that establishment shall be increased by the ratio between the determined actual B.O.D., or suspended solids concentration and 300 ppm, whichever ratio is the larger.

Example: Determined B.O.D. - 400 ppm
Determined suspended solids concentration - 450 ppm

Service charge - $\frac{450}{300} \times \$0.82 = \1.230 per 1,000 gallons of actual sewage discharge (I)

- (F) Should the sewage discharged by any commercial or industrial establishment be determined by Laguna Hills Sanitation, Inc., to have excessive concentrations of adverse chemicals or minerals, the basic rate will be increased by a factor established by Laguna Hills Sanitation, Inc., based on the effect of said concentrations on the Laguna Hills Sanitation, Inc., sewage system. Laguna Hills Sanitation, Inc., may change said factor from time to time on the basis of analysis of sewage quality.

- (G) In no case will Laguna Hills Sanitation, Inc., accept sewage having either B.O.D., or suspended solids concentrations in excess of 500 ppm for significant periods

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of time, or sewage having chemical or mineral concentrations which, for significant periods of time, will have excessive adverse effect on the Laguna Hills Sanitation, Inc. System. For further delineation of limitation of wastes (D) see other sections of these Rules and Regulations.

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SCHEDULE NO. 3

SALE OF RECLAIMED WATER

General

Water delivered pursuant to this Schedule shall be chlorinated, but not filtered reclaimed water and may be delivered to any property located in Orange County, California.

All water delivered, pursuant to this rule, shall be provided only after the customer shall have entered into an agreement with the utility, which shall condition the sale of the water, among other things, as follows:

- (1) The availability of water.
- (2) Utility's responsibility for the quality of chlorinated, but not filtered, water shall be limited to the quality required by Governmental Agencies having jurisdiction over quality of water.
- (3) Except for the responsibility set forth in paragraph 2 above, Utility makes no other guarantees relating to the quality of water, and all express or implied guarantees and warranties are expressly disclaimed by Utility. Customer agrees to accept the water in its "AS IS" condition. Customer shall release and relinquish all claims, actions, and rights it may now or in the future have against Utility concerning expressed and implied guarantees and warranties relating to the quality of water except as provided in the first sentence of this Section. It is understood and agreed that Utility gives no warranty, express or implied, as to merchantability, fitness for purpose sold, description, quality (except as set forth in the first sentence of this section), productiveness, or any other manner, and will in no way be responsible for any use which customer shall make of the water.
- (4) Customer will indemnify Utility and their employees against and will hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with the use of said reclaimed water in any manner by Customer,

and Customer agrees to pay any costs, including attorney fees, which Utility may incur by reason of any such claims, actions or damages.

- (5) Customer shall comply with all rules, regulations and requirements relating to the use of said water, or otherwise, as established from time to time by the California State Department of Public Health, the Health Department of Orange County and the California Regional Water Quality Control Board.
- (6) The property upon which the water shall be used.
- (7) If, as a result of fire, earthquake, storm, rainfall, flood, Act of God, strikes; picketing, boycott, lockouts or other causes or conditions beyond the control of Utility, or because of damage or breakdown of any of Utility's facilities, Utility shall be released from its responsibility to deliver water during such periods of inability and shall have no liability to the customer during such period of time.

Customer's Election

Service to a customer will fall under this category when the customer desires to receive the water at such times during the day and week as the customer shall elect, providing other customers of this class of service have not already contracted for all of the supply available.

Reclaimed water, for this class of service, shall be sold at the rate of \$61.25 per acre-foot.

(I)

Utility's Election

Service to a customer will fall under this category when both of the following conditions are applicable:

- (1) The customer will receive water at such time during the day and week as the Utility shall elect.
- (2) The customer will use the same or a greater quantity of water each week* during the 9 months beginning October 1 and ending June 30, as that customer used during its week* of maximum consumption during the previous 3 months beginning July 1 and ending September 30.

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There shall be no charge for water delivered under this class of service. There shall, however, be an annual contract renewal fee of \$100.

If at any time, Utility does not have enough water to supply all customers under this class of service, after providing all the water required by the "Customer Election", customers, the remaining supply shall be prorated between the customers under this class of service, in direct proportion to the total quantity of water each customer received during the previous 9 months beginning October 1 and ending June 30.

*Week is defined as beginning on Monday morning at 12:01 a.m., and ending on Sunday night at 12:00 p.m.

(T)

(T)