ORIGINAL

Decision No. 91339 FEB 13 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LAGUNA HILLS SANITATION, INC. for authorization to incur an indebtedness of $1,400,000 and to service such indebtedness through a surcharge resulting in an increase in Applicant's rates and charges for sewer service.	Application No. 59033 (Filed July 30, 1979; amended November 16, 1979)

Graham & James, by Thomas J. MacBride, Jr., Attorney at Law, for applicant.
Martin E. Whelan, Jr., Attorney at Law, for Professional Community Management, Mutual Housing Corporations Inside Leisure World, and Golden Rain Foundation, interested parties.
Grant E. Tanner, Attorney at Law, for the Commission staff.

O P I N I O N

By this application, as filed on July 30, 1979, applicant Laguna Hills Sanitation, Inc. sought this Commission's authority to incur an indebtedness of $1,400,000 and to service that indebtedness through a surcharge resulting in an increase in applicant's rates and charges for sewer service. The proposed financing is to be obtained through the California Pollution Control Financing Authority (Authority), a state agency. Under the terms of the California Pollution Control Financing Act, applicant would sell bonds through the Authority. The interest on those bonds is tax-free. The proceeds will provide the funds for repair and upgrading of the sewage treatment plant required to meet effluent quality standards.

On November 16, 1979, A.59033 was amended to increase the amount of indebtedness for which authorization is sought to $1,800,000. The amendment described the factors resulting in the requirement for an increased amount of indebtedness and, further, requested that the amended principal amount of indebtedness be further adjusted upward to reflect inflation from November 1979 to a period three to four months following the issuance of a decision in A.59033. Included in the $1,800,000 is a provision for contingencies to assure that the final project will provide adequate treatment at 4.0 mgd.

Three days of hearing in this matter were held before Administrative Law Judge Main on November 27-29, 1979. Concurrent opening briefs were filed December 7, 1979; concurrent reply briefs were filed December 14, 1979. The parties were in general agreement that the facilities which applicant seeks to upgrade with the proceeds of the bond issuance were, in fact, needed.

The parties were also in agreement that a special account (Dedicated Fund Account) should be maintained by a trustee to service the debt created by the bond issuance. A corresponding balancing account (Separate Surcharge Balancing Account) would be maintained by applicant. The parties further agreed that applicant should be permitted to establish a surcharge on its existing rates and that the revenue generated from that surcharge should be placed into the Dedicated Fund Account. Further, all parties agreed that certain of the bond proceeds would be invested by the trustee at interest (taking care to avoid violation of any arbitrage laws) and that the income from those investments should be placed into the Dedicated Fund Account

to reduce the amount of revenues required from the surcharge on applicant's rates. (Annual adjustments to the surcharge will assure an adequate flow of revenues into the account.) The parties further agreed that disbursements of funds from the Dedicated Fund Account by the trustee would be solely to service the debt financed through the Authority and to compensate the trustee for administration fees. The parties also agreed that any plant purchased with the proceeds of the bond sale should be excluded from applicant's rate base. Finally, the parties agreed that any Commission order granting the authority sought should direct applicant to take steps to insure that no acceleration of the payment schedule or interest rate of applicant's presently existing bonds would occur.

The parties were in general agreement that all tax benefits derived by applicant by virtue of the proposed project should be passed on to applicant's ratepayers. However, disagreement arose as to the best manner in which to pass those benefits on to applicant's ratepayers.

At the conclusion of the hearing, the following issues remained unresolved by the applicant, the staff, and the interested parties:

1. The manner in which to best pass on the tax benefits of investment tax credit to applicant's ratepayers;
2. The manner in which to best pass on the tax benefits of accelerated depreciation and interest deductions to applicant's ratepayers;
3. The manner in which overhead expenses, incurred by applicant as a result of this project, should be treated in subsequent rate proceedings;
4. The proper disposal of any bond proceeds which are not required to complete the proposed project; and

5. The employment of customer connection fees presently held in a separate account by applicant.

In their brief interested parties request that applicant be prevented from paying dividends until the building program for which loan funds are sought is substantially completed and a determination can be made whether additional funds in excess of those provided by the loan are needed to complete the project and until an additional three-year building program is completed. They argue that it is the duty of applicant to supply such additional funds, that earnings should be earmarked for reinvestment rather than to be dissipated in the form of dividends, and that perhaps earnings "should be applied retrospectively to the within project".

Neither their arguments nor the evidentiary record persuades us that such a restraint is appropriate. The interested parties regard a surcharge as an extraordinary imposition on the ratepayers but do so without examining the benefits to the ratepayers of the surcharge proposal. A portion of applicant's reply brief, which aptly points this out, follows:

> "Can the interested party demonstrate that the proposed surcharge is not, in fact the absolute least costly method for the ratepayer? If the Commission adopts the interested parties' suggestion that it reserve jurisdiction to 'require that Applicant apply funds in the future to reduce the outstanding bonded indebtedness so as to reduce the surcharge,' does the ratepayer benefit? Does the ratepayer benefit by accelerating 9% financing by either, (1) placing it in the capital structure as increased equity which will require a return undoubtedly higher than 9% or (2) by diverting subsequent connection fee payments from usage in favor of the future ratepayers to which they are properly allocated. The brief of the interested parties provides no answer to these compelling questions."

Tax Benefits

The tax benefits that will accrue to applicant from this project are the investment tax credit and interest and accelerated depreciation deductions. As all parties to this proceeding recognized, these tax benefits should be passed on to applicant's ratepayers. In determining how best to bring about this end, however, two sometimes competing considerations are at play. First, it is important that the tax benefits be passed on to applicant's ratepayers in the most equitable manner possible. Secondly, the medium by which those benefits are passed on should be one that may be employed in a practical manner.

Investment Tax Credit (ITC)

From this project an ITC substantially in excess of $100,000 will accrue to applicant. The Commission staff has recommended that this tax benefit should be invested in high grade securities. Under the staff's proposal, both the interest income and the drawdown on the principal from the investments would flow into the Dedicated Fund Account and reduce the amount of revenues required from a surcharge on applicant's rates. The ITC benefits would be spread in this way to applicant's ratepayers over the life of the facility, and applicant's shareholders are to realize none of these benefits.

The staff has also recommended that a similar treatment be accorded the tax effects of interest and accelerated depreciation deductions ascribable to the project. The ITC, however, is an outright tax savings, which in all likelihood would be realized in only two or three years. In contrast the apparent tax benefits of accelerated depreciation

and interest deductions in the early years of the loan will be offset by the reduced availability of those deductions in the later years of the loan.

From the standpoint of the scheduling of investments by the trustee of the Dedicated Fund Account, applicant perceives no undue hardship in that scheduling for the ITC benefits, especially if there is no semiannual drawdown of principal, but that does not hold true for scheduling the investment of the tax benefits of interest and accelerated depreciation deductions. Such scheduling would require variable investments and returns over the 20-year period of the loan, and failure to precisely time those investments could result in either a windfall or a shortfall to applicant. Clearly, a trustee would not be expected to welcome this responsibility.

Applicant recommends that the Commission adopt the staff's proposed treatment of ITC benefits. The interested parties disagree. They recommend that the benefits of investment tax credit be taken by applicant as soon as possible and placed in a separate tax benefit balancing account along with other tax benefits derived from the construction of the proposed project. Under the proposal of the interested parties:

> "...in the subsequent year, pursuant to Advice Letter, the general rates would be decreased by that across the board percentage which would use up the balance of tax dollar benefits in the balancing account as of the first of that year." (Exhibit 10)

Under this proposal, the full benefits of investment tax credit would be immediately passed on to applicant's ratepayers during the year following the year in which those benefits were reflected in applicant's tax liability.

Applicant and the staff argue that it would be unfair to deny to those ratepayers who become customers of applicant after the initial years of the loan have been completed the tax benefits of a project which they are nonetheless required to finance through the surcharge on applicant's rates. The interested parties attempt to justify this inequity by noting that there will be an increased number of customers during the later years of the loan and that the dollar is likely to be worth much less than it is at the present time. Neither of these arguments, however, refute the simple fact that the total revenue required during the years following the initial years of the loan will be greater under the interested parties' proposal than it will under the proposal suggested by applicant and the staff. Whatever number of customers are in existence after those initial years of the loan, they will, undisputably, be paying higher rates under the proposal of the interested parties than they will under the proposal of the applicant and the staff.

With respect to those initial years, incongruous as it may seem, applicant's total rates should be lower with the project than without it. That will hold true even if the ITC is excluded from immediate pass through of tax benefits to the ratepayer (i.e., limiting the immediate pass through to the interest and accelerated depreciation deductions).

Equitable considerations, the absence of practical problems, and the enhancement of the marketability of the bonds cause us to adopt the proposal to invest ITC benefits, essentially in the same way as is contemplated for the debt service reserve, in high grade securities. The interest earned

thereon will be used to reduce the tariff surcharge for debt service. In the last year or two of the loan, the amounts of principal representing the debt service reserve and the ITC benefits will be applied to offset applicant's remaining debt obligation and phase out the surcharge. In this manner, the benefits of the investment tax credit will be conferred upon all ratepayers who contribute to the financing of the project during most of its useful life.

Accelerated Depreciation and Interest

In his study (Exhibit 8) the staff witness had recommended that the tax benefits and detriments of accelerated depreciation and interest deductions be passed on to the ratepayer as part of a determination of the level of applicant's regular rates in general rate proceedings. At the hearing he changed that recommendation to one in which the treatment of the tax effects of those deductions would essentially parallel his recommended treatment of the benefits from the ITC. His recommended treatment of the benefits from ITC, it should be noted, differed from our adopted treatment set out hereinabove. The adopted treatment differed in that, consistent with the investment plan for the debt service reserve, there will be no provision for semiannual drawdown on the principal to reduce the surcharge revenue requirement.

Under his proposal the amount available for investment would essentially be the amount of deductions available for interest and depreciation generated by the project, in excess of additional gross income realized from surcharge and interest revenues (i.e., income on investments). In the latter years of the loan, the amount of deductions for interest and depreciation related to the project would fall short of the additional gross income derived from surcharge revenue and

interest revenues. Therefore, applicant would incur additional tax liability during those years. Under the staff proposal, the bond interest and principal would be available to the applicant, during those latter years, to make applicant whole with respect to that additional tax liability.

As noted in the discussion of investment tax credit the interested parties recommend that the dollar benefits of accelerated depreciation and interest be placed immediately in a tax benefits balancing account (which they propose) and thereupon used to reduce applicant's general rates. Applicant urges, as the staff originally recommended, that deductions for interest and accelerated depreciation be accounted for in its next general rate proceeding.

The proposal of the interested parties and applicant's proposal both clearly benefit ratepayers during the early years of the loan at the expense of those on the system during the latter years. The staff proposal commendably spreads the tax benefit over the life of the loan. However, from a practical standpoint, it has substantial drawbacks.

It remains unclear how the staff investment scheme would be structured so that the required amount of principal and interest would be available to applicant during the latter years of the loan to be applied to applicant's tax liabilities. Moreover, the complexity of the required investment scheme, in comparison to the rather simple procedures recommended for investing the benefits of investment tax credit, is not likely to be viewed, as stated earlier, as desirable by the trustee administering the Dedicated Fund Account. Any increased

administration fee which results from the adoption of this complex investment scheme would be expected to be passed on to applicant's ratepayers through the surcharge. Because of these drawbacks we will not adopt the staff's recommendation.

The interested parties oppose applicant's recommendation under which the apparent tax benefits would be accounted for in the next general rate proceeding. They assert that it is uncertain when and if applicant's next general rate application will be filed. Although applicant has indicated it intends to file such an application during the first or second quarter of 1980, applicant offers the following suggestion to ensure that the tax benefits in question will be passed on to the ratepayer:

> "The Commission may simply provide through its order in the instant proceeding that, in the event that Applicant incurs tax benefits as a result of the accelerated depreciation and interest deductions during a year prior to the test year employed in Applicant's next general rate proceeding, that Applicant be required to file an advice letter temporarily reducing the rates to offset those tax benefits. For purposes of this suggestion, the year in which tax benefits are incurred shall be deemed to be the year in which a tax return taking advantage of those benefits is filed. This will achieve the result sought by the interested parties without the necessity of establishing another balancing account."

To better ensure that the 1980 tax benefits from this project flow through to the ratepayer, in the event a 1981 test year is used in applicant's next general rate case, applicant's above suggestion needs to be modified in pertinent part as follows: the year in which the tax benefits are deemed to be incurred is the year for which a tax return taking advantage of those benefits is filed.

In summary, practical problems militate against the staff proposal (which is probably more equitable than the other proposals). These particular tax benefits can be passed on to the ratepayer satisfactorily, without introducing another balancing account as proposed by the interested parties, if we modify in the manner indicated the above-quoted course suggested by applicant. We adopt that modified course and our order herein will so provide.

Overhead

In order to hold down the total amount of debt required, applicant did not include as part of the project's estimated cost an allowance for applicant's internal overhead costs which would be incurred for the project. Moreover, applicant is now of the opinion that the Authority would not approve including that overhead in the project's cost and the other parties to this proceeding seem to concur in that view.

In the absence of bond funds to cover that cost, applicant proposed that the internal overhead which would have been allocated to the proposed project be allocated to other projects. The staff opposes such an allocation of overhead to other projects. Rather, the staff would prefer to see contributed capital provide funds for the overhead allocable

to the project. In that regard the staff cited Exhibit 8 which tentatively indicates that applicant presently has approximately $100,000 of such funds in connection fees allocable to treatment plant improvement. Under the staff proposal, the overhead for this project could be capitalized in the customary fashion. However, since the funds would come from connection fees, which are deducted from rate base, the overhead would not become a part of rate base. The interested parties take the position that neither the amount of overhead, if any, to be allowed nor the source of funds for it need be determined in this proceeding.

At this time we will provide limited guidance. First, the overhead allowance must be reasonable. Secondly, if there is an excess of bond proceeds the excess, if permitted by the Authority, should be used for overhead on the project. Thirdly, the staff recommendation to use connection fees for this purpose is valid at least to the extent that those fees are in fact allocable to treatment plant improvement. Fourthly, applicant's internally generated funds can, of course, be used for this purpose. Only in the latter case should the overhead capitalized be included in rate base.

Use of Excess Bond Proceeds

Applicant recommends using excess bond proceeds, if any, to fund improvements to its sewage system which would be additional to those proposed in the application. Applicant argues that tax-free financing is a most desirable commodity, that the low interest rate made possible by that tax-free financing greatly benefits applicant and its ratepayers, and that, therefore, the Commission should authorize applicant to expend, subject to the approval of the Authority, any excess

funds on additional improvements to applicant's plant. As alternatives applicant made mention of either investing the excess proceeds, the additional revenues from which would reduce the surcharge, or simply using the excess proceeds to redeem the bonds which would reduce the total debt.

The staff recommends "that no disposition of such excess be attempted in these proceedings, since no excess presently exists or could even be calculated. It should be pointed out, however, that use of any excess proceeds should first be approved by the California Pollution Control Authority to determine conformity of the proposed additional improvements with Section 44532 of the Health and Safety Code. Furthermore, such disposition of excess proceeds would also require a finding under Sections 816, 817 and 851 of the Public Utilities Code that such additional improvements constitute a permitted use under that Code. Control of administration of the loan by Applicant's trustee should ensure disposition of any excess funds in conformity with the requirements of both this Commission and the California Pollution Control Authority. Whether a hearing, as requested by the Interested Party would be required to make this finding is a matter which should be deferred until Applicant actually requests disposition of any excess funds." It is the interested parties' position that any excess loan proceeds should be used to pay off some of the bonds then outstanding.

If there are excess bond proceeds, our order herein will provide that applicant may, subject to obtaining any necessary approval from the Authority, apply all or part of the excess toward a reasonable amount of project overheads. In all other respects the disposition of any excess bond proceeds will require a further order of the Commission.

Use of Connection Fee Funds

Both applicant and staff recommended that connection fee funds presently held by applicant not be employed to reduce the amount of required bond financing for the proposed project which is to provide adequate treatment at 4.0 mgd. The connection fees presently held by applicant are needed to fund the construction of treatment capacity beyond the 4.0 mgd, and applicant has consistently used connection fees for sewage plant expansion.

The interested parties recommend that applicant be ordered to use connection fee funds if the bond proceeds prove to be insufficient to complete the proposed plant improvements or any sequential improvements which may be necessary to bring the plan into compliance with federal and state standards. The interested parties further recommend that the Commission reserve the option to require applicant to apply connection fees or internally generated funds to redeem or repurchase bonds at issue in this proceeding to reduce the outstanding bond indebtedness.

In addressing earlier in this decision the dividend restriction proposed by the interested parties, we commented that interested parties regard a surcharge as an extraordinary imposition on the ratepayer without examining the benefits to the ratepayers of this surcharge proposal. Their advocating applicant's being required to redeem or repurchase the bonds is similarly flawed.

It seems clear, for the present at least, that applicant should use connection fees for sewage plant expansion. Accordingly, we will not enter the order recommended by the interested parties.

Project Cost Estimates

The following tabulation develops the overall estimated project cost of $1.87 million including a debt service reserve and financing costs:

Construction Costs:			
Headworks		$ 38,000	
Automatic Fine Screening) Aeration Basin)		355,700	
Clarification Basin		518,500	
Yard Piping		14,000	
Electrical & Instrumentation		150,000	
Inflation Allowance:	Aug.-Nov.'79	58,000	
	Dec.-May '80	77,600	
Contingencies		158,800	
			$1,370,600
Engineering			97,000
Application Fee - CPCFA			5,000
Small Business Administration Fee			50,600
Debt Service Reserve			197,200
Legal, Printing Costs, Underwriting Fee & Other			145,400
Total Estimated Project Cost			$1,865,800

Contract between Authority and Applicant

On August 28, 1979 the Authority adopted an initial commitment resolution which in part provided:

> "Section 1. The Authority will issue, at one time or from time to time, an aggregate of $1,400,000.00 principal amount of bonds of the Authority for the Facilities.
>
> "Section 2. The bonds will be payable solely from the revenues to be received by the Authority pursuant to a lease or sales agreement or other agreement to be entered into between the Authority and the Company in connection with the Facilities. . . .
>
> "Section 3. The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the lease, sales or other agreement for the Facilities, . . ."

We gather from the testimony of applicant's vice-president taken in conjunction with the testimony of the witness from E. F. Hutton & Co., that the above cited "...agreement for the Facilities" will be for a larger bond issue (i.e., increased from $1.4 million to $1.8+ million if authorized by the Authority and this Commission), will reflect the Authority acting as a conduit for the sale of the bonds by applicant as a borrower, will incorporate many or most of the terms of a typical trust indenture, and will not be drafted until shortly before the bond issuance.

Our order herein will require the trustee, for the Dedicated Fund Account to be maintained to service the debt created by the bond issuance, to be instructed through provisions made either a part of the contract between the Authority and applicant or of some other appropriate document,

that all funds, including those from ITC benefits, placed in the Dedicated Fund Account, and all earnings thereon, are unalterably dedicated to the debt service. Ultimately should funds be left over (i.e., after the retirement of all of the bonds), the instructive provisions must also provide for the refund of the overage to applicant's or its successor's customers. Our order herein will also require applicant to file with the Commission, within 10 days after it is entered into, one copy of the contract between the Authority and applicant and, if not part of that contract, one copy of the applicable bond covenants and trust indenture as soon as available.

Balancing Account and Surcharge Computation

As a counterpart to the Dedicated Fund Account, applicant will be required to establish and maintain a Separate Surcharge Balancing Account which shall include all billed surcharge revenue and which shall be reduced by payments to the trustee for inclusion in the Dedicated Fund Account. The surcharge revenue should equal debt service minus any earnings on invested funds held in the Dedicated Fund Account plus trustee charges, until such time as the held funds can meet the remaining debt service obligation.

The appropriate surcharge rate design is a uniform percentage increase (i.e., the existing rates under each schedule multiplied by a properly determined uniform percentage yields the applicable surcharges). The uniform percentage increase is determinable from basic data under the format shown below.

For Calendar Year _____

(1) Revenue Required from Surcharge

Dedicated Fund Account:

Debt Service	_____	
Trustee Charges	_____	
Earnings	(_____)	
Subtotal		_____

Separate Surcharge Balancing Account:

Over-collection		(_____)
Under-collection		_____

Total Revenue Required from Surcharge _____

(2) Est. Revenue at Existing Rates _____

(3) Uniform Percent Increase

$$\frac{(1)}{(2)} \times 100\% = \text{\_\_\_\_\_}$$

Applicant will be required to file a tariff provision incorporating substantively the above procedure for computing the surcharge.

Findings

1. There is an urgent need to upgrade the applicant's treatment plant.

2. The improvement project is estimated to cost $1,870,000 including financing costs and a debt service reserve.

3. The proposed financing through the Authority provides relatively low-cost capital for the needed improvements and is a prudent means of acquiring the needed funds.

4. Applicant should be authorized to incur an indebtedness of $1,870,000 for a period of 20 years at the applicable market interest rate and to issue such evidence of that indebtedness and encumber such property as is required by the Authority or the ultimate lender. However, applicant must take steps to ensure that neither a shortening of the term of applicant's presently existing bonds nor an increase in the rate of interest thereon would occur.

5.a. A special account (i.e., the Dedicated Fund Account) should be maintained by a trustee to service the debt created by the bonds issued by the Authority.

b. Applicant should be authorized to establish a surcharge on its existing rates and the revenue produced from that surcharge should be placed in the Dedicated Fund Account.

c. The debt service reserve portion of the bond proceeds and the tax benefits realized from the investment tax credits available from the project can be invested by the trustee in AAA-rated securities (taking care to avoid violation of any arbitrage laws) which holding is to be vested in the

Dedicated Fund Account. The income from that holding should be applied to reduce the revenues required from the surcharge on applicant's rates. In the last year or two of the 20-year bond term, the amounts of principal representing the debt service reserve and the ITC benefits should be applied to offset applicant's remaining debt obligation and phase out the surcharge.

d. A Separate Surcharge Balancing Account can be maintained by applicant so that the surcharges may be adjusted to match the actual surcharge revenue requirement. That requirement is the net total of the actual cost of servicing the loan plus the actual trustee charges less the actual earnings on funds invested plus (or minus) the debit (or credit) balance in this surcharge balancing account.

6.a. All of the tax benefits which accrue to applicant from the proposed improvement project are to be passed on to the ratepayer.

b. The tax benefits realized from the investment tax credits are to be placed in the Dedicated Fund Account, consistent with finding 5.c. above.

c. The apparent tax benefits of interest and accelerated depreciation deductions are to be applied to reducing applicant's taxable income for ratemaking in a general rate proceeding. In the event applicant incurs tax benefits as a result of the accelerated depreciation and interest deductions during a year prior to the test year employed in applicant's next general rate proceeding, applicant can be required to file an advice letter temporarily reducing the rates to offset those tax benefits. For this purpose, the year in which the tax benefits are incurred will be deemed to be the year for which a tax return taking advantage of those benefits is filed.

7. In ratemaking, the utility plant constructed under this improvement project should be excluded, to the extent financed by funds obtained through the Authority, from rate base and depreciation expense.

8.a. The allowance for overheads on this project must be reasonable.

b. If there is an excess of bond proceeds the excess, if permitted by the Authority, should be used for overhead on the project.

c. To the extent the connection fees collected are in fact allocable to treatment plant improvement, their use in meeting the project overheads would represent proper application of such funds.

d. Applicant's internally generated funds also may properly serve in meeting the project's overhead.

9. Except as provided for in finding 8.b., the disposition of excess bond proceeds, if any, will require a further order of the Commission.

10. Except as provided for in finding 8.c., applicant should use construction fees under present conditions only for sewage plant expansion.

11.a. Special accounting requirements for this financing and a refund condition are necessary to ensure that there are no windfalls to applicant or its successors through the rate surcharges.

b. Some guidelines for the accounting are contained in Exhibit 8. In due course applicant should submit its proposed journal entries to the Commission staff for review.

c. Ultimately, the over-collection, if any, as represented by a balance (i.e., surplus of funds) in either the Dedicated Fund Account or the Separate Surcharge Balancing Account or both, should be refunded to the customers served by applicant or its successors.

12.a. The surcharge revenue should equal debt service minus any earnings on funds held in the Dedicated Fund Account plus trustee charges.

b. The procedure to be followed substantively in computing the surcharge is set forth on page 18 of this decision. That procedure or its equivalent should be set forth in applicant's filed tariffs.

c. The advice letter transmitting applicant's tariff schedules revised to incorporate the initial surcharges may be filed once applicant has entered into the anticipated contract with the Authority and the coupon interest rate on the bonds has been fixed or not more than 30 days prior to the bond issuance, whichever is later. The effective date of revised schedules will be five days after the date of filing.

d. An annual review should be made to adjust the surcharges. The annual revision date is fixed as April 1. The effective date of the revised surcharges shall be on the revision date, if the Commission so authorizes, or as soon thereafter as the Commission may authorize. The filing may be made by advice letter filed at least 30 days before the revision date.

13. The debt service reserve is $197,200. Using that amount as the surcharge revenue requirement can provide a rough approximation of the relative size of the rate increase.

So used, it yields a 10.6 percent increase over 1979 test year adopted revenues of $1,853,400 at the D.91182 (dated January 8, 1980 in A.58275) authorized rates.

14. The proposed financing is for proper purposes and the money, property, or labor to be procured or paid for by the issuance of the evidence of indebtedness authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

15. The surcharges on existing rates which will result from this decision are justified and are reasonable.

Conclusions of Law

1. The application should be granted to the extent set forth in the following order.

2. In keeping with the authority granted, applicant should be directed to take certain actions and several conditions should be imposed as indicated in the following order.

3. The effective date of this order should be the date hereof (except as required by Section 1904(b) of the Public Utilities Code) in order that the construction project involved herein may be started as soon as possible.

O R D E R

IT IS ORDERED that:

1. Applicant Laguna Hills Sanitation, Inc. is authorized to enter into a contract with the California Pollution Control Financing Authority (Authority) to obtain financing through the Authority in the principal amount of $1,870,000 for a term of twenty years at the applicable market interest rate and may issue such evidences of the indebtedness to be so incurred and

encumber such property as is required by the Authority or the ultimate lender. This authority is granted subject to the condition that it shall not result in any way in a shortening of the term of applicant's presently existing bonds or in an increase in the rate of interest thereon.

2. Applicant is authorized to file revised tariff schedules incorporating provisions for establishing the initial rate surcharges and for revising the rate surcharges annually thereafter, consistent with Findings 5.b. and 12 of this decision. The resultant rate surcharge shall be separately identified on each customer's sewer bill issued by applicant.

3. If the authority granted in Ordering Paragraphs 1 and 2 is exercised:

(a) Within ten days after applicant enters into the contract with the Authority, two copies of the executed contract shall be filed with the Commission;

(b) Applicant shall service the debt created by the bonds issued by the Authority substantively in the manner prescribed in Finding 5 of this decision;

(c) The disposition of excess bond proceeds, if any, shall require a further order of the Commission, except as provided for in Finding 8.b. of this decision;

(d) Consistent with Finding 6.a. and c. of this decision, applicant, in the event tax benefits are incurred as a result of the accelerated depreciation and interest deductions during a year prior to the test year employed in applicant's next general rate proceeding, shall forthwith file by advice letter revised rate schedules temporarily reducing the rates to offset those tax benefits; and

(e) Applicant shall make adequate provision by indenture or otherwise for the refunding to the customers any ultimate surplus accrued in the Dedicated Fund Account, be responsible for refunding or applying on behalf of customers any surplus accrued in the Separate Surcharge Balancing Account when ordered by the Commission, and shall otherwise take the actions prescribed in Finding 11 of this decision to assure no windfalls to applicant or its successors accrue as a result of the rate surcharges.

The authority granted by this order to issue an evidence of indebtedness and to execute a loan contract will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is $2,870. In all other respects, the effective date of this order is the date hereof.

Dated FEB 13 1980, at San Francisco, California.

John E. Bryson
President

Commissioners

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
98312
FEB 19 1980
2870-F
By