

ORIGINAL

Decision No. 91980 JUL 2 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Elizabeth A. Davis, Harold J. Meadowcraft, Fontaine W. Russ,

Complainants,

v

Hillview #6 Water Co., John S. and Evelyn Cavanaugh, Santa Cruz Land and Title Co.,

Defendants.

Case No. 8967
(Petition for Modification
filed October 10, 1979)

In the matter of the application of John S. Cavanaugh & Evelyn Cavanaugh dba Hillview #6 Water Company for modification of Decision No. 86054 as provided for in paragraph No. 6 Page 12 for additional connections over and above the 73 allowed in Decision No. 86054.

Application No. 53558
(Petition for Modification
filed October 10, 1979)

In the Matter of Application of JOHN S. CAVANAUGH and EVELYN CAVANAUGH, Husband and Wife, doing business as HILLVIEW #6 WATER COMPANY, for an Ex parte hearing and an order authorizing it to sell the utility, and the Application of GREENBELT WATER COMPANY, INC., a corporation, for an order authorizing it to issue stock for the purchase thereof.

Application No. 59169
(Filed September 28, 1979)

In the matter of the application of HILLVIEW #6 WATER COMPANY to increase rates for water service by approximately 30%. (Adv Ltr No. 9).

Application No. 59343
(Filed December 18, 1979)

John S. Cavanaugh, for himself and his wife,
applicants.
H. E. Davis, for Consumers on Hillview #6 Water
Line; and Peter K. Carr, for Citizens of
Redwood & Newell Drives; complainants in
Case No. 8967.
Melvin M. Angel, for the County of Santa Cruz,
interested party.
Eugene M. Lill and Leslie D. Hay, for the
Commission staff.

O P I N I O N

John S. Cavanaugh and Evelyn Cavanaugh, husband and wife, doing business as Hillview #6 Water Company, request the following:

1. Authority to sell and transfer the water system to Greenbelt Water Company, Inc., a newly formed California corporation, and in consideration therefor the corporation requests authority to issue to the Cavanaughs 1,000 shares of no par value common stock.
2. Modification of Decision No. 86054, dated July 7, 1976, in Application No. 53558 and Case No. 8967, to permit an additional 35 water service connections over and above the 73 connections authorized in Decision No. 86054.
3. Authority to delete two parcels from the utility's service area and add one large parcel.
4. Authority to increase rates.

A public hearing was held before Administrative Law Judge Daly at Santa Cruz on April 10, 1980 and the matter was submitted.

Mr. and Mrs. Cavanaugh own and operate the Hillview #6 Water Company which provides domestic water service to one metered and 72 flat rate customers and eight fire hydrants in and adjacent to the town of Aptos, Santa Cruz County.

Water is pumped from a well, 6 inches in diameter and 500 feet deep to a 1,500-gallon welded steel tank located at the well site. From there it is pumped up to a 64,000-gallon bolted steel tank, which is the storage tank for the distribution system. Distribution is by gravity. A second well, 8-inch diameter and 315 deep, is located 25 feet from the first well. It is connected to the system and can be placed in service at any time, but the two wells cannot be operated in concert because the cone of depression of the first well interferes with the operation of the second well. A third well, capable of pumping 21 gallons a minute, will be transferred to the utility in the event applicants are authorized to increase the number of hook-ups.

The distribution system consists of 8,000 feet of 3-inch welded pipe laid out in such a fashion that no sections of the system may be isolated.

The pumps that pump water to the elevated storage tank can be activated by an electric switch, which, when manually turned on, will operate the pumps for a predetermined period of time before shutting them off. The periods of operation are based upon the owner's estimate of the system's water requirements. Overestimating the requirements can result in the storage tank overflowing, and underestimating the requirements can result in outages. Recently a meter was installed to record the amount of water pumped and should provide a better level of control if used in conjunction with the reading of water levels in the storage tank.

Proposed Transfer

Mr. and Mrs. Cavanaugh propose to transfer the water system to a newly formed corporation in consideration of 1,000 shares of no par value common stock. According to applicants, incorporation was decided upon because it affords certain tax advantages and also because they have recently applied for a loan under the Safe Drinking Water Bond Act of 1976, and the administering agency encourages the investor-owned utilities to incorporate. Applicants indicated a willingness to provide additional cash to the new corporation as needed.

The utility's balance sheet, as of June 30, 1979, is summarized as follows:

<u>Assets</u>	
Current assets	\$ 5,715
Net utility plant	<u>24,621</u>
Total	\$30,336
<u>Liabilities and Net Worth</u>	
Current and accrued liabilities	\$ 4,001
Net Worth	<u>26,335</u>
Total	\$30,336

The application filed with the Department of Health Service and the Department of Water Resources requests a loan of \$119,500, which is supported by the Environmental Health Service of the Health Service Agency, County of Santa Cruz. In endorsing the application for a loan the agency stated:

"The distribution system has had a long history of breaks with corresponding outages over the years. An improved distribution system will reduce breaks and leaks as well as prevent potential contamination entering the system. An increase in storage will also reduce the problem of water outages especially during peak usage hours and the two-hour peak flow demand. The fire protection will also be enhanced."

Additional Service Connections

The utility system is located about 2-1/4 miles north of Aptos in Santa Cruz County and encompasses the entire Rio del Mar Lodge sites. The area consists of 376 lots. Because the lots are small and the terrain rugged, it is estimated that only 125 building sites are suitable for building.

By Decision No. 80469 dated August 31, 1972, the Commission required the Cavanaugh's to commence a program of improvements so as to comply with the provisions of General Order No. 103. By Decision No. 86054, dated July 7, 1976, the Commission found that the Cavanaugh's had complied with the provisions of Decision No. 80469 and authorized an additional 36 water services, for a total of 73 connections. Decision No. 86054 also provided that additional services would be authorized when it could be shown that the 73 were being provided adequate service.

With the present manual control of the pumps, only the water stored is available for the daily customer demand. If full, the 64,000-gallon storage tank is capable of providing approximately 877 gallons per day to each of the 73 service connections.

According to applicants the 35 additional parcels of property are located in an area that has no lawns or other landscaping features and the average annual use is 175 gallons per day per connection with an average use during the summer months of 263 gallons per day per connection.

Applicants claim that local county requirements are 460 gallons per day per customer, with a 12-hour pump operating time. With the installation of automatic controls and using the full pumping capacity of 60 gallons per minute for 12 hours applicants contend that the system could provide 592 gallons for 73 customers, or 400 gallons per day for 108 customers.

Applicants desire to add a large parcel of property to their service area. The property is presently zoned for one building site, but plans have been made to secure zoning for three building sites. Applicants have recently entered into an agreement with the owner of the property for the sale and transfer of an existing well capable of producing 20 gallons per minute and to deed another parcel to applicants for a well site. With the additional pumping capacity of the new well a total system capacity of 533 gallons per day could be provided for 108 customers.

Proposed Rate Increase

On September 25, 1979, applicants filed an advice letter request for a 30 percent increase in the meter rates and flat rate tariff schedules. The present and applicant's proposed flat rates are \$10 and \$13 per month, respectively, for a single-family residential unit and the present and applicant's proposed meter rates are:

<u>Service Charge</u>	<u>Present Rates Per Month</u>	<u>Proposed Rates Per Month</u>
For 5/8 x 3/4-inch meter	\$5.00	\$6.50
For 3/4-inch meter	5.50	7.15
<u>Quantity Rates</u>		
For all water delivered per 100 cu.ft.	0.25	0.33

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Because of a protest with 63 signatures objecting to the rate increase, the requested divestiture, and the additional service connections, it was determined to consolidate all matters for public hearing. As a result, the advice letter request was refiled as Application No. 59343.

The staff prepared a study and compared its results with the results of a study prepared and submitted by applicants. The results are as follows:

Summary of Earnings

Item	Year 1978 Recorded	Applicant 1979 Estimated		Staff 1979 Estimated (1)	
		Present Rates	Proposed Rates	Present Rates	Proposed Rates
Operating Revenues	\$ 5,670	\$ 8,088	\$10,482	\$ 8,740	\$11,360
<u>Deductions</u>					
Operating Expenses	5,019	6,467	6,467	8,700	8,700
Depreciation Expense	1,056	1,056	1,056	1,150	1,150
Taxes Other than on Income	100	100	100	450	450
Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>200</u>	<u>350</u>
Total Deductions	6,175	7,623	7,623	10,500	10,650
Net Revenue	(505)	465	2,859	(1,760)	710
Average Depreciation Rate Base	38,369	42,023	42,023	38,150	38,150
Rate of Return	Loss	1.1%	6.8%	Loss	1.9%

(Red Figure)

(1) Income taxes were computed on a corporate, rather than a proprietorship, basis.

This is an instance where the staff's estimate of test year operating expenses exceeds those estimated by the public utility. However, we have considered each of the differences which produce this result and find that the staff's estimate is reasonable. The effect of this finding is that the applicants' rate of return for test year 1979, using the staff's results of operation and the applicants' proposed rates, is only 1.9 percent. That rate of return is obviously low, but that is the return produced by the rates applicants have requested. Higher rates may not be authorized unless another application is filed and notice thereof is given to the customers. Even using the applicants' results of operation, the proposed rates produce a rate of return of only 6.8 percent. Given this state of the record the proposed rates are reasonable and the applicants should be authorized to put them into effect. The rates hereinafter authorized will result in an increase of \$2,620 in gross operating revenues. The applicant's proposed single block meter rate structure does not conform to current Commission policy which is to encourage conservation by the customer by charging more per unit of water as consumption increases. For meter rates, therefore, a two block rate structure with inverted rates as contained in Appendix A will be adopted. The rates for the 72 flat-rate customers will increase 30 percent, from \$10 to \$13 per month, while the one metered residential customer will experience an increase of 30 percent in the service charge and approximately 32 percent in the second block quantity rate.

Modification of Service Area

Two property owners have recently joined a mutual water company and are no longer connected to the system. The owner of the large parcel of land who wishes to be included within the service area is also the one who has agreed to sell and transfer to applicants a new well.

Protest

Protestants introduced a petition signed by 68 of the system's water users urging the Commission not to authorize any increase in rates, additional hookups, or transfer of the water system until the existing 6-inch transmission line has been replaced. (Exhibit 10.) Approximately \$86,000 of the \$119,500 loan, which applicants have applied for, has been designated for this purpose. The balance of the loan would be used as follows: (a) \$6,000 for the new well; (b) \$20,000 for a 50,000-gallon storage tank, and (c) \$1,500 for fees.

The Department of Forestry, which provides fire protection for the area, contends that any future applications for service should require upgrading of the existing systems, including an increase in water main size as well as replacement of fire hydrant locations and increased water flow and pressure at fire hydrant locations. During the course of the hearing applicants agreed to meet with representatives of the department and discuss future plans for improving the system.

Staff's Position

The staff recommends that applicants be authorized to make the requested addition and deletions to the service area, make the 35 additional connections and to transfer the water system to the newly formed corporation upon the conditions that automatic controls for the pumping of water are installed, the new well is connected to the system, and the proposed additional storage is provided.

The staff also recommends that transfer of the system be authorized upon the condition that applicants provide the new corporation with adequate initial financing to ensure its ability to continue maintenance and operation of the system and the plant improvement and replacement fund established under Ordering Paragraph 4.(b) of Decision No. 80999 be transferred to the corporation.

Findings of Fact

1. An automatic method of controlling the water pumping is necessary to ensure that the pumps will be turned on during periods of high use.
2. The additional well and the additional storage tank are required for continuity of operation in case of a breakdown.
3. The deletion of two parcels of property from applicant's service area and the addition of another parcel would not be adverse to the public interest.
4. With the connection of the new well and the additional storage the water supply will be adequate for a total 108 service connections.
5. The proposed sale and transfer of the water system would not be adverse to the public interest.
6. Greenbelt Water Company service should be authorized to issue 1,000 shares of its no par value common stock.
7. The increases in rates and charges authorized by this decision are justified and are reasonable; and the present rates and charges, insofar as they differ from those prescribed by this decision, are for the future unjust and unreasonable.

8. The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

The Commission concludes that the authority requested should be granted.

Greenbelt Water Company, Inc., is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. The service area as authorized by Decision No. 80999 dated January 30, 1973, is amended by deleting the two parcels of property and the addition of the parcel as designated in the petition for modification filed by John S. Cavanaugh and Evelyn Cavanaugh on December 20, 1979 in Application No. 53558.

2. John S. Cavanaugh and Evelyn Cavanaugh are authorized to add 35 connections to their water system when an automatic control for pumping water has been installed and when the new well and storage facilities have been connected to the system.

3. On or before May 1, 1981, John S. Cavanaugh and Evelyn Cavanaugh may sell and transfer the water system referred to in the application to Greenbelt Water Company, Inc.

4. As a condition of this grant of authority, purchaser shall assume the public utility obligations of sellers within the area served by the water system being transferred and shall assume liability for refunds to all customers affected.

5. Within ten days after completion of the transfer purchaser shall notify the Commission, in writing, of the date of completion and of the assumption of the obligations set forth in Ordering Paragraph 4 of this order.

6. Purchaser shall either file a statement adopting the tariffs of sellers on file with this Commission or refile under its own name those tariffs in accordance with the procedures prescribed by General Order No. 96-A. No increase in rates shall be made unless authorized by this Commission.

7. On or before the date of actual transfer, sellers shall deliver to purchaser, and the latter shall receive and preserve all records, memoranda, and papers pertaining to the construction and operation of the water system authorized to be transferred.

8. Upon compliance with all of the terms and conditions of this order, sellers shall be relieved of their public utility obligations in connection with the water system transferred.

9. The transfer authorized by Ordering Paragraph 3 hereof is subject to the following conditions:

- (a) John S. Cavanaugh and Evelyn Cavanaugh shall provide the corporation with adequate initial financing so as to insure its ability to continue maintenance and operation of the system.
- (b) The plant improvement and replacement fund established under Ordering Paragraph 4.(b) of Decision No. 80999 shall be transferred to the corporation and shall be maintained and reported as directed with an initial response to be made within thirty days after the effective date of this order. The fund is to be used only for additions to or replacement of plant facilities, and no withdrawal shall be made without a letter of approval signed by the Commission's Executive Director.

10. After the effective date of this order, applicants are authorized to file 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 the revised schedules shall be five days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date of the revised schedules.

11. Within forty-five days after the effective date of this order, applicants shall file a revised tariff service area map, appropriate general rules, and sample copies of printed forms that are normally used in connection with customers' services. Such filing shall comply with General Order No. 96-A. The effective date of the revised tariff sheets shall be five days after the date of filing.

12. Applicants shall prepare and keep current a system map required by paragraph I.10.a. of General Order No. 103-Series. Within ninety days after the effective date of this order, applicants shall file with the Commission two copies of this map.

13. For the year 1980, applicants shall use the composite depreciation rate developed in Table 1-A of Exhibit 5 and shall apply a depreciation rate of 2.5 percent to the original cost of depreciable plant. Until review indicates otherwise, applicants shall continue to use 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 plant; and (3) dividing the quotient by the original cost of plant. The results of each review shall be submitted promptly to the Commission.

14. On or after the effective date of this order and on or before March 1, 1981, for the purposes specified in the proceeding, Greenbelt Water Company, Inc., may issue not exceeding 1,000 shares of its no par value common stock.

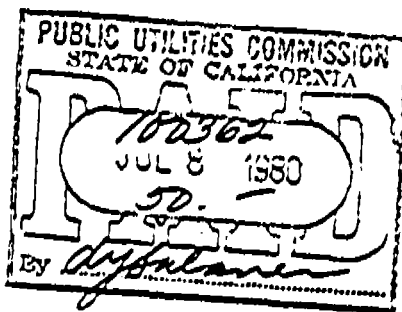
15. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

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The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which is \$50.00. In other respects the effective date of this order shall be thirty days after the date hereof.

Dated JUL 2 1980, at San Francisco, California.

John E. Byrne
President
Richard D. Howell
Edward J. Daniels
Samuel W. Jensen
Commissioners



APPENDIX A
Sheet 1 of 2

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Rio del Mar Lodge Sites Subdivisions Nos. 1 and 2 and parcels identified as Tax Code Areas 105-364-1 and 105-364-2, Santa Cruz County.

RATES

	<u>Per Meter Per Month</u>
Service Charge:	
For 5/8 x 3/4-inch meter.....	\$6.50(I)
For 3/4-inch meter.....	7.15(I)

Quantity Rates:

First 300 cu.ft., per 100 cu.ft.	\$0.25(C)
Over 300 cu.ft., per 100 cu.ft.	0.33(I)

The Service Charge is applicable to all metered service. It is a readiness-to-serve charge which is added to the charge computed at the Quantity Rates for water used during the month.

APPENDIX A
Sheet 2 of 2

Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

Rio del Mar Lodge Sites Subdivisions Nos. 1 and 2 and parcels identified as Tax Code Areas 105-364-1 and 105-364-2, Santa Cruz County.

RATES

	<u>Per Service Connection Per Month</u>
For a single-family residential unit	\$13.00(I)

SPECIAL CONDITIONS

1. The above flat rates apply to a service connection not larger than one-inch in diameter.
2. Service is limited to the number of connections authorized by the Public Utilities Commission, subject to any restrictions imposed by the County of Santa Cruz.
3. Meters may be installed at option of utility for above classification, in which event service thereafter will be furnished only on the basis of Schedule No. 1, General Metered Service.