



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CAL**

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In the Matter of the Application of Cypress Ridge Sewer Co. for a Certificate of Public Convenience and Necessity to Provide Sewer Utility Service to the Cypress Ridge Development in San Luis Obispo County, California.

Application No. 15-08-025

And Related Matter.

Application No. 15-12-015

**RESPONSE OF CHARLES M. BAKER, SUCCESSOR IN INTEREST TO RURAL WATER COMPANY, TO REPLY OF CYPRESS RIDGE OWNERS' ASSOCIATION ON THE ISSUE OF LAND OWNED BY CHARLES M. BAKER, SUCCESSOR IN INTEREST TO RURAL WATER COMPANY**

Pursuant to the May 16, 2017 email ruling of the assigned Administration Law Judge, Charles M. Baker, Successor in Interest to Rural Water Company (hereinafter, "Mr. Baker/Rural Water"), responds to the April 24, 2017 "Reply of Cypress Ridge Owners' Association to Response of Charles M. Baker, Successor in Interest to Rural Water Company, to Administrative Law Judge's April 6, 2017 Ruling Requesting Additional Information" ("CROA Reply").

The genesis of this current round of responses and replies is the Administrative Law Judge's Ruling, dated April 6, 2017, requesting additional information from Mr. Baker/Rural Water regarding any land owned by Mr. Baker, as Successor in Interest to Rural Water Company, in connection with the sewer utility operations in the Cypress Ridge development. On April 17, 2017, Mr. Baker, as Successor in Interest to Rural Water Company filed its response to the ALJ Ruling requesting additional information stating that no land was owned by Mr. Baker

in connection with the sewer operations and that all land on which any sewer facilities were located was subject to easements.

On April 24, 2017, the Cypress Ridge Owners' Association ("CROA") filed a reply to Mr. Baker's response to the ALJ ruling setting forth evidence that Mr. Baker did own a piece of property related to the sewer operations: to wit, a parcel of land on which the sewer treatment plant and the "shared building" (the original subject of A.15-12-005) are located.

Upon investigation of CROA's claims that there was and is real property owned by Mr. Baker/Rural Water, it was discovered that CROA is correct. The land upon which the sewer treatment facilities and the "shared building" are located was owned by Rural Water Company. That land is now owned by Mr. Baker who is holding it in trust for transfer to Cypress Ridge Sewer Co. ("Cypress Ridge Sewer") should it be granted a certificate of public convenience and necessity in A. 15-08-025. As Mr. Baker testified in the hearings in these proceedings:

"Rural [Water] was dissolved in December 2015 . . .

"Prior to the dissolution of Rural, Rural, Cypress Ridge Sewer and my wife Kathy and I, as trustees of the Baker Living Trust, entered into a distribution agreement. That agreement states the intent of the parties to distribute the Shared Building, which is the subject of Rural application in this proceeding, 'and any other sewer utility assets deemed to be owned by Rural,' to the trustees for the benefit of Cypress Ridge Sewer. The distribution agreement also provides that '[a]t such time as regulatory approval is obtained for transfer of the [Shared] Building and any other sewer utility assets deemed to be owned by Rural, the trustees . . . shall transfer the Building and any other sewer utility assets deemed to be owned by Rural to Cypress [Ridge Sewer].' So my wife and I, as trustees of the Baker Living Trust, are holding the Shared Building and any other sewer utility assets for the benefit of Cypress Ridge Sewer and, upon regulatory approval, will transfer those assets to Cypress Ridge Sewer. A Memorandum of Agreement was recorded in San Luis County on December 11, 2015."<sup>1</sup>

Mr. Baker/Rural Water was either unaware, or had simply forgotten that fee title to the property on which the sewer treatment plant and the shared building are located had been transferred from the developer of the Cypress Ridge development to Rural Water pursuant to

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<sup>1</sup> "Testimony of Charles M. Baker," Hearing Exhibit A-1, at 8.

D.02-06-025, which granted Rural Water a sewer CPCN. That decision made no reference to any specific land, but only ordered that the developer and Rural Water “shall arrange to transfer to Rural and record with the appropriate local authorities all necessary titles to real property and easements for Cypress Ridge sewer system.”<sup>2</sup> In the text of that decision, the Cypress Ridge sewer system was described as including:

“a state-of-the-art sequencing batch reactor system providing tertiary treatment . . . [that] will be contributed to whichever applicant the Commission finally certifies. The contributed plant includes all the necessary gathering facilities in the subdivision, the treatment plant, all pumps and the backup generation system.”<sup>3</sup>

Again, no specific reference to any land was made in the decision authorizing the transfer of sewer utility assets from the developer to Rural Water.

Extensive easements relating to the sewer utility assets were transferred from the developer to Rural Water, and it was Mr. Baker/Rural Water’s impression that all of the sewer utility assets were subject to easements and that no fee title to any real property had been transferred. As to the 2015 transfer of property from Rural Water to Mr. and Mrs. Baker as trustees – documented in the grant deed that was included in the CROA Reply as Exhibit E – Mr. Baker believed that such grant deed related to the shared building, not to the real property on which it sits.

After reviewing the CROA Reply suggesting that the property on which the sewer treatment plant and the shared building sit is owned, Mr. Baker caused his staff to review the property records of San Luis Obispo County regarding this real property. It was discovered that over the years, Rural Water had paid a minimal amount of property taxes on the property. Attached hereto as Attachment 1 is the 2016/2017 property tax bill for this property. The tax bill

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<sup>2</sup> D.02-06-025, Ordering Paragraph 3, *mimeo*, at 8.

<sup>3</sup> *Id.*, at 5.

shows no (*i.e.*, \$0.00) assessed value for land and improvements<sup>4</sup> and first and second installment payments of property tax of \$65.56 each. Similar tax bills for prior years showed the same \$0.00 assessed value for land and improvements and similar property tax amounts. Over the years, these property tax amounts were so small that they were simply paid by Rural Water staff without raising any red flags regarding the ownership status of the property.

As for the significance of this land ownership, there is no practical difference in this land being owned as opposed to it being subject to an easement. There is no assessed value for the land by San Luis Obispo County. Ordering Paragraph 4 of D.02-06-025 provided that “[a]ll plant contributed by the developer or its affiliates to provide sewer service to Cypress Ridge shall be excluded from Rural’s rate base for future ratemaking purposes.”<sup>5</sup> And finally, Mr. Baker/Rural Water’s rates for sewer service are based on rate of margin, not rate base. Thus, the fact that the land in question is owned, as opposed to being subject to easement, has no practical significance.

Going back to the original questions posed by the Administrative Law Judge’s Ruling, dated April 6, 2017, requesting additional information from Mr. Baker/Rural Water regarding any land owned by Mr. Baker, as Successor in Interest to Rural Water Company, Mr. Baker/Rural Water’s responses should be amended as follows:

Question 1: Specify what “land” is being transferred (presumably it is the land where the sewer assets are on but please specify).

Response to Question 1: Mr. Baker/Rural Water owns one piece of real property described as Lot 417, Tract 1933, in the County of San Luis Obispo, State of California according to the map recorded April 21, 2000 in Book 10 of Maps in the Office of the County

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<sup>4</sup> See, “Property Assessment for Fiscal Year 2016/2017” on the upper right side of the tax bill.

<sup>5</sup> D.02-06-025, Ordering Paragraph 4, *mimeo*, at 8.

Recorder of San Luis Obispo County. The 2.24 acre parcel is designated San Luis Obispo County Assessors' Parcel No. 74-400-015. The sewer treatment plant and the shared building sit on this parcel of property. The property is currently owned by Mr. and Mrs. Baker, Trustees of the Baker Living Trust, who are holding such property in trust and who will transfer it to Cypress Ridge Sewer Co. should it be granted a CPCN in A.15-08-025. All other property related to the sewer facilities for the Cypress Ridge development is subject to easements described in Exhibit 2 to Mr. Baker/Rural Water's October 18, 2016 response to the October 12, 2016 ALJ ruling requesting additional information in this proceeding.

Question 2: Provide if the land is owned or leased.

Response to Question 2: Other than the parcel of land described in the response to Question 1, above, which is owned, all other real property associated with the sewer facilities for the Cypress Ridge development is subject to easements described in Exhibit 2 to Mr. Baker/Rural Water's October 18, 2016 response to the October 12, 2016 ALJ ruling requesting additional information in this proceeding.

Question 3: If the land is owned, a value thereof must be included.

Response to Question 3: The parcel of property owned by Mr. Baker/Rural Water is assessed at \$0.00 for land and improvements by San Luis Obispo County. For ratemaking purposes, the land was contributed and thus is not includible in Mr. Baker/Rural Water's rate base. Mr. Baker/Rural Water will consult with the Division of Water & Audits to determine a nominal amount for the value of this property. Otherwise, Mr. Baker/Rural Water is satisfied with a \$0.00 value for the property.

Question 4: Explain why no value was attached to the land in the Cypress Ridge's annual reports.

Response to Question 4: As explained above, Mr. Baker/Rural Water was unaware or had forgotten that the property on which the sewer treatment plant and the shared building are located was owned in fee. Mr. Baker/Rural believed that the property was subject to an easement. Thus, no land was reported on Rural Water's and Cypress Ride Sewer's previous annual reports. As also explained above, the parcel of property owned by Mr. Baker/Rural Water is assessed at \$0.00 for land and improvements by San Luis Obispo County. For ratemaking purposes, the land was contributed and thus is not includible in Mr. Baker/Rural Water's rate base. Thus, even if Mr. Baker/Rural Water was aware of its ownership of this property, they would likely have reported \$0.00 value for land and improvements in the previous annual reports. Moreover, in D.02-06-025 there was no specific reference to any land being transferred and thus, no value attributable for any such land.

Dated: May 23, 2017

Respectfully submitted,

CHARLES M. BAKER, Successor in Interest to  
Rural Water Company

By /s/ Jose E. Guzman, Jr.

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