

CONFIDENTIAL

Decision No. 92292 OCT 8 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of APPLE VALLEY RANCHOS WATER CO.)
for an Order Authorizing an Increase in Rates.)

Application No. 58520
(Filed December 8, 1978;
amended March 9, 1979)

ORDER DENYING MOTION OF STAFF COUNSEL
TO DETERMINE THE APPROPRIATENESS OF CURRENT INTERIM RATES

Decision No. 90435 dated June 19, 1979^{1/} in this proceeding authorized Apple Valley Ranchos Water Company (AV) to file interim rate schedules to increase its revenues by \$140,760 (37.8 percent). AV requested an overall rate increase of \$409,800 (119.5 percent) in 1979 and \$426,400 (119.6 percent) for 1980. AV's operations have been an adjunct to the developmental and sales activities of its parent, Reserve Oil & Gas (ROG), and its affiliate, Apple Valley Ranchos (Ranchos). AV's water rates were kept low,^{2/} by subsidies from ROG and/or Ranchos, as a land sales inducement. The total rate increase was designed to eliminate these subsidies and to secure rates of return on rate base of 10.06 percent in 1979 and 10 percent in 1980.

1/ The effective date of the Interim Order.
2/ The subject application is AV's first request for a general increase in rates since it commenced operations in 1947.

AV proposed an interim rate increase of \$215,000 (62.7 percent) for 1979 to cut its substantial out-of-pocket operating losses.

The staff interim rate proposal for an increase of \$140,760 was supported by AV and adopted in Decision No. 90435. These rates were designed to make AV whole by setting rates at a level sufficient to offset future out-of-pocket cash expenses properly chargeable to AV's utility operations. The staff adjusted AV's recorded purchased power and purchased gas expenses to reflect utility rates then in effect. The staff also eliminated depreciation expense, a noncash item, for the determination of an appropriate interim rate level. At the time of the hearing AV anticipated that the local fire protection district (FPD) would assume responsibility for installation, maintenance, and replacement of fire hydrants and would discontinue paying fire hydrant revenues. AV indicated its desire to recoup the net revenue loss of approximately \$17,000 due to the actions of FPD. However, it did not seek nor was it authorized to increase general service rates to offset this potential loss.

Finding 12 and the related Ordering Paragraph 4 of Decision No. 90435 state:

Finding 12

"12. It would be reasonable to require AV to take the following actions, which may require another amendment to its application and preparation of exhibits prior to setting further hearings on AV's request for further rate relief:

"(a) Prepare an exhibit on AV's agreements to serve areas to be developed in the future by Ranchos and/or ROG which identifies the areas to be served, the facilities required to serve, and the costs of the facilities needed to serve these areas, the obligations and/or commitments of Ranchos and/or ROG to complete the necessary facilities, and the appropriate ratemaking treatment for past and future extensions made on this basis.

"(b) Prepare a proposal to clarify the ownership, dedication to public use, and operational status of the wells used by AV.

"(c) Resolve discrepancies between customer and water use data and projected revenues.

"(d) Record rate base items pursuant to the Uniform System of Accounts for Water Utilities.

"(e) Classify revenues by separate subdivisions in accordance with the Uniform System of Accounts for Water Utilities.

"(f) Present a financing proposal(s) for AV.

"(g) Implement the staff accounting recommendations set forth in paragraph 24 of Exhibit 5."

Ordering Paragraph 4

"4. Further hearings on AV's request for additional rate relief shall be contingent on AV's compliance with Finding 12 herein within six months from the effective date of this order."

Conclusion 4 in Decision No. 90435 states:

"4. The additional revenues derived from the rates authorized herein should be subject to refund to the extent that the Commission authorizes operating revenues of less than \$512,760 for 1979 in the final order in this proceeding."

Mimeographed page 11 of that decision states, in part:

". . . We will authorize the interim rate relief subject to refund if the adopted 1979 level of rate relief authorized after further hearings in this proceeding is below \$512,760."

Staff Motion

The staff motion, filed February 13, 1980, states that AV made a commitment at the hearings to bring its books into conformity with the Commission's Uniform System of Accounts for Water Utilities within two months of the interim hearings, and that AV had not complied with Ordering Paragraph 4,^{3/} above, almost eight months after the issuance of the decision.

The staff argues that (a) AV was not acting in good faith in pursuing its application; (b) in its informal conversations with the staff, AV offered various inadequate excuses for its delay, including high level management changes in the parent company; (c) irrespective of the economic need for the interim relief, one basis for granting any interim relief is that a full and proper evaluation of the entire request will be made at the earliest possible time; (d) many customers at the hearings protested the rate increase request based upon their concerns over the management and operations of AV; and

3/ Those requirements go well beyond correcting AV books. ✓

(e) AV's promises to properly demonstrate financial need have not been honored. Therefore, the staff proposes that the interim rate relief authorized in Decision No. 90435 be rescinded and that all sums collected pursuant to that authorization for interim rate relief be refunded with interest to AV's customers. The staff contends that its proposal is based on the above-quoted Conclusion 4 and that the Commission should issue its order without hearing.

AV's Responses

AV states that it requested interim rates in its original and amended application and argues that the Commission did not limit its increase to an interim period because of a lack of financial records needed to fully evaluate AV's financial and rate structure, as alleged by staff, but that the Commission authorized interim rate relief, which was requested in AV's original and amended application, because AV was losing \$140,760 per year on a cash-flow basis and needed to be placed on a break-even footing as quickly as possible. AV contends that its losses were principally caused by inflation and that its books and records were in such condition that the Commission staff could readily determine AV's money losses.

The following tabulation attached to an AV response^{4/} shows continuing AV losses for nine months ending March 31, 1980, including cash operating losses.

Operating Revenue		\$339,845
Operating Deductions:		
Operating Expenses (Schedule 1)	\$373,166	
Depreciation	36,662	
Taxes	<u>7,084</u>	
Total Operating Deductions		<u>416,912</u>
Total Utility Operations Income (Loss)		(77,067)
Interest Revenue		20,569
Miscellaneous Nonoperating Expenses		(1,041)
Interest on Debt to Affiliate Company		<u>(32,867)</u>
NET INCOME (LOSS)		<u>\$ (90,406)</u>

^{4/} The interim rates were in effect for most of this period.

AV states that (a) it tried to comply with Decision No. 90435 on a timely basis, but additional time was needed to permit its accounting consultant, Arthur Andersen and Associates, to complete a comprehensive study and report; (b) this material would assist the staff in its review; (c) it has supplied most of the information required and would soon supply the balance of the required information to the Commission staff; and (d) if consideration is being given to granting the motion, AV requests a prior hearing on the motion, after the staff has had time to review AV's books and verify that AV has not been overcharging its ratepayers.

Discussion

If AV's explanation for the delay is justified, it has been remiss in not formally seeking an extension of time to comply with Decision No. 90435.^{5/} ✓

The staff has not evaluated the sufficiency of the material supplied by AV in compliance with Finding 12.

Staff counsel did not address the issue of whether AV's 1979 revenue requirement is below \$512,760. Decision No. 90435 provides that that determination be made after further hearings in this proceeding.

The staff motion is entitled "MOTION TO DETERMINE THE APPROPRIATENESS OF CURRENT INTERIM RATES". However, the motion does not address that issue, but requests the Commission to summarily rescind that increase and refund all monies collected pursuant to that increase, with interest, due to applicant's failure to file required information on a timely basis.

^{5/} On July 1, 1980 AV furnished the staff of the Commission's Utilities Division, Hydraulic Branch, with work papers in compliance with Finding 12 of D.90435. The staff has not evaluated the sufficiency of the information furnished.

Decision No. 90435 ties possible refunds to AV's 1979 revenue requirement. Since the staff motion does not address that issue, it should be denied.

The Commission has not yet evaluated why compliance on a timely basis was not possible and why a request for an extension of time was not filed. However, the tabulation above shows continuing cash losses from operations, after the granting of interim rate relief. At the time of hearing, AV's service was satisfactory. Continuance of satisfactory service may be jeopardized if AV's financial condition is exacerbated.

The Commission intends to evaluate the adequacy of AV's filing made pursuant to Ordering Paragraph 4 absent consideration of further rate increases.

AV's filing includes a new rate proposal for the years 1980 and 1981. It would not be productive to review the reasonableness of AV's 1979 interim increase and to resolve issues on future obligations of AV, ROG, and Ranchos, ownership of facilities, AV's financing, and on correcting its records in conformity with the Uniform System of Accounts for Water Utilities in one proceeding and to consider further rate relief in another proceeding.

AV may file an amended application within 30 days after the effective date of this order to permit testing and evaluation of its proposals before the Commission by the staff and by AV's customers. The filing should comply with Rule 23 of the Commission's Rules of Practice and Procedure and notice should be in compliance with Rule 24. The notices of filing should state that AV's 1979 interim rates will be further reviewed along with its amended rate proposals and that AV will mail another notice setting forth the date, time, and place of the adjourned hearing in this proceeding.

Findings of Fact

1. AV requested an overall rate increase of \$409,800 in 1979 and \$426,400 in 1980. AV requested an interim rate increase of \$215,000 to reduce its substantial out-of-pocket losses.

2. Decision No. 90435 dated June 19, 1979 authorized AV to file interim rate schedules to increase its future revenues by \$140,760 (37.8 percent) to meet out-of-pocket expenses, subject to refund if the adopted revenue requirement for 1979, authorized after further hearings in this proceeding, is below \$512,760.

3. Further hearings are required to make that determination.

4. As a prerequisite for further rate relief, AV was required to comply with Finding 12 of Decision No. 90435 within six months of the effective date (the date of signing) of the order. Work papers were furnished to our staff on July 1, 1980, which have not been fully evaluated.

5. The staff seeks an ex parte order rescinding the interim increase and calling for refund of monies collected pursuant to that increase, with interest, due to AV's failure to file the information required to comply with Finding 12 of Decision No. 90435 on a timely basis.

6. The staff motion does not address AV's 1979 revenue requirement. Decision No. 90435 ties possible refunds to the reasonableness of that revenue requirement.

7. AV should file an amended application within 30 days after the effective date of this order to secure consideration of further rate relief in this proceeding. ✓

Conclusions of Law

1. The staff motion should be denied because it does not address the basis provided for in Decision No. 90435 to determine whether refunds are appropriate.

2. Further hearings should be held to determine the reasonableness of the adopted 1979 level of rate relief authorized in Decision No. 90435 and to evaluate the adequacy of AV's belated compliance filing.

3. AV's proposal for further rate relief should not be considered in this proceeding, if AV does not file an amended application, as described in the Opinion, within 30 days of the effective date of this order. ✓

IT IS ORDERED that:

1. The staff motion is denied.

2. Apple Valley Ranchos Water Company's proposal for further rate relief shall not be considered in this proceeding if it does not file an amended application as described in the Opinion within thirty days of the effective date of this order.

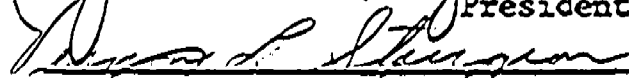
3. Further hearings shall be held to determine the reasonableness of the 1979 rates adopted in Decision No. 90435 and to evaluate the adequacy of Apple Valley Ranchos Water Company's belated compliance filing.

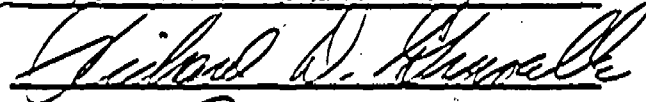
The effective date of this order shall be thirty days after the date hereof.

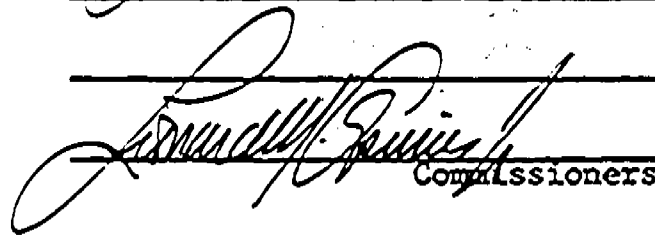
Dated OCT 3 1980 , at San Francisco, California.



President







Commissioners

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