

ORIGINAL

Decision No. 91425 MAR 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT D. SHELL,
Complainant,
vs.
FRANCIS FERRARO,
Defendant.

Case No. 10682
(Filed October 17, 1978)

Application of FRANCIS H. FERRARO
for a Certificate of Public
Convenience and Necessity and to
Establish Rates for Service.

Application No. 58607
(Filed January 17, 1979;
amended June 25, 1979)

Francis H. Ferraro, for himself, defendant in
C.10682 and applicant in A.58607.
Warren A. Palmer, Attorney at Law, for applicant.
Robert D. Shell, for himself, complainant in
C.10682.
William J. Jennings, Attorney at Law,
James Barnes, P.E., and John J. Gibbons, C.P.A.,
for the Commission staff.

O P I N I O N

Background

On October 17, 1978 Robert D. Shell filed a complaint against Francis H. Ferraro (Ferraro) requesting this Commission find that Ferraro's water system operation was that of a public utility. He further requested that Ferraro be required to: (1) refund the hook-up fee. (\$201.24) he was charged; (2) reimburse him for the cost of

providing a main extension of which his share was \$2,020; and (3) install a new well south of Avenue 12 and the main extension be completed to make a grid thus eliminating a dead end.

On January 17, 1979 Ferraro, dba Madera Ranchos Water Company, filed an application requesting a certificate of public convenience and necessity authorizing a water utility operation in Madera Ranchos Subdivision Units 2, 3, 4, 5, and 6, which total approximately 1.0 square mile in area and are located approximately 10 miles east of the City of Madera in Madera County.

As the complaint and the application concerned the same water system owner and the same facilities, the matters were heard on a consolidated record.

Water System

The water system was organized as a mutual water company in 1960 to furnish water service to a land development known as Madera Ranchos Subdivision No. 2. At that time, the water system was known as Mid-Way Village Water Company, whose water supply permit was issued by the Health Department on January 13, 1960. Records of Mid-Way Village Water Company indicate that service commenced in 1961.

In September 1976, Ferraro assumed operation of the mutual water system with no cost to the customers as Ferraro had not yet acquired ownership of the system. As part of the agreement by which he acquired ownership, he agreed to pay all costs of running the system until the time the agreement was consummated.

On May 2, 1977, four grant deeds were recorded in the Madera County official records. These four deeds were from Mid-Way Village Water Company, a corporation, to Ferraro, dba Madera Ranchos Water Company. The four deeds were each dated April 19, 1977.

On August 31, 1978, Madera Ranchos Water Company applied to the Department of Health Services for a water supply permit. This application is currently pending.

Supply facilities consist of two wells located within the service area. Well No. 1 is 14 inches in diameter and 476 feet deep, equipped with a 60 hp submersible pump and an 8,000-gallon hydro-pneumatic tank. Well No. 2 is 14 inches in diameter and 518 feet deep, equipped with a 30 hp submersible pump and a 4,000-gallon hydropneumatic tank. The pressure switches are set to operate between 44 and 76 psi. There are eight well lots set aside for future use.

The distribution system consists of more than 80,000 feet of steel and asbestos cement pipe ranging in size from 4 inches to 10 inches, installed in 1960, 1961, 1962, and 1978.

As of April 5, 1979, there were approximately 375 flat rate customers on this system.

Beginning on January 1, 1977, Ferraro charged customers \$9.00 per month for flat rate water service. Most of the services are 1-inch in size. There are no metered customers on this system. Ferraro has been charging a \$300 connection fee for each service connection.

After due notice, hearing was held at San Francisco on May 15 and 16, June 25, July 5 and 6, and on September 20, 1979 in Madera before Administrative Law Judge Gillanders. The matters were submitted upon receipt of various late-filed exhibits.

Case No. 10682

Complainant testified that on or about March 1, 1977 he became aware that the water corporation he belonged to had been sold to Water Utility Service Co. (Water Co.) of 100 W. Bullard, Fresno. On March 3, 1977 he made a phone call to Water Co. He talked to a Mr. Ferraro who told him that Water Co. was planning to extend the mains south of Avenue 12 and adding at least one new well. He asked him if he could hook up to Water Co. main which was at the northeast

corner of Lot No. 279, approximately 400 feet from his property (Lot No. 281). Ferraro stated that he could hook up with a temporary 2-inch line until Water Co. laid a permanent main and dug a new well, and at that time he would be charged a proportionate cost.

Before he needed the water, two contractors, Imperial Homes and Great Western, built houses on Lots Nos. 280, 269, and 267, respectively. A representative of Imperial Homes contacted him and said Water Co. was dragging its feet and asked if he would contribute to the cost of laying a 6-inch main to supply the two houses Imperial Homes had built, the one Great Western built and the one he was building. He agreed, and subsequently they hired a private contractor to lay the main under the direction of Water Co. An 8-inch main was laid because Water Co. insisted it be eight inches. He paid the contractor for his part on June 28, 1978.

He then purchased a valve to hook up the water to his house which was nearing completion. While he was in the process of hooking up to the main and while on his property he was approached by a Mr. Walsh representing Water Co. who told him he could not hook up. Walsh said he must pay him \$300 to hook up and he would use a corporation valve. Walsh asked him not to tap the main before talking to Ferraro. He did not hook up. He then called the Public Utilities Commission (P.U.C.) and was told that he could file a complaint. After he called the P.U.C. he contacted Ferraro, who stated he would deduct the cost of the valve from the \$300 hook-up fee which left a balance of \$201.24. As he did not have time to argue and needed the water he went to Water Co.'s office. Water Co. wanted a \$201.24 hook-up fee and an \$18.00 deposit, and he was told that Water Co. rates were set at \$9.00 per month by the P.U.C.

To date Water Co. has not drilled a new well south of Avenue 12. A new water customer was hooked up at Lot No. 265, from which he has received no reimbursement for providing a main extension. He thinks the hook-up fee is illegal and water rates are approximately

double what they should be. He believes an additional well is needed as he ran a flow test in June of 1977, which showed that the water pressure was insufficient and provided only 500 gpm through an open 2 1/2-inch butt. He presented three exhibits in support of his testimony.

Defendant presented oral testimony and three exhibits. According to defendant, Robert D. Shell (Shell) became involved with several contractors who built new homes and sold them without water in an area where there were no water mains or facilities. Upon constant telephone calls, visits, etc., by the contractors and the new home owners his company very reluctantly allowed the contractors to tie into the company's distribution main. He indicated it was a bad situation, but as there were people without water plus legal and other types of threats, the company took the only humane course and allowed the contractors to tie in. That was as far as the company went. The company did not charge anyone any fees or charges whatsoever. The contractors made all their own arrangements, hired whoever they wanted, and installed the water to serve whatever area required service.

The company tapped the line the contractor installed and Shell paid the advance of \$201.24 for materials and labor. Shell was required to sign an application and put up a deposit of \$18.00. The bimonthly bill is \$18.00 or if broken down monthly \$9.00 or yearly at \$108.00. The cost of water is exactly the same for Shell as it is for everyone else, \$108.00 per year.

He knows nothing about a friend who told Shell about Water Co. or where Shell got the idea that the Madera Ranchos Water Company was going to extend water mains, put in new wells, plus the installation of a 2-inch line.

A staff engineer, based on his investigation, made the following conclusions and recommendations.

Conclusions

1. Defendant owns, controls, operates, and manages this water system and would appear to be a public utility in accordance with Sections 216(a)(b) and 2701 of the Public Utilities Code.
2. The distribution system is adequate to provide the domestic and fire flows required by General Order No. 103 providing the sources of supply are adequate.
3. The adequacy of the sources of supply should be considered in A.58607 in connection with defendant's application for a certificate of public convenience and necessity.
4. Defendant does not maintain records or accounts in conformance with the Uniform System of Accounts for Class D Water Utilities.
5. Defendant has collected a connection charge or hook-up fee in violation of General Order No. 103 V 2a(1).
6. Defendant's tariffs have not been authorized by this Commission and therefore are not lawful.
7. Defendant has not followed the main extension rule prescribed by the Commission (Rule 15) in extending water service.

Recommendations

1. Defendant's operation of the Madera Ranchos Water Company should be declared a public utility subject to the jurisdiction, control, and regulation of this Commission.
2. Defendant should set up formal books of accounts in conformance with the Uniform System of Accounts for Class D Water Utilities prescribed by this Commission.
3. Defendant should refund the \$201.24 and cost of the valve installed by Shell to Shell.
4. Defendant should cease and desist from charging connection fees.

5. Defendant should cease and desist from applying unlawful tariffs and charges.

6. Defendant should be ordered to enter into a main extension contract with the complainant in accordance with its Rule 15, Main Extensions, within 30 days of the effective date of this order.

A staff accountant testified that he had identified the following issues regarding Shell's complaint:

Issue 1 How should "tap charges" assessed against new customers by Ferraro be treated? Should those amounts already collected be accounted for as refundable advances, in the manner proposed by Ferraro? Should they be accounted for as contributions? Should Ferraro be directed to immediately refund all "tap charges"? What practice should be followed in the future? Should public utility rules be applied prior to the time that public utility status is recognized by a Commission decision?

Issue 2 If additional customers are added directly to the main extension from which complainant Shell receives service, should the new customers be required to pay a pro rata share of the cost of the extension, with the payments by the new customers being distributed among the persons who originally paid for the main extension? Was there an agreement to make such pro rata refunds? Did Ferraro collect a charge for the main extension from the customer at Lot No. 265?

Based upon his investigation he recommended the following:

Recommendation - Issue 1

If it is concluded that Madera Ranchos Water Company became a utility when Ferraro acquired it, refunds should be made to all customers who present evidence showing that they paid "tap charges." If "tap charges" were paid by developers or contractors who have since moved on, such "tap charges" should be credited to contributions in aid of construction. No "tap charges" should be assessed in the future. Shell should have his "tap charge" of \$201.24 refunded.

Recommendation - Issue 2

Unless there was an agreement to make refunds upon further extension of the existing main, and particularly if the owner of Lot No. 265 did not pay for a portion of the existing main, there does not appear to be any way of satisfying this portion of Shell's complaint.

Application No. 58607

According to the staff accountant, no certificate to construct a water system is required because the system already is built and operating. All that was necessary was for Ferraro to file a tariff in the designated manner. We agree. There can be no question that since January 1, 1977 ^{1/} Ferraro has been a de facto public utility subject to our jurisdiction and on that date, he should have filed a tariff.

According to Ferraro, he has been associated with water company operations for over 25 years and has education and experience applicable to the water industry. For the past 11 years he has operated in California and is presently operating four water companies under this Commission's jurisdiction, two of which are corporations and two of which are proprietorships. He is either a director or executive officer of several well-known California water associations. If we understand his written and oral testimony correctly, he claims to be a paragon of utility ownership and management. His actions, however, belie his professions.

According to the staff accountant, his investigation was hampered by Ferraro's failure to have supporting documentation available for staff review and by his failure to respond promptly to staff inquiries.

1/ On this date Ferraro began charging \$9.00 per month per customer for water service.

In response to a question by the staff accountant as to why he waited two years before applying to the Commission for a certificate, Ferraro indicated that:

1. If he had attempted to obtain certification for a 20-customer^{2/} utility, the Commission's Finance Division would have strongly opposed his application.
2. He wanted time to bring the water system up to an acceptable level of service in order to reduce staff opposition to certification.

Since Ferraro acquired the system, it has grown from 20 customers to 375.^{3/}

As each new service was added, the developer or owner was assessed a "tap charge" (i.e., for running a service line from the main to the property line). The average amount of the "tap charges" was about \$300 per service. The staff engineer estimated the average cost of services installed by Ferraro to be \$186.55 per service.

Ferraro intends to account for these "tap charges" as advances for construction and to pay back these advances at the rate of 22 percent of gross revenue from the "tap charge" received to whomever pays the water bills.

According to the staff accountant, Ferraro's refund proposal is impractical for several reasons: (a) A landlord might have paid the "tap charge," but a tenant who pays the water bills would receive the refund. (b) In the event of the sale of a home, the new owner, who did not pay the "tap charge" would receive the refund. (c) Mid-year changes in property ownership would impose cumbersome accounting requirements.

The staff accountant testified that he was unable to determine exactly how Ferraro accounted for "tap charges," or whether a "tap charge" was assessed for each new service. Supposedly, a charge was made to the services account for each "tap charge," with

^{2/} There were approximately 20 customers at the end of 1976.

^{3/} There are now only 50 lots left to serve.

a contra credit to advances for construction. However, during 1977 and 1978 the services account increased by \$90,000 while advances for construction increased only \$68,551. There were no credits to advances for construction other than for "tap charges".

Contributions in aid of construction at December 31, 1978, totaled \$21,844 which is exactly equal to the cost of new mains installed in 1978.

By his own testimony, Ferraro is an expert in California public utility regulation. Therefore, he must have been aware of this Commission's General Order No. 103, Section V, paragraph 2, which states:

"2. Service Connections.

"a. Ownership of Service.

"(1) Charge for Service Connections. The utility shall make no charge to a customer for making a service connection except in case of connections for private fire protection service, connections for temporary service, or where for irrigation service additional connections are requested for the convenience of the customer or because of divisions of land ownership when the land before division was receiving irrigation service.

"(2) Utility's Responsibility. In urban areas with dedicated front streets, rear service roads, or public utility easements the utility shall furnish and install the service pipe, curb stop, meter and meter box at its own expense for the purpose of connecting its distribution system to the customer's piping, except, for temporary services, and as otherwise provided in the utility's main extension rules. The service connection, curb stop, meter and meter box may be installed at a convenient place between the property line and the curb, or inside the customer's property line where necessary. The service connection shall determine the point of delivery to the customer of water service by the utility. No rent or other charge will be paid by the utility

where such utility owned service facilities are located on a customer's premises. In areas which do not have dedicated front streets, rear service roads, or public utility easements the utility shall furnish and install the service pipe, curb stop, meter and meter box at a convenient point on or near the customer's property except for service beyond the service area.

"(3) Customer's Responsibilities Precedent to Receiving Service. The customer as a condition precedent to receiving service shall furnish and lay the necessary piping to make the connection from the service connection to the place of consumption and shall keep such piping in good repair in accordance with such reasonable requirements of the utility as may be incorporated in its rules. A main valve shall also be provided by the customer on his piping between the service connection and the point of use. Where service is rendered at or near the service area boundary for use beyond the service area the customer will be required to install, operate and maintain the facilities necessary to provide service.

"b. Location of Service. The customer's piping shall extend to that point on the curb line or property line easiest of access to the utility from its existing distribution system or requiring the least extension of the existing distribution main. The utility should be consulted before installation thereof and its approval of location secured."

Regardless of his professed plan to refund the "tap charges" the fact is that Ferraro collected at least \$68,551 to which he was not entitled. It appears that Ferraro, by delaying his request for certification obtained most of the amount that he could have obtained at full build-out of 425 lots.

According to Ferraro's application (Exhibit 9) "t his system has been operating for 15 years and is adequately supplying domestic water to the present customers." This statement and Ferraro's answer to the staff accountant's question (supra) do not agree.

Staff Exhibit 17 states:

"The staff interviewed 26 customers of Madera Ranchos Water Co. on May 9 and May 10, 1979. Fifty percent of the customers complained about paying \$300 connection fees. The connection fee was paid by a customer if he was a builder and owner, or by the customer's contractor.

"The major complaints are listed below in the order of magnitude.

"Customer Complaints

- "A. New customer or builder has to pay about \$300 connection fee. The utility refuses to provide service to new customers or builders unless the connection fee is paid.
- "B. Approximately 23% of the customers complained that the water pressure is too low to effectively operate household appliances, or to conveniently irrigate lawns during peak demand period.
- "C. About 19% of the customers complained about sand and minute particles in the water. The sand deposits in water closets, clogs filters and other appliances.
- "D. About 11% complained of water being shut-off without notice and causing inconvenience to customers.

"The staff discussed the quality of water supply with the State Department of Health Services, and discovered that the application for a water supply permit is currently in progress. The utility has provided a sample of water from one of its wells, and the analysis of the water indicated satisfactory quality in accordance to the Health Department standards.

"The staff concludes that, although the pressures in the utility's main are low in certain areas of the utility's service area, and some customers complained about the sand in water, the customers are adequately satisfied with the service of the utility."

At the hearing held in Madera, in addition to the above complaints, members of the public testified that deposits for service were not returned; repairmen did not know the location of valves required to shut off water supply when repairs were needed; no maintenance of the system was observed; and during the hard winter freezes no water was supplied as the pipes froze.

A representative of the Madera Ranchos Neighborhood Association^{4/} requested that:

- "1. A minimum pressure requirement of 40 lbs. be set by the Commission to insure adequate water (in all areas of the system).
- "2. The fire hydrants and blowout valves be adequately inspected and constantly maintained.
- "3. Bills not be sent in advance but that customers be billed for water already used.
- "4. Customers not be required to make application for return of the \$18 deposit. This deposit should be returned automatically at the end of one year.
- "5. Ferraro's system be placed under the jurisdiction of the Commission.
- "6. The Commission adopt its staff's recommendations."

On April 6, 1979, Ferraro was requested orally by the staff engineer to furnish him with the acquisition cost of the Madera Ranchos Water Company. Ferraro stated he did not have this information available at that time. On April 20, 1979, he was requested in writing by the staff engineer, under the authority of Section 581 of the Public Utilities Code, to furnish within seven days the following information:

- "1. Acquisition cost of the Madera Ranchos Water Company.
- "2. The date you acquired the water system.
- "3. The number of customers added to the system since you acquired it.

^{4/} Representing approximately 125 homeowners.

- "4. The names and addresses of all customers who paid the \$300 connection or hook-up fees.
- "5. The names and addresses of all customers who paid for main extensions and the amount of each main extension."

As Ferraro did not furnish this information, the staff engineer, on the basis that the four grant deeds by which Ferraro acquired title to the water system bore no documentary transfer fees, could only assume that the utility plant had been contributed. On that basis he assigned a value of one dollar to each deed.

According to the staff engineer and staff accountant, the acquisition of a mutual water company should be recorded at the purchase price plus reasonable acquisition costs in accordance with Decision No. 83676 dated November 6, 1974, in Application No. 53003, by which San Gabriel Valley Water Company acquired Clayton Mutual Water Company.

The staff accountant, however, believes that the San Gabriel Valley Water Company acquisition of Clayton Mutual is not exactly comparable to the acquisition of Madera Ranchos Water Company by Ferraro, in that Clayton Mutual was merged into an existing water company. The staff accountant concluded that it is not completely equitable for the customers of the Mid-Way Mutual to be relieved of the responsibilities of operating and maintaining a water system, and at the same time to receive all the benefits of becoming

a part of a larger organization with a full-time maintenance crew, and allocated overheads, trucks, office expense, etc.

It seemed to him that the fairest procedure would be for Ferraro to merge Madera Ranchos Water Company with his existing public utility water systems. This would be the closest parallel to Clayton Mutual, and would avoid a further proliferation of small water companies. It would not cause any rate increase for Madera Ranchos customers, and would tend to insulate Madera Ranchos' customers and customers of the water systems with which it was merged against rate increases in the near future.

Kavanagh Vista Water Company (Kavanagh Vista), the largest of Ferraro's public utility water companies, has about 975 customers. Its flat rate tariff is as follows:

<u>Lot size</u>	<u>Monthly charge</u>	
Less than 8,100 sq.ft.	\$ 6.80	✓
8,100 - 14,000 sq.ft.	9.57	
14,000 - 25,000 sq.ft.	11.65'	

According to the staff accountant, if Madera Ranchos Water Company was merged into Kavanagh Vista, and the existing \$9.00 rate of Madera Ranchos Water Company was continued unchanged, and Ferraro stipulated that he would not request a rate increase (other than cost offsets) for at least two years, everyone would benefit. ✓

As the Administrative Law Judge was dubious that such things would come to pass, he requested the staff accountant to prepare an exhibit delineating the benefits of his merger recommendation.

The staff accountant experienced difficulty in complying with the request because of the manner in which the financial records of the various Ferraro water systems are kept. A portion of the common expenses that are shared by the various systems, e.g., payroll and payroll-related expenses, rent, insurance, vehicle expense, office supplies and expense, etc. were allocated to Madera Ranchos Water

Company based on the ratio of the number of customers of Madera Ranchos Water Company in relation to the total number of customers in all systems. This resulted in 20 percent of common expenses being allocated to Madera Ranchos Water Company. While this allocation method is not as precise as an allocation based on employee time records, our basic concern is not so much with the method of allocation as the fact that expenses assignable to the other water systems were not reduced by the amount of common expenses transferred to Madera Ranchos Water Company. This means that while he could develop reasonable cost estimates for Madera Ranchos Water Company, the recorded expenses of Kavanagh Vista are overstated. The staff accountant did not have the time or resources to make a detailed audit that would be required to properly restate the expenses of Kavanagh Vista and the other Ferraro systems. Therefore, it is not possible to use actual book figures in complying with the request.

There were, however, some general conclusions that he made to support his statement that a merger of Madera Ranchos Water Company and Kavanagh Vista would be advantageous to the customers of both water systems:

1. Madera Ranchos Water Company was operated at a modest profit in 1978, under present rates.
2. Because a substantial portion of Madera Ranchos Water Company's expenses is composed of allocations of relatively fixed expenses which are shared with other Ferraro water companies, the continuing growth of Madera Ranchos Water Company will in the future, spread these costs over a larger base, thus benefiting the customers of both water systems.
3. Assuming a continuation of the rapid growth of Madera Ranchos Water Company, revenues should increase more swiftly than expenses, thus providing a buffer against future rate increases.
4. The Madera Ranchos Water Company's rate schedule has one rate for all customers, regardless of size of lot. At the next general rate case of

The combined systems this could be adjusted so that customers with larger lots would pay higher rates. This might avoid the necessity of a rate increase for the remainder of the customers.

Apparently, the staff accountant's recommendations were based upon figures in the original application - 800 lots of which 300 were being served. The application was amended to 425 total lots leaving a balance of only 125 for future service.

An income statement taken from company records by the staff accountant without adjustments shows a net loss for the year 1978 of \$8,324.

After adjustments were made to exclude depreciation on contributed plant and to correct certain other accounting entries, there was a net profit of \$1,602 in 1978 before depreciation. The staff accountant's analysis of 1978 revenues and expenses follows:

Income Statement - Adjusted ^{2/}
Year Ending December 31, 1978

Items	Balance :		Accounting Staff Adjusted Balance :
	Per	Books :	
	(a)	(b)	
Operating Revenues	33,768	\$(2,260) ^{b/}	32,508
<u>Operating Expenses</u>			
Source of Supply - Miscellaneous	13	-	13
Power	5,160	-	5,160
O & M Labor	4,532	66 ^{a/2/}	4,598
Materials	3,706	(2,260) ^{b/}	2,446
Contract Work	420	-	420
Office Salaries	3,224	(324) ^{c/}	2,900
Management Salaries	4,320	-	4,320
Office Supplies & Expense	2,077	-	2,077
Insurance	775	976 ^{c/2/}	1,751
Acct., Legal, Other	2,311	(1,311) ^{c/}	1,000
Employee Benefits & Miscellaneous	1,706	-	1,706
Vehicle Expense	2,718	-	2,718
Bad Debts	1,046	-	1,046
Office Rent	312	-	312
Total Operating Expenses	31,340	(1,913)	29,427
Property Taxes	666	-	666
Payroll Taxes	389	121 ^{d/}	510
Total Expenses Before Dep'n. and Taxes on Income	32,395	(1,489)	30,906
Depreciation	9,697	(9,586) ^{e/}	111
Taxable Income	(8,324)	9,025	1,492
Taxes on Income	-	15 ^{f/}	15
Net Operating Income	\$(8,324)	\$(9,800)	1,476
Average Number of Customers			301

^{2/} Twenty percent of those expenses that are common to all of Ferraro's Water Companies were allocated by Ferraro to Madera Ranchos. This allocation factor was derived solely on the basis of the ratio of the number of Madera Ranchos customers to the water systems' total number of customers. Most adjustments in Column (b) consist of corrections to these allocated expenses. Specifically, these include the following:

- a/ Employee labor was reduced by the amount paid for temporarily employed labor (24,532), and increased to include 20% of permanent employee salaries. Temporary labor was excluded because it was duplicative.
- b/ O & M materials were offset by reimbursements of \$2,260 received to repair damaged plant.
- c/ Insurance expense was increased to reflect a 20% allocation of total insurance costs.
- d/ The Legal & Accounting book balance of \$2,311 represents a 20% allocation of the total water systems' expenses in this accounting category (\$11,555). Since a significant portion of this total was for legal expenses that did not involve Madera Ranchos, it is the staff member's opinion that a more reasonable figure to reflect Madera's accounting expenses would be about \$1,000.
- e/ Depreciation was adjusted to reflect only depreciation expense that is relative to Ferraro's actual investment in plant, excluding contributed plant.
- f/ The 1978 tax expense on Madera Ranchos' adjusted taxable income is:

	Adjusted Taxable Income	Rate	Tax
California	\$1,492	1%	\$15
Federal	\$1,476	-	-
			<u>\$15</u>

^{2/} These expenses are calculated as allocations of all systems' expenses in this account category.

According to the staff engineer, Ferraro's present rates are unfair and unjust and should be subject to refund.

A comparison of staff recommended rates and Ferraro's rates is shown below:

Schedule No. 2 Residential Flat Rate Service

<u>Rates</u>	<u>Per Service Connection</u> <u>Per Month</u>	
	<u>Staff</u>	<u>Ferraro</u>
For a single family residence, including premises not exceeding 1/2 acre in area.....	\$6.50	\$9.00
For each 100 sq.ft. of area in excess of 1/2 acre.....	.02	-----

Based upon his studies, the staff engineer developed the following results of operation:

Item	Ferraro's Year 1979 Estimated Proposed Rates		Staff Proposed Rates
	Ferraro	Staff	Staff Estimated
Operating Revenue	\$32,400	\$64,350	\$33,770
<u>Operating Expense</u>			
Power	3,450	6,425	6,425
O&M Labor	15,000	4,800	4,800
Materials	3,070	3,070	3,070
Contract Work	600	600	600
Office Salaries	3,000	3,000	3,000
Management Salary	3,600	3,600	3,600
Office Supplies	800	800	800
Insurance	1,215	1,215	1,215
Acct., Legal, Etc.	500	500	500
General Expense	400	400	400
Vehicle Expense	1,500	1,500	1,500
Subtotal	33,135	25,910	25,910
Taxes Other Than Income	2,850	1,770	1,770
Depreciation	-	2,170	2,170
Taxes on Income	-	3,410	60
Net Operating Income	(3,585)	31,090	3,860
Depreciated Rate Base	-	39,360	39,360
Rate of Return	-	79%	9.8%
Average No. of Customers	300	375	375

(Red Figure)

The engineer explained the differences as follows:

Operating Revenues

The proposed tariffs were reviewed and estimated revenues were computed. Ferraro used 300 customers for the test year and the staff used 375 customers. The reason for this difference is there has been a more rapid growth in the number of customers than Ferraro expected. Also, Ferraro did not estimate any revenue for area in excess of 1/2 acre, while many lots in the service area are in excess of 1 acre. The staff's estimate of revenues includes the revenue produced by the larger sized lots.

Operating Expense

The reasons for difference in operating expenses are as follows:

- a. The difference in purchased power represents the actual expenditure in 1978 for power by Ferraro with additional cost for the staff's estimated increase of customers.
- b. The difference in Operation and Maintenance Labor is that the staff used the actual expenditure for labor used by the utility in 1978 while Ferraro claimed the expense of a full-time employee.

Depreciation

Ferraro did not give an estimate of the annual depreciation. The staff computed the annual depreciation charged to Account 503.

Rate Base

Ferraro did not state what the depreciated rate was or furnish any information on plant additions or advances for 1979. Therefore, the staff used available information and developed a rate base for 1979.

In arriving at a final resolution of this matter, we have examined the practicalities of the situation, and have weighed the equitable considerations. Our primary objective is to make certain that the customers of Madera Ranchos will receive an acceptable level of water service at reasonable rates.

Ferraro shall immediately refund all "tap charges" collected from Madera Ranchos' customers or former customers as though Madera Ranchos had been operating in accordance with Water Main Extension Rule Section B.1, Extensions to Serve Individuals.

For services that were installed at the request of builders or developers who did not actually occupy the premises, Ferraro shall enter into main extension agreements, as though the services had been installed under the Water Main Extension Rule Section C.1, Extensions to Serve Subdivisions. Any amounts that cannot be refunded to customers or former customers, or included in main extension agreements, shall be accounted for as contributions in aid of construction.

Ferraro shall enter into a main extension agreement with Shell that will provide that Shell will receive a refund of 22% of revenues from water service to his residence for a period of twenty years. Ferraro shall enter into a similar agreement with the contractors who installed the "Shell extension" providing for refunds based on revenues from other dwellings presently served by this extension.

Ferraro shall immediately refund to Shell his \$300.00 "tap charge".

We agree in principle with the staff accountant's objections to the formation of another small water utility and we recognize the desirability of having Ferraro conduct all water operations through a single corporate entity. We also agree that it is not completely equitable for the Madera Ranchos' customers to derive all of the benefits that result from sharing costs with a larger organization having a full-time maintenance crew. Because of the poor condition of Ferraro's records, however, and our inability to determine the full impact of a merger on the customers

of both systems, we will not authorize a merger at this time. After Ferraro corrects his record-keeping deficiencies, and at the time of Kavanagh Vista's next general rate increase proceeding, we will again consider the desirability of combining the water systems.

There are no reliable figures in this record for test year rate base, operating revenues, or proprietary capital. Ultimately, the rate base and proprietary capital will depend on the amount of "tap charges" that are refunded to customers.

Despite these deficiencies, we must set rates in this proceeding. After a review of the exhibits of the staff engineer and staff accountant, we conclude that operating expenses will be about \$32,000 per annum.

Exhibit 26 indicates that there are 134 lots larger than 1/2 acre, with 934,259 square feet in excess of 1/2 acre. If we assume a rate base of \$30,000 consisting primarily of our estimate of the amount of tap charges that will immediately be refunded to customers or former customers, we can establish a basis for setting rates.

Revenues

375 lots x 12 mo. x \$7.25 per month	\$32,625
.02 per 100 sq. ft. x 934,259	<u>2,250</u>
	\$34,875

Expenses

Expenses other than depreciation	30,000
Depreciation	<u>2,000</u>
	\$32,000

Net income \$ 2,875

Rate Base \$30,000

Rate of Return 9.6%

Findings of Fact

1. Mid-Way Village Water Company - organized as a mutual water company in 1960 to furnish water service to a land development known as Madera Ranchos Subdivision No. 2 - commenced service in 1961.

2. In September 1976, Ferraro assumed operation of the water system at no cost to the customers.

3. Ferraro, under the terms of the agreement whereby he would obtain ownership, would pay all costs of running the system until the time the agreement was consummated.

4. Beginning on January 1, 1977 Ferraro charged customers \$9.00 per month for flat rate water service.

5. On May 2, 1977 four grant deeds dated April 19, 1977 from Mid-Way Village Water Company to Ferraro were recorded in Madera County.

6. On June 28, 1978 Shell paid a private contractor \$2,020.00 as his share of the cost of running an 8-inch pipe from the end of the water company's pipe to Lot No. 269 as the water company was not prepared to build the extension.

7. The water company required Shell to pay \$300.00 for a service less \$98.76 for a valve which he had purchased to hook up to the main he had helped pay for.

8. The water company demanded and received an \$18.00 service deposit.

9. Shell is billed \$18.00 bimonthly for water service.

10. Ferraro has collected \$18.00 deposits for water service from many customers.

11. Ferraro does not return the deposits.

12. Service rendered by Ferraro meets the requirements of General Order No. 103.

a. Ferraro has allowed new customers to connect with and receive water service from his water company.

13. Ferraro does not keep the books and records required by our Uniform System of Accounts for Class D Water Utilities.

14. Ferraro should set up his books in accordance with the plant investment figures developed by the staff engineer.

15. The changes in rates and charges authorized herein are justified, the rates and charges authorized herein are reasonable, and the present rates and charges, insofar as they differ from those prescribed herein, are for the future unjust and unreasonable.

16. Utility plant with an estimated cost of \$213,210.04 was contributed to Francis H. Ferraro by Mid-Way Village Water Company, a mutual water company.

Conclusions of Law

1. By his actions, Ferraro became a de facto public utility subject to this Commission's jurisdiction as of January 1, 1977.

2. Ferraro should be ordered to file a tariff in accordance with General Order No. 96-A.

3. Ferraro should immediately refund the sum of \$300.00 to Shell.

4. Ferraro should enter into a main extension contract with Shell that will provide for a refund of 22% of gross revenues from his residence for a period of twenty years.

5. Ferraro should refund all "tap charges" collected from customers on and after January 1, 1977.

6. Ferraro should enter into main extension contracts with all persons who paid "tap charges" but who did not actually occupy the premises. The main extension contracts shall provide for payments of 22% of gross revenues until the amount of the "tap charges" have been repaid.

7. Ferraro should be ordered to refund all customer deposits held for more than one year after January 1, 1977 with 7% interest after 12 months.

8. Ferraro should be directed to keep the books and records required by our Uniform System of Accounts for Class D Water Utilities.

O R D E R

IT IS ORDERED that:

1. Francis H. Ferraro shall file with this Commission within thirty days after the effective date of this order, a report setting forth in detail a determination of the original cost, estimated if not known (historical cost appraisal), of the properties used and useful in providing water service, and also the depreciation reserve requirement applicable to such properties. The report shall designate which items are supported by vouchers or other like documentary evidence and which items are estimated, and it shall show the basis upon which any such estimates were made.

2. Francis H. Ferraro shall submit to the Commission within thirty days after the effective date of this order a written report of the service connection charges it has received from and after January 1, 1977, listing the names of the persons who made the payments, the addresses at which the service connections were made, the dates the charges were received, and the amount of the charges received.

3. Francis H. Ferraro shall, within sixty days after the effective date of this order, refund the amount of connection charges received from customers currently being provided water service. On the first of the month following sixty days after the effective date of this order, Francis H. Ferraro shall transmit to the Commission a report setting forth the names of all customers to whom refunds were made.

4. Francis H. Ferraro shall make diligent effort to determine the whereabouts of former customers from whom he has collected connection charges and upon determining such whereabouts shall make refund to those former customers forthwith. On the first of the month following sixty days after the effective date of this order, Francis H. Ferraro shall transmit to the Commission a report setting forth the names of the former customers to whom refunds were not accomplished, the addresses at which the service connections were

made, and the amount of refund due to each of those customers. Concurrently therewith Francis H. Ferraro shall post in his office for a period of not less than thirty consecutive days, and shall cause to be published in a newspaper of general circulation in Madera for five consecutive days, a notice listing the names of those persons to whom refund is due, the amount of the refund due, and the place at which the service connection had been made. Proof of such postings and notice shall be submitted within ninety days of the effective date of this order. ✓

5. Francis H. Ferraro shall file within thirty days after the effective date of this order tariff service area maps clearly indicating the boundaries of the service area, appropriate general rules, and copies of printed forms to be used in dealing with customers. Such filing shall comply with General Order No. 96-A and the tariff schedules shall become effective on the fourth day after the date of filing.

6. Francis H. Ferraro shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within ninety days after the effective date of this order, Francis H. Ferraro shall file with the Commission two copies of such map.

7. For the year 1979, Francis H. Ferraro shall apply a depreciation rate of 2.86 percent to the original cost of depreciable plant. Until review indicates otherwise, Francis H. Ferraro shall continue to use this rate. Francis H. Ferraro shall review his depreciation rates at intervals of five years and whenever a major change in depreciable plant occurs. Any revised depreciation rate shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant, (2) dividing the result by the estimated remaining life of the plant, and (3) dividing the quotient by the original cost of plant. The results of each review shall be submitted promptly to this Commission.

8. Within one hundred eighty days after the effective date of this order, Francis H. Ferraro shall transmit to the Commission a report

setting forth the names of former customers who could not be located and to whom refund is due and the total dollars unrefunded. Subject to review by the staff, the total unrefunded connection fees shall be recorded on the utility's books as contributions in aid of construction.

9. Francis H. Ferraro shall refund all customers' deposits held over one year and shall pay interest at the rate of 7 percent for the period exceeding one year.

10. Francis H. Ferraro shall refund to Robert D. Shell the sum of \$201.24 plus the sum of \$98.76 for a total of \$300.00.

11. Francis H. Ferraro shall submit to the Commission within thirty days after the effective date of this order a written report of all extensions which have been paid for by others since January-1, 1977, listing the names of those who paid, the amount paid, date of payment, and location of the extensions. The report shall include both those who paid Francis H. Ferraro for the extensions and those who paid independent contractors to install extensions to the system.

12. Francis H. Ferraro shall enter into a main extension agreement with Shell that will provide that Shell will receive a refund of 22% of revenues from water service to his residence for a period of twenty years. Francis H. Ferraro shall enter into a similar agreement with the contractors who installed the "Shell extension" providing for refunds based on revenues from other dwellings presently served by this extension.

13. Within one hundred and eighty days after the effective date of this order, Francis H. Ferraro shall submit to the Commission a report setting forth the names of those who should have been proffered a main extension contract but could not be located, the amount for which each such contract should have been written, and the total amount of such extensions. Subject to review by the staff, the total amount of such unwritten main extension contracts shall be recorded on the utility's books as contributions in aid of construction.

14. Francis H. Ferraro shall keep the books and records of Madera Ranchos Water Company as mandated by our Uniform System of Accounts for Class D Water Utilities and shall set up such books in accordance with the plant investment figures developed by the staff engineer.

15. Francis H. Ferraro is authorized to file the tariff schedules attached to this order as Appendix A. Such filing shall comply with General Order No. 96-A. The effective date of the tariff schedules shall be four days after the date of filing.

The effective date of this order shall be thirty days after the date hereof.

Dated MAR 18 1980, at San Francisco, California.

John E. Sweeney
President
James L. Fitzgerald
Michael D. Hall
Francis H. Ferraro
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The outer boundaries of the area served by the system are as follows:
Bounded by Avenue 13 on the North and Road 38 on the East and Road 36 on the
West with Avenue 11 $\frac{1}{2}$ on the South, Madera County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 500 cu.ft., per 100 cu.ft.	\$ 0.10
Over 500 cu.ft., per 100 cu.ft.13
Service Charge:	
For 5/8 x 3/4-inch meter	4.00
For 3/4-inch meter	4.50
For 1-inch meter	6.00
For 1 $\frac{1}{2}$ -inch meter	8.50
For 2-inch meter	10.75

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

Schedule No. 2

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

The outer boundaries of the area served by the system are as follows:
Bounded by Avenue 13 on the North and Road 38 on the East and Road 36 on the
West with Avenue 11½ on the South, Madera County.

RATES

	<u>Per Service Connection Per Month</u>
For a single-family residence, including premises not exceeding ½ acre in area	\$7.25
For each 100 sq.ft. of area in excess of ½ acre02

SPECIAL CONDITIONS

1. The above residential flat rates apply to service connections not larger than one inch in diameter.
2. All service not covered by the above classification will be furnished only on a metered basis.
3. Meters will be installed at option of utility or customer for above classification, in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service.

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water service furnished to privately owned fire protection systems.

TERRITORY

The outer boundaries of the area served by the system are as follows: Bounded by Avenue 13 on the North and Road 38 on the East and Road 36 on the West with Avenue 11½ on the South, Madera County.

RATE

	<u>Per Month</u>
For each inch of diameter of service connection	\$2.00

SPECIAL CONDITIONS

1. The fire protection service and connection shall be installed by the utility or under the utility's direction. Cost for the entire fire protection installation excluding the connection at the main shall be paid for by the applicant. Such payment shall not be subject to refund.
2. The expense of maintaining the private fire protection facilities on the applicant's premises (including the vault, meter and backflow device) shall be paid for by the applicant.
3. All facilities paid for by the applicant shall be the sole property of the applicant. The utility and its duly authorized agents shall have the right of ingress to, and egress from, the premises for all purposes relating to said facilities.
4. The minimum diameter for fire protection service shall be four inches and the maximum diameter shall be not more than the diameter of the main to which the service is connected.
5. If a distribution main of adequate size to serve a private fire protection system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served, then a main extension from the nearest existing main of adequate capacity shall be required by the utility.

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

SPECIAL CONDITIONS (Cont.)

6. Service hereunder is for private fire protection systems to which no connections for other than fire protection purposes are allowed and which are regularly inspected by the underwriters having jurisdiction. All facilities are to be installed according to the utility's specifications and maintained to the utility's satisfaction. The utility may require the installation of a backflow prevention device and a standard detector type meter approved by the insurance.

7. No structure shall be built over the fire protection service and the customer shall maintain and safeguard the area occupied by the service from traffic and other hazardous conditions. The customer will be responsible for any damage to the fire protection service facilities.

8. Subject to the approval of the utility, any change in the location or construction of the fire protection service as may be requested by public authority or the customer will be made by the utility following payment to the utility of the entire cost of such change.

9. Any unauthorized use of water through the fire protection service will be charged for at the applicable tariff rates and may be grounds for the utility's discontinuing fire protection service without liability.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, duly organized or incorporated fire districts or other political subdivisions of the State.

TERRITORY

The outer boundaries of the area served by the system are as follows: Bounded by Avenue 13 on the North and Road 38 on the East and Road 36 on the West with Avenue 11 $\frac{1}{2}$ on the South, Madera County.

RATE

	<u>Per Month</u>
For each steamer type hydrant	\$6.50

SPECIAL CONDITIONS

1. Water delivered for purposes other than fire protection shall be charged for at the quantity rates in Schedule No. 1, General Metered Service.
2. The cost of relocation of any hydrant shall be paid by the party requesting relocation.
3. Hydrants shall be connected to the utility's system upon receipt of written request from a public authority. The written request shall designate the specific location of each hydrant and, where appropriate, the ownership, type and size.
4. The utility undertakes to supply only such water at such pressure as may be available at any time through the normal operation of its system.