

LEM

Decision No. 17084.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
EAST BAY WATER COMPANY, )  
a corporation, for an order authoriz- ) Application No. 12959  
ing the issue of bonds and stock. )

Jared How; McKee, Tasheira and Wahrhaftig.  
By A. G. Tasheira, for applicant.

Markell Baer, Assistant City Attorney, for  
City of Oakland.

BY THE COMMISSION:

OPINION

ORIGINAL

In this application East Bay Water Company asks permission to issue and sell at not less than 94 percent of their face value and accrued interest \$4,265,000.00 of its Series "B" unifying and refunding five percent bonds due March 1, 1956 and to issue and sell at not less than 91-1/2 percent of its par value and accrued dividends, \$2,782,000.00 of its Series "A" six percent cumulative preferred stock, and use the proceeds for the purposes hereinafter mentioned.

Applicant has an authorized stock issue of \$15,500,000.00 divided into \$10,000,000.00 of Class "A" six percent cumulative preferred, \$5,000,000.00 of Class "B" six percent preferred, and \$500,000.00 of common stock. Applicant reports outstanding stock in the amount of \$10,656,000.00, consisting of \$7,568,800.00 of Class "A", \$2,987,200.00 of Class "B", and \$100,000.00 of common stock.

Applicant reports outstanding funded debt in the hands of the public amounting to \$20,550,700.00 consisting of the following bonds and notes:-

First mortgage 5-1/2 percent bonds due Jan.1,1946 ...	\$9,168,700.
Series "A" unifying and refunding mortgage 7-1/2 percent bonds due September 1, 1936 . . . . .	2,480,500.
Series "B" unifying and refunding mortgage six per cent bonds due March 1, 1942 . . . . .	2,881,500.
Series "C" unifying and refunding mortgage six per cent bonds due March 1, 1944 . . . . .	2,000,000.
Series "D" unifying and refunding mortgage six per cent bonds due March 1, 1955 . . . . .	3,000,000.
5-1/2 percent unsecured gold bonds due March 1,1928	1,000,000.
Total.....	<u>\$20,530,700.</u>

In addition to the foregoing funded debt, \$4,932,100.00 of applicant's first mortgage bonds have been issued and deposited with the trustee under the company's unifying and refunding mortgage. The company also reports outstanding short term 5-1/2 percent unsecured notes in the amount of \$300,000.00.

Applicant asks permission to issue \$4,265,000.00 of its Series "E" unifying and refunding mortgage five percent bonds due March 1, 1956. Of this amount it proposes to use \$2,480,500. to pay or refund its outstanding 7-1/2 percent bonds due September 1, 1936. It is the intention of the company to call its 7-1/2 per cent bonds for payment on September 1, 1926. To redeem such bonds on that date the company will have to pay a premium of five percent. The remainder of the bonds will be issued to finance in part the cost of additions and betterments to which reference will hereafter be made.

Applicant also intends to redeem on August 1, 1926 its outstanding \$1,000,000. of 5-1/2 percent notes due March 1,1928. These notes are redeemable at a premium of one half of one percent. To redeem the notes, applicant asks permission to issue and sell Class "A" six percent preferred stock at 91-1/2 per share and accrued dividends. The \$1,000,000. of notes outstanding

were issued to finance the cost of additions and betterments, against which the company is not permitted to issue bonds under its unifying and refunding mortgage.

The following tabulation shows how applicant arrived at the amount (\$4,265,000.) of bonds which it asks permission to issue;-

Uncapitalized expenditures Dec.31,1924 . . . . .	\$485,716.12
Construction expenditures during 1925 . . . . .	2,745,198.28
Construction expenditures during 1926(Actual to April 30, and estimated from May 1 to Dec.31)	1,923,443.71
Estimated construction expenditures for first six months of 1927 . . . . .	<u>1,225,000.00</u>
Total.....	<u>\$6,379,358.11</u>

Seventy-five percent of \$6,379,358.11 which is to be financed through bonds . . . . .	\$4,784,518.58
Deduct Series "D" bonds authorized by Decision No. 14560 dated Feb. 11,1925 . . . . .	<u>3,000,000.00</u>

Leaving balance of construction expenditures to be financed through Series "E" bonds . . . . .	1,784,518.58
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Additional Series "E" bonds to be issued to refund outstanding 7-1/2 percent Series "A" bonds . . . . .	<u>2,480,500.00</u>
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Total Series "E" bonds to be issued ...	<u>\$4,265,018.58</u>
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Applicant intends to finance twenty-five percent of its actual or estimated construction expenditures through the issue of Class "A" stock. Twenty-five percent of \$6,379,358.11 is \$1,594,839.53. Against this expenditure the Commission has heretofore, Decision No. 14560, authorized the issue of the \$1,000,000.00 of 5-1/2 percent notes, which applicant now intends to redeem. To pay the notes the company may have to expend \$1,005,000.00. Deducting the \$1,005,000.00 from the \$1,594,839.53 leaves a balance of \$589,839.53 of actual and estimated expenditures to be financed through the issue of Class "A" stock.

Applicant also reports that it has not issued \$117,382.41 par value of stock authorized to be issued and sold at \$85. per share, by Decision No. 13472 dated April 24, 1924. If sold at \$85. the \$117,382.41 par value of stock would net applicant \$99,775.05. It does not intend to sell said \$117,382.41 of stock at eighty-five. It does ask permission to sell enough stock at ninety-one and one half to net it \$99,775.05.

Applicant further asks permission to issue and sell at 91-1/2 Class "A" stock to refund sinking fund payments of \$851,373.50 made or to be made from January 1, 1924 to January 1, 1927, both inclusive. The payments actually made are reported at \$587,327.25 while that due January 1, 1927 is said to amount to \$264,046.25. To cover the several items mentioned by the sale of Class "A" stock at 91 1/2 calls for the issue of \$2,782,500.61 of stock. A segregation of the \$2,782,500.61 follows:-

To cover \$589,839.53 of construction expenditures	\$644,653.36
To redeem \$1,000,000. of notes at 100-1/2 . . . . .	1,098,360.64
To realize \$99,775.05 contemplated to be covered by stock authorized by Decision No. 13472 . . . . .	109,043.77
To refund \$851,373.50 sinking fund payments . . . . .	<u>930,462.84</u>
Total.....	<u>\$2,782,500.61</u>

The construction expenditures referred to above do not represent all of applicant's actual or estimated construction expenditures, but only such portion which it intends to finance through the issue of bonds and stock. Schedules filed in this proceeding show that applicant has and will take into consideration the investment of moneys realized from the sale of non-operative property, and moneys represented by its depreciation reserve.

The construction expenditures incurred or to be incurred are of a general nature, with the exception of about \$565,000. which will be used to complete the Upper San Leandro project, including transmission mains from the filter plant to various

reservoirs and pipe lines. The other expenditures are primarily for distribution mains, services and meters which applicant has had to install or believes it will have to install because of the growth and development of the territory it serves.

We believe that this application should be granted, with the exception that in our opinion applicant should not be permitted to issue \$950,462.84 of Class "A" stock to refund sinking fund payments. The amount of stock issued for such purposes should not exceed the par value of bonds redeemed. Reports on file with the Commission show that applicant has redeemed \$590,000.00 of bonds since January 1, 1924. The amount of stock herein authorized will be limited to \$2,442,000.00.

#### O R D E R

East Bay Water Company, having applied to the Railroad Commission for permission to issue \$4,265,000.00 of bonds and \$2,782,500.00 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that applicant should be permitted to issue \$4,265,000.00 of bonds and \$2,442,000.00 of stock, and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED as follows:-

1. East Bay Water Company may issue and sell at not less than 94 percent of their face value and accrued interest, \$4,265,000.00 of its Series "E" unifying and refunding mortgage five percent bonds due March 1, 1956 and

use the proceeds, other than accrued interest, obtained from the sale of \$2,480,000.00 of said bonds to redeem its Series "A" seven and one half percent bonds and use the remainder of the proceeds, other than accrued interest, to finance in part the construction expenditures referred to in this application.

2. East Bay Water Company may issue and sell at not less than \$91.50 per share and accrued dividends \$2,442,000.00 par value of its Class "A" six percent cumulative preferred stock, and use the proceeds, other than accrued dividends, obtained from the sale of such stock, to redeem its outstanding five and one half percent notes, to finance in part the construction expenditures referred to in this application and to refund sinking fund payments.
3. East Bay Water Company may finance through the issue of the stocks and bonds herein authorized, only such expenditures as are properly chargeable to capital account under the Uniform System of Accounts prescribed by the Railroad Commission, and use the proceeds from the sale of \$590,000.00 of Class "A" stock to refund sinking fund payments.
4. East Bay Water Company may use the accrued interest and the accrued dividends for general corporate purposes.
5. The authority herein granted to issue bonds will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act.
6. East Bay Water Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will

enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order insofar as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED that this application insofar as it involves the issue of \$340,000.00 of stock be dismissed without prejudice.

DATED at San Francisco, California, this 3<sup>rd</sup> day of July, 1926.

H. P. Raudaba  
C. Sewey  
Leon White

Commissioners.

