



SPONSORSHIP AND THE VATICAN

"Sponsor" is a word that has become increasingly important in the work of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL), of which I am a staff member. In this article, I will use a working definition derived from my observations of the sponsor's role as I have come to understand it from the health care issues that have found their way to CICLSAL (sometimes called "the Dicastery"). These issues come to us not precisely as matters of health care, but rather as matters involving the apostolates and their related temporal goods of religious institutes.

In using "sponsor," I mean an entity that:

- Is a public juridic person
- Carries out a ministry or apostolate in the name of the church

The sponsor's ministry, including its temporal goods, is administered by the same authority that governs the juridic person.

A public juridic person refers first to a religious institute, which in the Code of Canon Law is a public juridic person once it has been erected by ecclesiastical authority (c. 634). A diocese also has this status by law (c. 373), but I will focus on religious institutes and new public juridic persons. As developments in the United States have shown, juridic personality can be conferred by ecclesiastical authority on an aggregate of persons or of

An Official Describes How the Church Weighs Petitions for Public Juridic Personality

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goods, creating a new juridic person with the attached rights and obligations (c. 114, sect. 1).

Public juridic persons in the church, by definition, carry on the apostolate for which they were established, "in the name of the Church." For religious institutes, this is explicitly expressed in canon 675, section 3. For all public juridic persons, it is expressed in canon 116, section 1.

Canon law reserves the administration of temporal goods (property, buildings, and funds) necessary for carrying on the apostolate to the entity immediately governing the juridic person (c. 1279, sect. 1). In a religious institute, the responsibility for the administration of temporal goods rests in the superior at each level, together with his or her council (cc. 636, 638); in a diocese, responsibility rests in the bishop, advised by his finance council (cc. 492 ff). Of course, both religious institutes and dioceses have finance officers (for example, treasurers and bursars), who carry out this administration under the superior's direction; the final responsibility lies with the one who governs. In a public juridic person of the newer type—one that has had juridic personality conferred on it—the ultimate responsibility for its temporal goods rests in those persons defined in the approved statutes.

We can say that, in a general way, a sponsor:

- Preserves and fosters the expressed mission of the institution, system, or juridic person, thereby promoting the internalization of the philosophy and mission at all levels
- Administers and safeguards the properties and funds intended for the furtherance of the entity's mission. These are known as "ecclesiastical goods" (c. 1257, sect. 1), goods at the service of the mission of the Church—which must be handled according to canonical norms.

All this was either self-evident or taken for granted in the past, when each religious congregation carried out its own mission through its



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own institutions, staffed largely by its own members. Today, however, as we carry on the healing mission of Jesus, we find ourselves in a remarkable era of collaboration.

THE HEALING MISSION OF JESUS

It has become common today to speak of "the healing mission of Jesus." Every aspect of the church's mission is a reflection of some aspect of Jesus' mission. Health care seeks to reflect Jesus' loving compassion toward human suffering and his responsiveness to expressions of trust and faith—those dispositions that so frequently led him to reach out and heal, through both word and touch. Catholic health care is guided by the Gospel narratives and by the church's long effort to carry on that compassionate healing and care. Everyone in the ministry knows the challenge of trying to use modern technology to best advantage without losing the human and spiritual dimensions of healing.

Catholic health care today sees the healing mission as having a very broad scope. The ministry:

- Must be holistic care, treating the physical, psychological, and spiritual dimensions of the patient's life
- Must include in its pastoral care not only the sick but also their family members and the personnel of the health care facility
- Must serve the poor, the uninsured, underserved, and the local community
- Must be totally informed by the values of the Gospel, recognizing the human dignity of the person (each of whom is created in the image of God) and must be delivered with full respect for human life, at all stages and in all its dimensions
- Must be carried out with attention to justice, in the stewardship of goods and in dealings with personnel

This healing mission of Jesus is broad, shared in many ways with other faith-based systems. A health care mission that lacked any of these elements would be inadequate as a mission done "in the name of the church." And yet it, seems to me, the above is not all that is intended by a *Catholic identity*.

Public juridic persons, by definition, carry out their mission in the name of the church. Everyone has a sense of what it means to act in someone's name, to represent someone publicly. In such cases, the representative is expected to faithfully reflect the ideas, purposes, and values of the person or organization being represented.

I have suggested that the attitudes and values of Jesus, described above, must permeate

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Catholic health care if it is to be an extension of *his* healing mission. But I will go further and say that if health care is to be carried on in the name of the church, it should have certain other attributes.

It should, for example, embody the sacramental dimension of pastoral care. Efforts to provide for patients' sacramental needs and desires through Eucharistic celebrations, reception of Communion, and opportunities for the Sacraments of Reconciliation and the Anointing of the Sick bring them great consolation. Everyone in the ministry is aware of how serious illness and possible death can bring about a sense of vulnerability and spiritual openness.

Then, too, Catholic participation in the healing mission of Jesus requires commitment to the moral teachings and ethical norms of the church. These are, at times, countercultural stances, witnessing to respect for the integrity of human life in the face of abortion, sterilization, assisted suicide, euthanasia, and certain areas of research and experimentation.

REFLECTIONS ON THE EXAMINATION OF NEW MODELS

Especially in the last 10 years, CICLSAL has been involved in U.S. religious institutes' efforts to

THE ITALIANS HAVE A WORD FOR IT

A number of English words have, in recent years, found their way into the Italian language. Of course, "computer" is now understood by speakers of almost every language. But today one also hears English words such as "leader" and "meeting" in Italian conversations. "Escalation" will pop up suddenly in an Italian news broadcast.

However, I was unprepared for a word I heard at a recent meeting on educational institutions. A speaker was saying that the term "affiliation" was properly used only in explaining the relationship between a center for priestly formation and the university or theological faculty that recognized the center and authorized it to grant academic degrees. The speaker also said that the term "annexed" was specifically created to describe the relationship between the pontifical institute Regina Mundi and the Gregorian University. At this point, someone asked what term should be used to describe other cases.

"Today the most frequently used term is *sponsorizzare*," said the speaker.

Although vital to Catholic health care in the United States, the sponsorship concept remains somewhat unclear because it does not appear in canonical categories. Because of this, I've tried for several years to come up with an Italian concept to match it.

Meanwhile, in another part of the Vatican, church officials have solved the problem by making "to sponsor" an Italian word!

—Sr. Sharon Holland, IHM



find new models through which they might secure the future of their health care ministries.

The reasons behind the search for new models are familiar to us all: on one hand, the dwindling number of religious available to carry the work forward; on the other hand, the increasing complexity of health care delivery, which virtually demands collaboration of some sort.

Some religious institutes, in an effort to preserve the Catholic identity of their works and to protect the goods involved as ecclesiastical goods, are requesting that canonical juridic personality be bestowed on part or all of the aggregate of goods of their health care apostolates. Such institutes ask for juridic personality once it becomes evident that they will soon be unable to manage their works themselves. They enter their petitions when they still have enough prepared religious personnel to provide formation for a new generation of executive personnel, most of which will be laity. Often these laypersons are already collaborators in the work. Even so, such petitions always include religious in the government of the new juridic persons, although the extent of their dominance varies from case to case.

When CICLSAL first began responding to these petitions, a number of questions remained unanswered. The Dicastery has gradually clarified some of these points.

THE BASIS FOR CICLSAL'S COMPETENCY

The first petition of this kind was sent to the Episcopal Conference in an effort to determine who had the competency to grant the requested public juridic personality. The case was new and was made difficult by the fact that the Code of Canon Law does not stipulate competency for the erection of public juridic personality (though it does for the erection of public associations of the faithful). Although a separate dicastery exists for Catholic education, the only organism dealing explicitly with health care, the Pontifical Council for the Pastoral Care of Health Care Workers, is of a quite different nature and did not seem appropriate.

However, it gradually became clear, with the valuable help of some American canonists, that health care organizations would come under the CICLSAL's competency. The Dicastery already possessed the authority to alienate health care institutions outright. If it could do that, it could also authorize this distinct new form of alienation to another ecclesiastical entity, through the creation of the new public juridic person. A petition from religious regarding institutions pertaining to

their institute would be handled by the CICLSAL, whereas a similar petition from a bishop regarding a diocesan institution would be handled by the Congregation for Clergy, which handles diocesan alienations.

EXPERIENCE WITH VARIOUS MODELS TO DATE

Most petitions received by the Dicastery are for canonical juridic personality, usually public rather than private. But CICLSAL has had petitions for other models.

Partnership with a for-Profit Provider The Dicastery treats petitions of this type as a last resort, hoping, through them, to keep institutions open with a written guarantee of Catholic identity. In one case, for example, we authorized a Catholic for-profit partnership because doing otherwise would have resulted in the hospital's closing, which would have deprived a poor neighborhood of health care and deprived the facility's employees, most of whom were neighborhood residents, of jobs. But such cases are rare.

Partnership of a Catholic and an Other-than-Catholic, Not-for-Profit Provider Petitions of this type—which the Dicastery no longer receives—nearly always involved a partnership with an other-than-Catholic provider. Only those cases in which the religious institute had at least 50 percent partnership could be considered as not actually involving alienation. Even if the institute retained formal ownership of its institutions, but had less than that 50 percent voice on the governing board, it would effectively lose the exercise of its rights of ownership: controlling philosophy, mission, and alienation of property. Even if the institute insisted that Catholic identity be ensured in the written agreement, it would lose effective decision-making authority regarding its institutions. And even if the institute had a 50 percent presence on the board and reserved powers concerning certain fundamental decisions, it would also require authorization under canon 1295 and canon 638 (section 3) to conduct transactions in which its stable patrimony might be placed in jeopardy. The paramount issue, the Dicastery said, was not good but the institute's ability to continue ministry in the name of the church.

The obvious advantage of such relationships was that they kept Catholic institutions in existence, at the service of the populations who needed them. They seemed especially justified when they occurred in areas lacking other Catholic health care institutions. The obvious disadvantage was that such relationships put Catholic institutions and personnel in partnership with

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institutions that might possess different ethical and moral standards.

In some partnerships between a Catholic organization and one that was faith-based as well as not-for-profit, the two sides had no difficulty in coming to full agreement on the observance of the *Ethical and Religious Directives for Catholic Health Care Services (ERDs)*. The religious in one such case told us that the partnership had given them the opportunity to make clear to the prospective partner which procedures they could not tolerate in their institutions. In another case, the partnership between Catholic and other-than-Catholic partners worked to the benefit of all the institutions involved because it introduced pastoral care departments in facilities that had previously lacked them.

Of course, it was difficult for CICALSAL to judge the wisdom, including the potential for scandal, of these arrangements. For one thing, we knew that the original partnership agreement would inevitably be affected by later developments. However, the Dicastery no longer receives petitions for such partnerships; I understand that they now usually occur at the diocesan level. Because of this, we have had little opportunity to evaluate their long-term success.

We also receive requests concerning the *sale* of institutions to secular purchasers that have agreed to continue them as Catholic (i.e., observing the *ERDs* and retaining the facility's "Catholic" name). However, it seems to me that once such an institution is sold, all this becomes moot. The agreement cannot be enforced; the new owner may do as it wishes, including selling the institution to still another buyer. For all practical purposes, the responsibility then falls on the diocesan bishop to formally declare the institution no longer Catholic and to prohibit further use of the name identifying it as Catholic (assuming that this is legally possible). The original purchaser's intention was good, and if the agreement also involved the continued presence of the religious congregation, it continues to have a potential for good. On the other hand, such a sale agreement is inevitably a temporary and risky solution because the seller cannot enforce the original terms of the agreement.

Since cases like this come to the Dicastery only for an authorization to sell, we neither see the sale agreements nor are expected to evaluate them. In our view, once the institution has been sold to an other-than-Catholic buyer, it is no longer under the church's authority, and CICALSAL has no right to provide norms for the new owner. In cases in which the sponsoring

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institute has agreed to let the secular purchaser continue to use the facility's Catholic name, thereby suggesting to the public that its identity is unchanged, the seller must make sure that the bishop is aware of the agreement's terms and the buyer must be informed of the bishop's legitimate sphere of concern in the matter.

In recent years, most petitions have sought the conferral of public (or sometimes private) juridic personality on a collaborative effort by diverse religious institutes or other sponsors. The number with which we have dealt is fairly small. Since 1991 we have conferred public juridic personality on seven aggregates in the United States and Canada and private juridic personality on one. Two proposals were referred elsewhere for competency.

CICALSAL'S EVOLVING METHOD OF STUDY

As we on the Dicastery looked at various requests—particularly those for the concession of juridic personality on new collaborative entities—we began to develop a method for studying them. This method is still evolving.

What Is Asked? By Whom? Because these structures are relatively new—the distinction between public and private juridic persons dates only from the 1983 Code of Canon Law—CICALSAL and the various petitioners have not always shared a mutual understanding of what the petitions sought.

As our method evolved, we found ourselves giving preference to petitions for *public* juridic person status. A public juridic person carries out the purpose for which it is erected in the name of the church. Its temporal goods, being ecclesiastical goods by definition, are regulated by the canons on temporal goods. The same is not true of private juridic persons, although that does not mean that they are not doing valuable work for the church.

The single case in which we granted private juridic personality demonstrated a unique relationship with the religious institute that had once been the organization's formal sponsor. Institutions such as this were probably actually alienated in an era before the necessity of reserve powers was fully understood. In any case, the private juridic person in question today involves a ministry and values review process that could well be imitated by Catholic systems of any type.

In the more usual case, involving a public juridic person, that entity's own governing body has those rights and obligations for the Catholic identity of the ministry and the administration of



goods that, in the past, were typically exercised by a religious institute.

As I have noted, so far the usual petitioner has been a religious institute or group of institutes. As long as a religious institute is involved, we have been able to handle the request.

The Statutes' Essential Elements Examining the new juridic person's statutes is central to the Dicastery's work. The statutes contain the essentials of the ministry's identity, its purpose, and the structures of governance that ensure it.

Of course, the juridic person's purpose will be an expression of its goal of carrying out the healing mission of Jesus in the Catholic Church. This will be further guaranteed by expressed commitment to the observance of the *ERDs* of the nation's Episcopal Conference, as revised from time to time, and as applied by the diocesan bishop in the local church. Whether articulated in detail or not, the purpose is understood to mean a sense of mission, the observance of ethical and moral norms, service to the poor, holistic care of persons, and social justice according to the magisterium of the church.

The juridic person's ability to carry out this mission according to the stated purpose will depend on its governing structures. The statutes will identify the individuals (described as "members" or some similar title) who will exercise the reserved power of governing, as well as the individuals who select *them*. In most cases, "reserved" powers are the powers to:

- Change the juridic person's philosophy and mission
- Make changes in its statutes
- Exercise vigilance over fidelity to the norms of the church
- *Approve alienations and debts

In a word, these are the powers reserved to the superiors and councils of religious institutes when the apostolate and its related goods pertain to the juridic person of the institute as such, despite separate civil incorporation. So far, this type of structure has been the model for new juridic persons.

In structures involving several religious institutes (and perhaps other associations), each partner has the right to name one or more member to the governing body exercising these reserved powers. In structures involving only one institute, that institute retains, through its religious government, the right both to name the members and to remove them.

The statutes also contain a description of a juridic person's relationship with the church,

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meaning both the church at the universal level and the particular church. At the diocesan level, the institutions (hospitals, clinics, and other health care facilities) are under the vigilance of the diocesan bishop (cc. 394 and 397) and are subject to his application of the norms of the Episcopal Conference within the local church.

The granting of juridic personality establishes a particular relationship between it and the Apostolic See. CICLSAL must approve changes in the statutes and also any changes in the purpose of the juridic person. It also approves alienations or any transaction that could endanger the stable patrimony of the juridic person (cc. 1295 and 638, sect. 3). It can suppress the juridic person for failure to operate according to its statutes, or at the request of the governing body indicated in the same statutes. The Holy See receives the annual report that deals with the integrity of faith and ethics (Catholic identity) and the administration of its temporal goods. CICLSAL may request a meeting with representatives of the juridic person. On the other hand, the Apostolic See has no economic responsibility for the juridic person.

As we have noted, a juridic person must administer its ecclesiastical goods according to canonical norms. In some cases, a new juridic person has had the capacity to possess and administer not only the institutions involved but also institutions that temporarily remain the property of religious institutes. The statutes even allow the institute to delegate reserved powers (excluding alienation) to the managing juridic person. In these cases, the formal alienation usually follows in due time.

Because creating a juridic person also involves civil articles of incorporation and bylaws—and these often precede the canonical documents—it is essential that whoever writes such articles and bylaws coordinate both the civil and the canonical documents. The petitioners, who usually perform these tasks, should note the need for coherence in descriptions of the ecclesial identity of the work, the observance of canonical norms, the competent authority for certain decisions, and the norms for suppression.

Opinions of Interested Bishops In deciding whether to grant juridic personality, as in ordinary alienations, the Dicastery asks the opinion of the bishop of the diocese in which the institutions are located. The bishop, who is interested in the healing mission in his diocese, will want to know what impact the new structures will have on it. I have observed that religious and their lay colleagues have sometimes used this requirement



creatively, to inform their bishops about various aspects of the health ministry and about the purpose and nature of the new structures—and to introduce them to the ministry's new lay leaders, with whom the bishops will be dealing in the future, rather than with the religious superiors they dealt with before. In responding to such overtures, some bishops have been hesitant, some have been enthusiastic, and some have made valuable observations.

PERSISTENT QUESTIONS

Because the public juridic personality structure is new, CICLSAL naturally continues to have certain questions about it.

Is There Adequate Formation for a "Catholic Culture" Led by Laypersons, Especially for Those More Accustomed to Working in the Public Sector? This question was first raised by religious institutes decades ago, when the laity began to replace religious in the leadership of both Catholic schools and hospitals. The Second Vatican Council's reaffirmation of the universal call to holiness and its call for the laity's active participation in the mission of the church coincided to pave the way for religious/lay collaboration.

Can "Business" Be Kept at the Service of "Ministry"? U.S. health care is competitive, unlike most European systems. As a result, U.S. Catholic health care organizations are often forced to make certain business decisions—to merge with others, for example—just to survive. These decisions, realistic as they are, risk being perceived as profit driven. In fact, pastoral care and mission effectiveness departments are frequently among the most vulnerable when budget cuts must be made, because of the way they are financed. The challenge for such organizations to maintain a ministry focus remains very real.

Are Religious Abandoning Their Charism? Several years ago, when it began to appear that some religious institutes were virtually turning over all of their health care institutions to juridic persons, some people asked if those institutes were not abandoning the purpose for which they had been founded.

We in the Dicastery have received various responses to this question, and they are helpful in their diversity. In some cases, the religious institute's major apostolic mission was other than health care; it developed its few health care institutions relatively late in its history, usually in response to particular needs and requests of the time. Other institutes said their effort to establish a public juridic person was precisely to *maintain*

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their health care work; without the new structure they would not be able to ensure their institutions' viability. And some institutes felt that by turning their large organizations over to a public juridic person, they could concentrate their personnel and funds on smaller localized health care services among the poor.

Some religious institutes, moreover, have from their beginning sponsored multiple works, involving both health care and other types of ministry. But the complex pressures of health care have encouraged such institutes to create public juridic persons for works of that kind and devote their own energies to projects not involving health care. In these cases, institute members might say that their charism is less tangible than the specific works through which it is expressed.

OBSERVATIONS FROM ANNUAL REPORTS

The annual reports the Dicastery receives from the new public juridic persons show that they are making significant efforts in the formation of personnel at all levels: the mission concept, the philosophy, and those aspects of Catholic identity that involve both basic respect for human dignity and complex ethical questions. We see the spiritual dimension in missioning rituals juridic persons create for their board members and the retreat opportunities they arrange for their personnel. Conferences, seminars, and other activities are evidence of serious efforts to create and maintain a Catholic culture. Although some entities formerly tried to maintain the particular identities of their founding institutes, today most seems to believe they must focus on Catholic identity as such.

Sometimes these reports identify particular challenges to their Catholic identity and describe their efforts to deal responsibly with ethical questions. Sometimes they discuss the various pressures from insurers and from groups that would like to see Catholic organizations leave health care altogether. They describe organizational acquisitions and alienations. These reports help us in Rome understand the situation of Catholic health care in the United States.

Annual reports by juridic persons are required by canon 1287, section 1, which refers to the administration of temporal goods. They accordingly include a finance section. Sometimes these sections are not entirely clear to us; sometimes they are *too* detailed. However, our primary interest is the mission itself, its Catholic identity, and what one might call the "lights and shadows" of the apostolic experience.

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The U.S. Catholic health ministry certainly faces many challenges.

rience. It seems safe to say that we are interested especially in information about these topics—particularly as they concern collaboration between religious and laity. None of us knows how things will look in the future. Some groups appear intent on maintaining a model of religious-lay collaboration; others apparently plan on gradually turning the work over to the laity.

“INTO THE DEEP”

The U.S. Catholic health ministry certainly faces many challenges: ensuring Catholic identity, maintaining services despite government cutbacks, keeping a ministry focus in a business environment, resolving the ethical issues raised by scientific advances in a diverse culture, and others. The question of how to collaborate without appearing to collaborate in evil is today very much on the minds of everyone in Catholic health care.

However, we Dicastery members know that the creative and dedicated people involved in the U.S. ministry have for years been turning challenges into opportunities. Collaboration among Catholic groups has grown significantly in the last 10 years. We have seen a significant increase in the involvement of expert Catholic laity and extensive growth in communication networks and information exchanges. The ministry has put much effort into keeping diocesan bishops informed. It is working creatively on mission effectiveness, personnel formation, and pastoral care. Despite financial pressures, it continues to

emphasize care for the underserved.

I myself wonder about several technical questions concerning the U.S. ministry's future. Who, for example, will handle competency in the erection of juridic persons once neither religious institutes nor bishops are immediately involved in the petitions sent to us? Will the U.S. Conference of Catholic Bishops perhaps develop a national mechanism for the granting of juridic personality?

However, such questions remind me of the words of Pope John Paul II in *Novo Millennio Ineunte*, the apostolic letter with which he closed the Jubilee year and launched the new millennium. How many times since January 6, 2001, have we heard that challenge: “*Duc in altum!* —Launch out into the deep!”

In chapter II, “Starting afresh from Christ,” the Holy Father marks the starting point for pastoral revitalization. “I have no hesitation in saying that all pastoral initiatives must be set in relation to holiness,” he writes: “‘holiness’ understood in the basic sense of belonging to him who is in essence the Holy One.” The baptismal gift of holiness becomes a task shaping one’s life (n. 30). “To place pastoral planning under the heading of holiness is a choice filled with consequences,” he continues. “It would be a contradiction to settle for a life of mediocrity . . . We are challenged rather, through baptism, to the radical nature of the Sermon on the Mount.” (n. 31)

The cry “Launch out into the deep!” certainly fits the situation of the U.S. Catholic health ministry today. □

CHI'S FIFTH ANNIVERSARY

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“We did not deny the problems we faced, but dealt with them in a way that resulted in the greatest amount of good for this ministry.”

organization,” she said. “It helped identify the common ground among so many different groups with different histories.”

Sr. Coyle believes that CHI is a better organization as a result of its challenges. “A great deal of energy has gone into the organization of CHI and into dealing with unpredictable changes in the marketplace,” she said. “We did not deny the problems we faced, but dealt with them in a way that resulted in the greatest amount of good for this ministry. And, we’ve certainly celebrated many achievements along the way. Now, I think we’ve reached a level of stability and integration that will hold us in good stead as we move into the future.” □

CHI AT A GLANCE

- 68 Hospitals
- 48 Long-term care, assisted living, and residential facilities
- 22 States: Arkansas, California, Colorado, Delaware, Idaho, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Washington, and Wisconsin
- 71 Rural and urban communities
- 72,000 Full- and part-time employees
- \$6.4 Billion in assets
- \$5.5 Billion in annual operating revenues
- \$549 Million in total measurable benefits for the poor and the broader community

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