

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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August 2, 2012

Agenda ID #11503
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 11-08-019, INVESTIGATION 12-03-008

This is the proposed decision of Administrative Law Judge (ALJ) Seaneen M. Wilson, previously designated as the presiding officer in this proceeding. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Upon the request of any Commissioner, a Ratesetting Deliberative Meeting (RDM) may be held. If that occurs, the Commission will prepare and publish an agenda for the RDM 10 days beforehand. When the RDM is held, there is a related ex parte communications prohibition period. (See Rule 8.3(c)(4).)

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Wilson at smw@cpuc.ca.gov and assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ MARYAM EBKE for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:rs6
Attachment

Decision **PROPOSED DECISION OF ALJ WILSON** (Mailed 8/2/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Golden Hills Sanitation Company (U438SWR) for Authority to Increase Rates Charged for Sewer Service by \$148,076 or 120% in January 2012, \$148,076 or 54% in January 2013, and \$148,076 or 35% in January 2014.

Application 11-08-019
(Filed August 26, 2011)

And Related Matter.

Investigation 12-03-008

(Appearances listed in Attachment C)

DECISION AFFIRMING RULINGS ON INTERIM RATES AND APPOINTMENT OF A RECEIVER, AND ADOPTING FINAL RATES

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**DECISION AFFIRMING RULINGS ON INTERIM RATES
AND APPOINTMENT OF A RECEIVER, AND ADOPTING FINAL RATES**

1. Summary

This decision affirms the assigned Administrative Law Judge's ruling dated December 19, 2011, which authorized interim rates totaling \$62,099 for the year 2012. This decision also affirms Commissioner Michel Peter Florio's Assigned Commissioner's Ruling dated March 16, 2012, which directed the Commission's Legal Division, pursuant to Public Utilities Code Section 855, to immediately petition the Kern County Superior Court to appoint a receiver to take possession of and operate Golden Hills Sanitation Company. This decision affirms as final the interim rates authorized by the assigned Administrative Law Judge Ruling issued on December 19, 2011. This decision also deals with various motions filed in the consolidated application and investigation.

This decision closes Application 11-08-019. Outstanding issues regarding petitions to modify and an application for rehearing of Decision 12-03-025 are not addressed in this decision. Therefore, Investigation 12-03-008 remains open in order to address these filings.

2. Background

2.1. Application (A.) 11-08-019

By Decision (D.) 10-05-025, the Commission granted Golden Hills Sanitation Company (GHSC) a certificate of public convenience and necessity (CPCN) to provide sewer service to the Golden Hills Community located in Tehachapi, Kern County, California. GHSC is a regulated Class D sewer system that provides sewer service to 168 customers and 87 inactive service connection commitments, totaling 255 revenue producing connections. Under D.10-05-025, GHSC is also required to establish and maintain tariff schedules, maintain

Commission-compliant accounts for sewer service, and file an annual report to the Commission.

On August 26, 2011, GHSC filed A.11-08-019, to raise its tariff rates by \$148,076 or 120% in January 2012; \$148,076 or 54% in January 2013; and \$148,076 or 35% in January 2014. As discussed in detail in Section 3 below, GHSC requested interim rate relief in November 2011, and the request was granted in December 2011.

2.2. Investigation (I.) 12-03-008

On February 21, 2012, GHSC sent a notice to its customers (Notice) stating that it would initiate “closure and cessation of sewer service effective February 29, 2012.” This Notice was given without any prior Commission authorization.

On February 22, 2012, Commissioner Michel Peter Florio, the assigned Commissioner to A.11-08-019, issued an Assigned Commissioner’s Ruling (ACR) via e-mail, imposing a temporary restraining order (TRO) against named Respondents. The TRO required GHSC to continue sewer service until a court-appointed receiver has taken over possession and operation of GHSC.

On March 8, 2012, the Commission issued an Order Instituting Investigation and Order to Show Cause (OII/OSC, I.12-03-008) pursuant to Public Utilities (Pub. Util.) Code Section 855. The OII/OSC affirmed Commissioner Florio’s February 22, 2012 ACR regarding a TRO and pursuit of a court-appointed receiver. The Commission also consolidated the OII/OSC with A.11-08-019. The history and sequence of events that prompted the OII/OSC are set forth in the Commission’s Division of Water and Audits (DWA) Report (attached to the OII/OSC) regarding events that transpired prior to and during the pendency of GHSC’s A.11-08-019.

On March 12, 2012, Commissioner Florio issued another ACR via electronic mail in which he ordered the Commission's Legal Division to immediately petition the Kern County Superior Court to appoint a receiver. Commissioner Florio affirmed this electronic mail ACR in a formal ACR issued March 16, 2012. We affirm the March 12 and 16, 2012 ACRs herein.

Evidentiary hearings were held on March 15, 2012 in San Francisco. The receivership issue as well as a verbal motion by Adrian Maaskant (Maaskant) during the March 15, 2012, evidentiary hearing are addressed in Sections 4 and 5 below.

GHSC, BB&T Wealth Management in its capacity as the Executor of the Estate of Carlie W. Smith (BB&T), and Linda Maycock (Maycock) in her capacity as the surviving Executor of the Estate of Lillian W. Smith,¹ filed a petition for modification of D.12-03-025, in which they requested that the Estates as well as Riley C. Walter (Walter)² be removed as respondents to Investigation 12-03-008. GHSC, BB&T, Maycock, and Walter subsequently filed an application for rehearing of D.12-03-025 regarding the same issues. On May 25, 2012, DWA filed a petition for modification of D.12-03-025 as well, requesting that the California Probate Estate of Carlie W. Smith be added as a respondent to I.12-03-008, and that Conclusion of Law 1 and Ordering Paragraph (OP) 1 of D.12-03-025 be changed, to require that the owners of GHSC continue to pay for and provide sewer service to GHSC customers until another owner is substituted for them as approved by the Kern County Superior Court and the Commission.

¹ The Estates of Carlie W. Smith and Lillian W. Smith are referred to jointly as "Estates."

² Insolvency counsel for GHSC.

This decision leaves I.12-03-008 open in order to address these petitions to modify and application for rehearing of D.12-03-025.

2.3. Consolidated Proceedings

On May 7, 2012, Commissioner Florio issued an ACR Amending Scoping Memo (Amended Scoping Memo), in which he changed the categorization of I.12-03-008 from adjudicatory to ratesetting, so that both the ratesetting and investigatory matters could be addressed in a single proposed decision. Pursuant to Rule 7.1 of the Commissions Rules of Practice and Procedure,³ we affirmed the Amended Scoping Memo in Resolution ALJ-280 on June 7, 2012.

In addition to GHSC, parties to the consolidated A.11-08-019 and I.12-03-008 include Maaskant,⁴ David Stegall (Stegall),⁵ Barbara Miller (Miller),⁶ Clint Hilderbrand for Aqua Operations, the DWA, and Sara Steck Myers for GHSC.

Numerous motions other than those specifically referenced herein were filed and formally ruled on by the assigned Administrative Law Judge (ALJ) and the assigned Commissioner during the pendency of these proceedings. We affirm all of these rulings herein (listed in Attachment B to this decision). The balance of motions received as of the evidentiary hearing date in these

³ Unless otherwise stated, all references to Rule are to the Commission's Rules of Practice and Procedure.

⁴ Maaskant represents himself and a group of customers but is not a customer himself.

⁵ Stegall is a customer representing himself.

⁶ Miller is a customer representing herself and a group of customers (different from that of Maaskant).

proceedings are individually affirmed or ruled on herein. All outstanding motions not specifically addressed in this decision are denied with prejudice.

On July 3, 2012 these consolidated proceedings were submitted.

3. Affirming Ruling on Interim Rate as Final

On November 22, 2011, GHSC filed a motion requesting expedited interim rate relief. Responses to GHSC's motion were filed by Miller on November 30, 2011, and by Stegall on December 5, 2011. A reply to the responses was filed by GHSC on December 15, 2011. In their responses to the motion, Miller stated that already struggling customers would be unable to afford the increase, while Stegall stated that an increase in rates would not be in the public interest.

In her ruling, the assigned ALJ found that GHSC had complied with the procedural requirements, pursuant to Pub. Util. Code § 455.2 and Resolution W-4540, in particular that GHSC is allowed to request interim rates, and that its request be made during the pendency of a general rate case in which a final decision will not be issued until after the first day of its first test year, which in the current proceeding is January 1, 2012.

Even though GHSC's motion met the procedural requirements, the assigned ALJ found that GHSC's request had exceeded what is reasonable to provide utility service. DWA prepared an independent confidential cash flow analysis to determine a reasonable level of interim rates. DWA's cash flow analysis considered only the most essential expenses that GHSC would need to pay over the test year 2012, resulting in a need of \$62,099 compared to GHSC's interim rate request of \$177,878 for test year 2012.

On December 19, 2011, the assigned ALJ issued a formal ruling affirming her December 16, 2011 ruling via electronic mail, in which she granted interim rates of \$62,099 to GHSC, and required GHSC to request authorization to

establish a memorandum account to track the difference between the interim rates and the final rates adopted by the Commission in A.11-08-019. In granting an increase of \$62,099, the assigned ALJ balanced the interests of the ratepayers by reducing the rate shock from the interim rate increase, and the need for GHSC to pay its most essential bills. The current tariff on file and adopted by us (Sheet 91-SS, dated January 24, 2012), reflects this increase in rates.

On February 17, 2012, Maaskant filed a motion in which he requested that: 1) interim rates be rescinded; 2) all revenue collected from GHSC customers under Advice Letter 3-A be refunded; 3) that customers be informed that the interim rate increase is no longer authorized; and 4) that this motion be granted upon the issuance of either a stay or dismissal of A.11-08-019. Both Maaskant's February 17, 2012 motion and Stegall's and Miller's comments on GHSC's February 16, 2012 motion to stay (addressed in Section 5.1 below) address the rescission and refunding of interim rates. We resolve these requests concurrently with our resolution of interim rates. In support of his request, Maaskant states that if A.11-08-019 is stayed, it places GHSC customers in financial jeopardy by delaying a decision in A.11-08-019. Maaskant also states that the interim rate increase must be refunded since the authority to collect interim rates is stayed or dismissed along with the application. Miller states that GHSC has not proven that its requested rate increase is just, reasonable, or fair, and since parties have not had the opportunity to rebut GHSC's request, it would jeopardize the integrity of the legal process.

3.1. Discussion

In determining final rates in A.11-08-019, the Commission relies on the record of that application, including DWA's analysis, in which DWA determined that a reasonable level of interim rates was \$62,099 compared to GHSC's request

of \$177,878. The Commission has reviewed DWA's analysis from December 2011 and finds that \$62,099 continues to be a reasonable level of rates that balances the interests of ratepayers by reducing rate shock and providing sufficient funds to continue to pay the utility's most basic bills. The Commission therefore authorizes the interim rates granted in the assigned ALJ ruling dated December 19, 2011 as final rates in A.11-08-019. As the current tariff sheet (Sheet 91-SS) reflects this \$62,099 increase in rates, no revisions to this tariff sheet are necessary to recognize that these rates are now final.

With regards to Maaskant's motion and Miller and Stegall's similar concerns, we agree with the assigned ALJ, who found in her December 16 and 19, 2011 rulings that an interim rate increase of \$62,099 balances the interests of the ratepayers with the need for GHSC to pay its most essential bills. Both Stegall and Miller, as parties in A.11-08-019, had the opportunity to and did comment on GHSC's request for interim rates. Those customers therefore had an opportunity to and did rebut that request pursuant to Commission process. This rebuttal fails to show that rate relief, to the extent granted, is not needed. We therefore deny with prejudice Maaskant's motion and Stegall's and Miller's proposals, to rescind and refund the authorized interim rates.

4. Affirming Assigned Commissioner's Ruling on Appointment of a Receiver for GHSC

Pub. Util. Code § 855 requires the Commission to provide notice and hearing before its Legal Division may petition the Superior Court where the utility operates, to appoint a receiver; and to determine whether a utility is "unable or unwilling to adequately serve its ratepayers or has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of

the commission.”⁷ In the current case, such notice has been provided with the issuance of the OII/OSC. This investigation was opened to determine whether the Commission should require its Legal Division to petition the Kern County Superior Court to appoint a receiver for GHSC.⁸ We rely on the record in A.11-08-019 and I.12-03-008, including the evidentiary hearings held on March 15, 2012, to determine whether the Commission should require its Legal Division to petition the Kern County Superior Court to appoint a receiver.

In its Notice to customers dated February 21, 2012, GHSC stated that it would no longer provide sewer service to its customers due to insufficient revenue and inability to transfer the sewer system to another public or private entity to provide sewer service. Even though GHSC continued to operate the sewer system, it stated that it was not able to pay for these vital health and safety services and would cease operations on February 29, 2012.

On March 6, 2012, the County Counsel for Kern County (County Counsel) sent a letter to Commissioner Florio in support of passage of the OII/OSC. The County Counsel stated that the Commission’s petitioning for appointment of a receiver is important to maintain health, safety, and reliable sewer service to the community of Golden Hills.

All parties that commented on the proposed OII/OSC, including GHSC, Maaskant, and Stegall, stipulated that a receiver should be appointed to operate

⁷ Also see I.12-03-008 at OP 2.

⁸ See OPs 3 and 6 of I.12-03-008.

GHSC. During the March 15, 2012 hearing, Oge Enyinwa testified that DWA supported the appointment of a receiver.⁹

4.1. Discussion

Pursuant to Pub. Util. Code § 855, we find that GHSC, based on the Notice to its customers that it would no longer provide sewer service, has effectively abandoned the GHSC sewer system. Given what it considers insufficient funds to operate, GHSC is unwilling to continue to provide sewer service to its customers.

Given the urgent need for action in order to ensure continued sewer service to the customers of GHSC, in particular the desire for the appointment of a receiver, GHSC's stipulation to the appointment of a receiver, agreement by a majority of the parties as well as DWA and the County Counsel that a receiver should be appointed, and pursuant to Pub. Util. Code § 855, our order today affirms the March 16, 2012 ACR which directed the Commission's Legal Division, in coordination with DWA, to immediately start proceedings in the Kern County Superior Court for appointment of a receiver to take possession of and operate GHSC. By so doing, we ensure that GHSC customers continue to receive safe and reliable sewer service. Pursuant to a March 29, 2012 decision by the Kern County Superior Court in Case S-1500-MS-375, a receiver has been appointed to take possession of and operate GHSC.

⁹ On February 27, 2012, Maaskant filed a motion requesting that the Commission petition the Kern County Superior Court to appoint a receiver and assume possession of GHSC's facilities and that the Commission explore the responsibilities and liabilities of the Estates of Carlie Smith and Lillian Smith toward GHSC and its customers. Maaskant's request to petition the Kern County Superior Court to appoint a receiver is granted through the issuance of this decision.

The appointment of a receiver does not relieve GHSC of its public utility obligations and responsibilities granted under the CPCN. Therefore, GHSC retains its public utility obligations and responsibilities until such time as we officially relieve it of such. To date, GHSC has not requested that we relieve them of such responsibility; it has only agreed to the appointment of a receiver.

We deny with prejudice¹⁰ Maaskant's request to explore the responsibilities and liabilities of the Estates of Carlie and Lillian Smith because this issue is outside the scope of the consolidated proceedings.

4.2. Responsibilities of a Receiver

A receiver operates and manages the utility to which he/she has been appointed. Since a receiver cannot operate indefinitely, he/she may also sell the utility to a new owner that is able to provide utility service.

The receiver remains in his/her position until either a public or private entity purchases and takes possession of GHSC. Pursuant to Pub. Util. Code § 855, the Kern County Superior Court "shall provide for disposition of the facilities and system in like manner as any other receivership proceeding in this state." We find that it is in the best interests of the customers of GHSC and pursuant to the Public Utilities Code, that GHSC is sold by the receiver to someone or some entity that will provide service. Therefore, the receiver must dispose of GHSC, pursuant to both Commission and Kern County Superior Court requirements. Once such transaction is complete, we will relieve GHSC of its responsibility to provide service.

¹⁰ "Denying with prejudice" means that whatever has been requested and denied, will not be considered in another request.

5. Outstanding Motions

5.1. Should A.11-08-019 be Stayed or Closed?

On February 16, 2012, GHSC filed a motion to stay its A.11-08-019, claiming insufficient funds and personnel to pursue A.11-08-019.

In particular, GHSC stated that since it had insufficient funds and personnel to participate in A.11-08-019, it was unable to proceed with its request at this time, and that it would inform the Commission if circumstances changed and it was able to resume participation in A.11-08-019. After receipt of this motion, the assigned ALJ requested that parties comment on dismissing this application without prejudice as an alternative to staying the current application. Comments were filed by Maaskant, Stegall, Miller, and GHSC.

Maaskant is in favor of dismissal of the application instead of a stay. Maaskant believes that a stay would burden the customers of GHSC and the Golden Hills community with uncertainty regarding future sewer rates, possible expansion of GHSC's service territory, and resolution of this application, while dismissal of the instant application would remove such lack of predictability.

Stegall concurs with all of Maaskant's comments regarding support of dismissal over stay, citing issues such as compromise of the area's real estate market and customer's emotional strain because of the proposed rate increases requested in the application. Stegall adds that authority for interim rates should be rescinded and such rates already collected should be refunded.

Miller is also in favor of dismissal over stay, and requests that interim rates be rescinded. In particular, Miller states that the current application does not adequately address several significant issues, such as possible litigation cost, indebtedness, and a possible fine, resulting in what she believes is a flawed and inadequate request.

GHSC did not seek dismissal, but instead requested a stay of the current proceeding. In particular, GHSC is concerned that, should service continue, dismissal of its application could jeopardize rate relief and possibly result in a reduction to what it considers inadequate rates to sustain service.

5.1.1. Discussion

If we stayed the current application, any decision we ultimately made would be limited by the stale financial and operating data provided by someone other than the current representative (receiver) of GHSC.

By closing instead of staying or dismissing the current application we are able to grant the application to the extent of the rate relief approved in today's decision (Adoption of interim rates as final), while in all other respects denying the application. Closure provides the receiver of the utility, parties and the Commission with the ability to consider more up-to-date information in the future if the receiver wishes to file a new application. Also, the receiver may develop its own request for rate changes instead of relying on the information provided in A.11-08-019. Sufficient time has passed since the current application was filed that everyone involved, including GHSC, Commission staff, and interested parties, would benefit from consideration of more current financial and operating data in determining a proposed rate change. We therefore deny with prejudice GHSC's motion to stay A.11-08-019; and instead close A.11-08-019, providing the receiver with the opportunity to file a new application in the future if they so choose.

5.2. Should the Scope of A.11-08-019 be Modified?

On February 2, 2012 (amended on February 8, 2012) Maaskant filed a motion requesting reconsideration of the Scoping Memo in A.11-08-019. In particular, Maaskant requested that the scope of A.11-08-019 be modified to

include: 1) consideration, argument and discussion of compliance with the California Environmental Quality Act (CEQA); and 2) discussion, reference to, and argument supported by the proceedings of A.08-08-011. As A.11-08-019 is dismissed herein, Maaskant's motion to modify the scope of A.11-08-019 is moot and is therefore dismissed with prejudice.

5.3. Motion at Evidentiary Hearings of March 15, 2012

At the hearings held on March 15, 2012 in I.12-03-008, Maaskant verbally made a motion, in which he requested that, in its petition to the Kern County Superior Court, the Commission ask that: all customers and parties be kept informed of the Kern County Superior Court proceeding; all parties to A.11-08-019 continue in such role in the Kern County Superior Court proceeding; records in Commission proceedings A.11-08-019 and A.08-08-011 be considered in the Kern County Superior Court proceeding; selected studies be considered in the Kern County Superior Court; effluent disposition be considered; who creditors are; and where the Kern County Superior Court hearings should be held.

5.3.1. Discussion

I.12-03-008 was opened only to determine whether a petition should be made to the Kern County Superior Court to appoint a receiver - not to determine what information the petition from the Commission's Legal Division should contain and not to initiate a broad investigation into the operations of GHSC. It is the responsibility of the Kern County Superior Court to determine who will participate in its proceeding, what evidence and studies will be considered, who should or should not be considered a creditor, and where the hearings will be held. Therefore, we deny with prejudice Maaskant's motion of March 15, 2012.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

7. Procedural Matters

Michel Peter Florio is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ to these consolidated proceedings.

In Resolution ALJ-3280 dated September 8, 2011 the Commission preliminarily categorized this application as ratesetting and that hearings were necessary. In opening the investigation and consolidating it with the application (*see* D.12-03-025), the Commission retained the ratesetting category for the application but categorized the investigation as adjudicatory and determined that hearings were necessary. By ruling dated May 7, 2012, Commissioner Florio revised the category of I.12-03-008 to ratesetting.

We affirm the ratesetting category for both the application and the investigation, and we also affirm the determination that a hearing was necessary in the investigation. However, we were able to resolve the application without a hearing. We modify our preliminary determination and now determine that no hearing is necessary in the application.

Findings of Fact

1. GHSC is a regulated sewer utility serving the Golden Hills Community located in Tehachapi, Kern County, California. GHSC provides sewer service to 168 customers and 87 inactive service connection commitments, totaling 255 connections.

2. In D.10-05-025, the Commission granted GHSC a CPCN to provide sewer service to the Golden Hills Community.

3. On August 26, 2011, GHSC filed A.11-08-019, in which it requested a rate increase of 120% in 2012, 54% in 2013, and 35% in 2014.

4. On November 22, 2011, GHSC filed a motion for expedited interim rate relief.

5. Responses to GHSC's November 22, 2011 motion were filed by Miller on November 30, 2011, and by Stegall on December 5, 2011. A reply to the responses was filed by GHSC on December 15, 2011.

6. In their responses to the November 22, 2011 motion, Miller stated that already struggling customers would be unable to afford the increase, while Stegall stated that an increase in rates would not be in the public interest.

7. The DWA prepared an independent confidential cash flow analysis to determine a reasonable and appropriate level of interim rates. DWA's cash flow analysis considered only the most essential expenses that GHSC would need to pay over the test year 2012, resulting in a need for \$62,099 compared to GHSC's interim rate request of \$177,878 for test year 2012.

8. On December 19, 2011, the assigned ALJ issued a formal ruling affirming her December 16, 2011 electronic mail ruling, in which she granted GHSC interim rates, and required GHSC to request authorization to establish a memorandum account to track the difference between the interim rates and the final rates adopted by the Commission in A.11-08-019. In granting an increase of \$62,099, the assigned ALJ balanced the interests of the ratepayers by reducing the rate shock felt because of the interim rate increase, and the need for GHSC to pay its most essential bills. We affirm this ruling herein.

9. The current tariff on file and adopted by us (Sheet 91-SS), dated January 24, 2012, reflects the authorized rate increase of \$62,099.

10. On February 2, 2012 (amended on February 8, 2012), Maaskant requested that the scope of the proceeding be modified to include discussion of CEQA and A.08-08-011.

11. On February 16, 2012, GHSC filed a motion to stay A.11-08-019. In particular, GHSC stated that since it has insufficient funds and personnel to participate in the current proceeding, it is unable to proceed with its request at this time.

12. On February 17, 2012, Maaskant filed a motion requesting rescission and refunding of interim rates.

13. In their comments to GHSC's February 16, 2012 motion, Stegall and Miller made similar proposals regarding the rescission and refunding of interim rates as that requested by Maaskant in his February 17, 2012 motion.

14. On February 21, 2012, GHSC sent a Notice to its customers stating that it would initiate "closure and cessation of sewer service effective February 29, 2012" without any prior Commission authorization to cease operations. GHSC's Notice also stated that it would no longer provide sewer service to its customers due to insufficient revenue and inability to transfer the sewer system to another public or private entity to provide sewer service.

15. GHSC has effectively abandoned the GHSC sewer system.

16. GHSC is unwilling to continue to provide sewer service to its customers.

17. On February 22, 2012, Commissioner Michel Peter Florio, the assigned Commissioner to A.11-08-019, issued an ACR, in which he issued a TRO against the Respondents ordering them to continue sewer service until the Commission

could have a court-appointed receiver take possession and operate GHSC. This ACR was affirmed in I.12-03-008.

18. Pursuant to the TRO issued on February 22, 2012, GHSC continues to operate the sewer system.

19. On February 27, 2012, Maaskant filed a motion, requesting that the Commission petition the Kern County Superior Court to appoint a receiver to assume possession of GHSC.

20. On March 6, 2012, the County Counsel for Kern County sent a letter to Commissioner Florio, stating that the Commission's petitioning for appointment of a receiver is important to maintain health, safety, and reliable sewer service to the community of Golden Hills.

21. Pub. Util. Code § 855 provides that the Commission may petition the Superior Court for appointment of a receiver to operate a water system when the Commission determines, after notice and hearing, that the water system corporation is unable or unwilling to adequately serve its ratepayers.

22. Pursuant to Pub. Util. Code § 855, we find that GHSC, based on the Notice to its customers that it would no longer provide sewer service, GHSC has effectively abandoned the GHSC sewer system. Given what it considers insufficient funds to operate, GHSC is also unwilling to continue to provide sewer service to its customers.

23. GHSC is not able to continue operation of the sewer system that provides vital health and safety services indefinitely.

24. Parties including GHSC, Maaskant, and Stegall are in favor of appointing a receiver to operate GHSC.

25. On March 8, 2012, we issued this OII/OSC to determine whether the Commission should not begin proceedings for appointment of a receiver to operate GHSC.

26. On March 12, 2012, the assigned Commissioner issued an ACR via electronic mail, in which he ordered the Commission's Legal Division to immediately petition the Kern County Superior Court to appoint a receiver.

27. On March 16, 2012, the assigned Commissioner issued a formal ACR affirming his ACR issued electronically on March 12, 2012.

28. At the hearings held on March 15, 2012, Maaskant verbally made a motion, requesting that, in its petition to the Kern County Superior Court, the Commission ask that: all customers and parties be kept informed of the Kern County Superior Court proceeding; all parties to A.11-08-019 continue in such role in the Kern County Superior Court proceeding; records in Commission proceedings A.11-08-019 and A.08-08-011 be considered in the Kern County Superior Court proceeding; selected studies be considered in the Kern County Superior Court; effluent disposition be considered; who creditors are; and where the Kern County Superior Court hearings should be held.

29. On May 7, 2012, the assigned Commissioner issued an ACR Amending Scoping Memo (Amended Scoping Memo), in which he changed the categorization of I.12-03-008 from adjudicatory to ratesetting, so that both the ratesetting and investigatory matters can be addressed in a single proposed decision. Pursuant to Rule 7.1 of the Commissions Rules of Practice and Procedure, we affirmed the Amended Scoping Memo in Resolution ALJ-280 on June 7, 2012.

30. On April 6, 2012, GHSC, BB&T in its capacity as the Executor of the Estate of Carlie W. Smith, and Maycock, in her capacity as the surviving Executor of the

Estate of Lillian W. Smith, filed a petition for modification of D.12-03-025 issued in this consolidated proceeding on March 8, 2012, in which they requested that the Estates as well as Walter be removed as respondents to I.12-03-008.

31. On April 12, GHSC, BB&T, Maycock, and Walter, filed an application for rehearing of D.12-03-025, in which they requested that the Estates as well as Walter be removed as respondents to I.12-03-008.

32. On April 16 and 18, 2012, respectively, Maaskant responded to the petition to modify and the application for rehearing of D.12-03-025, stating that the list of respondents should remain intact. In its April 27, 2012 response to the application for rehearing, DWA stated that the list of respondents should remain intact.

33. On May 25, 2012, DRA filed a Petition for Modification of D.12-03-025, requesting that the California Probate Estate of Carlie W. Smith (California Probate Estate) be added as a respondent to I.12-03-008, and that COL 1 and OP 1 in D.12-03-025 be changed, to require that the owners of GHSC continue to pay for and provide sewer service to GHSC customers until another owner is substituted for them as approved by the Kern County Superior Court and the Commission.

34. Numerous motions other than those specifically referenced herein were filed and formally ruled on by the assigned ALJ or the assigned Commissioner during the pendency of this proceeding. A list of these formal rulings is attached to this decision as Attachment B.

35. Pursuant to a March 29, 2012 decision by the Kern County Superior Court in Case S-1500-MS-375, a receiver has been appointed to take possession of and operate GHSC.

36. When a receiver is appointed, he/she operates and manages a utility, and may also sell the utility to a new owner that is able to provide utility service. The receiver remains in his/her position until either a public or private entity purchases and takes possession of GHSC.

37. The appointment of a receiver does not relieve GHSC of its public utility obligations and responsibilities granted under the CPCN.

38. GHSC retains its public utility obligations and responsibilities until such time as we officially relieve it of such responsibility; it has only agreed to the appointment of a receiver.

39. Pursuant to Pub. Util. Code § 855, the Kern County Superior Court “shall provide for disposition of the facilities and system in like manner as any other receivership proceeding in this state.”

Conclusions of Law

1. GHSC is no longer able to serve its ratepayers, which has a potential adverse effect on public health.

2. Due to the public health concerns, today’s order should be made effective immediately.

3. In determining final rates in A.11-08-019, the Commission relies on the record of that application, as well as on DWA’s analysis discussed in Section 2 of this decision, in which DWA determined that a reasonable and appropriate level of interim rates was \$62,099 compared to GHSC’s request of \$177,878. The Commission has reviewed DWA’s analysis from December 2011 as well as the record in A.11-08-019, and finds that \$62,099 continues to be a reasonable level of rates that balances the interests of ratepayers by reducing rate shock and providing GHSC with sufficient funds to continue to pay its most basic bills.

4. The Commission has reviewed DWA's analysis from December 2011 as well as the record in A.11-08-019 and finds that \$62,099 continues to be a reasonable level of rates that balances the interests of ratepayers by reducing rate shock and providing GHSC with sufficient funds to continue to pay its most basic bills. The Commission should therefore authorize the interim rates granted in the assigned ALJ ruling dated December 19, 2011 as final rates in A.11-08-019.

5. We should affirm the assigned ALJ ruling of December 19, 2011, which affirmed the assigned ALJ ruling issued via electronic mail on December 16, 2011, in which the assigned ALJ granted GHSC interim rate relief of \$62,099.

6. We should authorize the interim rates granted in the assigned ALJ's ruling dated December 19, 2011 as final rates in A.11-08-019.

7. A.11-08-019 should be granted to the extent of the rate relief approved in today's decision (interim rate relief authorized as final rates), and in all other respects A.11-08-019 should be denied.

8. As the current tariff sheet (Sheet 91-SS) reflects this \$62,099 increase in rates, no revisions to this tariff sheet are necessary to recognize that these rates are now final.

9. We should affirm the March 16, 2012 ACR which directed the Commission's Legal Division, in coordination with DWA, to immediately start proceedings in the Kern County Superior Court for appointment of a receiver to take possession of and operate GHSC.

10. The receiver should dispose of GHSC, pursuant to both Commission and Kern County Superior Court requirements. Until such time as GHSC is sold and the transaction is complete, GHSC retains its public utility obligations and responsibilities granted under the CPCN. Once such transaction is complete, we will relieve GHSC of its responsibility to provide service.

11. As A.11-08-019 is closed herein, Maaskant's February 2, 2012 motion (amended on February 8, 2012) to modify the scope of A.11-08-019 is moot and should be dismissed with prejudice.

12. We should deny with prejudice GHSC's motion of February 16, 2012 to stay A.11-08-019. If we stayed the current application, any decision we ultimately made would be limited by the stale financial and operating data provided by someone other than the current representative (receiver) of GHSC.

13. We should resolve Stegall's and Miller's proposal regarding the rescission and refund of interim rates (made in comments to GHSC's February 16, 2012 motion to stay) with our resolution of Maaskant's motion of February 17, 2012, which also addressed the rescission and refund of interim rates.

14. We should deny with prejudice Maaskant's motion of February 17, 2012 and Stegall's and Miller's similar proposals (made in comments to GHSC's February 16, 2012 motion to stay) regarding the rescission and refund of interim rates.

15. Maaskant's February 27, 2012 motion to petition the Kern County Superior Court to appoint a receiver should be granted through the issuance of this decision.

16. We should deny with prejudice Maaskant's request to explore the responsibilities and liabilities of the Estates of Carlie and Lillian Smith because this issue is outside the scope of the consolidated proceedings.

17. We should deny with prejudice Maaskant's verbal motion made at the March 15, 2012 evidentiary hearing.

18. Numerous motions other than those specifically referenced herein that were filed and formally ruled on by the assigned ALJ and the assigned

Commissioner during the pendency of these proceedings. We should affirm all of these rulings (listed in Attachment B to this decision) herein.

19. All outstanding motions that are not addressed in this decision should be denied with prejudice.

20. I.12-03-008 should be closed for purposes of Pub. Util. Code § 1701.5. The pending Application for Rehearing and Petitions for Modification of D.12-03-025 should be separately addressed respectively by future Commission action.

21. By closing instead of staying or dismissing the current application, we are able to grant the application to the extent of the rate relief approved in today's decision (adoption of interim rates as final), while in all other respects denying the application. Closure provides receiver, parties, and the Commission with the ability to consider more up-to-date information in the future if the receiver wishes to file a new application. Also the receiver may develop its own request for rate changes instead of relying on the information provided in A.11-08-019. Sufficient time has passed since the current application was filed that everyone involved, including the receiver, GHSC, Commission staff, and interested parties, would benefit from consideration of more current financial and operating data in determining a proposed rate change.

O R D E R

IT IS ORDERED that:

1. We affirm the assigned Administrative Law Judge's ruling of December 19, 2011, which granted Golden Hills Sanitation Company interim rate relief of \$62,099 for the year 2012.

2. We authorize the interim rates granted in the assigned Administrative Law Judge ruling dated December 19, 2011 as final rates in Application 11-08-019.

3. Application 11-08-019 is granted to the extent of the rate relief approved in today's decision (interim rate relief authorized as final rates), and in all other respects Application 11-08-019 is denied.

4. We affirm Commissioner Michel Peter Florio's Assigned Commissioner's Rulings dated March 12 and 16, 2012, which ordered the Commission's Legal Division, pursuant to Public Utilities Code Section 855, to immediately petition the Kern County Superior Court to appoint a receiver to take possession of and operate Golden Hills Sanitation Company.

5. The receiver must dispose of Golden Hills Sanitation Company pursuant to both the California Public Utilities Commission and Kern County Superior Court requirements. Until such time as Golden Hills Sanitation Company is sold and the transaction is complete, the Golden Hills Sanitation Company retains its public utility obligations and responsibilities granted under the Certificate of Public Convenience and Necessity. Once such transaction is complete, we will relieve Golden Hills Sanitation Company of its responsibility to provide service.

6. We deny with prejudice Adrian Maaskant's motion of February 2, 2012 (amended on February 8, 2012), which requested modification of the scope of Application 11-08-019.

7. We deny with prejudice Golden Hills Sanitation Company's motion of February 16, 2012 to stay Application 11-08-019.

8. We resolve David Stegall's and Barbara Miller's proposal regarding interim rates (made in comments to Golden Hills Sanitation Company's February 16, 2012 motion to stay) with our resolution of Adrian Maaskant's

motion of February 17, 2012, which also addressed the rescission and refunding of interim rates.

9. We deny with prejudice Adrian Maaskant's motion of February 17, 2012 and David Stegall's and Barbara Miller's similar proposals (made in comments to Golden Hills Sanitation Company's February 16, 2012 motion to stay) regarding the rescission and refunding of interim rates.

10. Adrian Maaskant's February 27, 2012 motion to petition the Kern County Superior Court to appoint a receiver is granted through the issuance of this decision.

11. We deny with prejudice Adrian Maaskant's request to explore the responsibilities and liabilities of the Estates of Carlie and Lillian Smith because this issue is outside the scope of the consolidated proceedings.

12. We deny with prejudice Adrian Maaskant's verbal motion made at the March 15, 2012 evidentiary hearing, in which he requested that the Commission's Legal Division, in its petition to the Kern County Superior Court, make specific proposals to the court regarding its handling of the petition.

13. Regarding motions other than those specifically referenced herein that were filed and formally ruled on by the assigned Administrative Law Judge and the assigned Commissioner during the pendency of these proceedings, we affirm all of these rulings (listed in Attachment B to this decision).

14. We deny with prejudice all outstanding motions not specifically addressed in the foregoing ordering paragraphs.

15. The preliminary determination regarding the need for hearing in Application 11-08-019 is changed to no hearing needed.

16. Application 11-08-019 is closed.

17. Investigation 12-03-008 is closed for purposes of Public Utilities Code Section 1701.5. The pending Application for Rehearing and Petitions for Modification of Decision 12-03-025 will be separately addressed respectively by future Commission action.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A
LIST OF EXHIBITS

Exhibit No.	Sponsor/Witness	Description
Party - Division of Water and Audits		
DWA-1	Oge Enyinwa	Application 08-08-011
DWA-2	Oge Enyinwa	Minutes of Emergency Meeting of Shareholders of Golden Hills Sanitation Company, Inc., A California Corporation
DWA-3	Oge Enyinwa	Electronic Mails dated March 1, 2012, February 29, 2012, and February 13, 2012

(END OF ATTACHMENT A)

ATTACHMENT B

LIST OF FORMAL RULINGS ISSUED

DURING PENDENCY OF A.11-08-019 AND

I.12-03-008 THAT ARE COLLECTIVELY

ADDRESSED IN THIS DECISION

Filing Date	Filed By	Description	Resolved By
13-Jan-12	David Stegall	Request that Golden Hills Sanitation Company (GHSC) be compelled to respond to selected data requests	Formal Administrative Law Judge (ALJ) ruling dated 1/26/12 denying in part and granting in part Stegall's request
13-Jan-12	Adrian Pieter Maaskant	Request that all costs associated with incorrect calculation of interim rate not be passed on to customers of GHSC and that interim rates not be assessed to the customers of GHSC until a corrected tier one advice letter and customer notice is prepared and distributed	Scoping Memo and Assigned Commissioners Ruling dated 1/23/12 denying Maaskant's request
13-Jan-12	Golden Hills Sanitation Company	Request that ALJ issue a ruling rejecting for filing Stegall motion to compel discovery and exhibits.	Formal ALJ ruling dated 1/26/12 denying GHSC's request
17-Jan-12	Adrian Pieter Maaskant	Requests ALJ ruling recognizing the need for a broad scope for discovery of evidence related to Application (A.) 11-08-019	Formal ALJ ruling dated 1/26/12 denying Maaskan'ts request
30-Jan-12	Adrian Pieter Maaskant	Requests that the Commission require GHSC to create a memorandum account to track costs related to incorrect calculation of interim rates and Motion requesting confirmation that customers have a 20-day protest period to address concerns with GHSC supplemental AL 3-SWR-A (Emergency)	Formal ALJ dated 1/31/12 ruling denying Maaskant's request
31-Jan-12		Assigned Administrative Law Judge's Ruling (affirming that parties are prohibited from having ex parte communications with the assigned ALJ during the pendency of this proceeding)	Formal ALJ ruling dated 1/31/12 confirming electronic mail rulings of 12/1/11 and 1/31/12
1-Feb-12	Adrian Pieter Maaskant	Motion for reconsideration of ALJ's 1/31/2012 Ruling.	Formal ALJ ruling dated 4/2/12 denying Maaskan'ts request

(END OF ATTACHMENT B)

ATTACHMENT C
LIST OF APPEARANCES

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(END OF ATTACHMENT C)