

Decision No. 38247

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 )  
 ) SAN JOSE WATER WORKS, )  
 ) a corporation, )  
 )  
 ) for an order authorizing it to )  
 ) issue bonds and to mortgage its )  
 ) properties. )  
 ----- )

Application  
No. 26944

McCutchen, Thomas, Matthew, Griffiths & Greene,  
by Henry D. Costigan, Owen Jameson and  
Hazel Flagler, for Applicant.

Keesling and Keil, by Edward D. Keil, for  
John Hancock Mutual Life Insurance Company.

BY THE COMMISSION:

O P I N I O N

In this application, the Railroad Commission is asked to make an order authorizing San Jose Water Works, a corporation, to execute and deliver a Supplemental Mortgage of Chattels and Trust Indenture (Sixth Supplemental Indenture) in substantially the same form as that filed in this proceeding as Exhibit 1; to issue and sell \$3,474,000 in principal amount of its First Mortgage 3% Bonds, Series B, due November 1, 1975, at not less than 104.04% of the principal amount thereof plus accrued interest for the purpose of financing the cost of paying all of its presently outstanding \$3,474,000 of 3-3/4% bonds and to account for past and future bond premiums, discounts and expenses as hereinafter set forth in this opinion.

As of July 31, 1945, San Jose Water Works reports its assets and liabilities as follows:

ASSETS

PLANT, PROPERTY, RIGHTS, FRANCHISES, ETC.	\$7,312,852.41	
Less Reserve for Depreciation	<u>1,102,499.90</u>	\$6,210,352.51
SPECIAL DEPOSITS		5,867.14
CURRENT ASSETS		
Cash and Working Funds	595,316.58	
U.S. Government Securities	95,000.00	
Accounts Receivable, less reserve	140,452.84	
Materials and Supplies	<u>117,277.20</u>	942,089.71
PREPAID ACCOUNTS		11,472.71
UNAMORTIZED BOND PREMIUMS, DISCOUNT AND EXPENSE		35,549.19
MISCELLANEOUS DEFERRED CHARGES		<u>2,447.61</u>
TOTAL		<u>\$7,207,778.87</u>

LIABILITIES AND CAPITAL

FUNDED DEBT

First Mortgage 3-3/4% Bonds, Series "A", Due Dec. 1, 1961	\$3,474,000.00
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CURRENT LIABILITIES

Accounts Payable	\$ 51,806.42	
Accrued Interest, taxes, dividends, etc.	<u>289,402.82</u>	341,209.24

CONSUMERS' METER DEPOSITS	9,586.98
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CONSUMERS' EXTENSION DEPOSITS	62,999.81
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CONTRIBUTIONS FOR EXTENSIONS	61,299.46
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CAPITAL STOCK

4-3/4% Cumulative Preferred Stock-30,000 shares, par value \$25.00 each	750,000.00	
Common Stock-80,087 shares, par value \$25.00 each	<u>2,002,175.00</u>	2,752,175.00

SURPLUS		<u>506,508.38</u>
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TOTAL		<u>\$7,207,778.87</u>
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Under authority heretofore granted by the Commission, San Jose Water Works issued and sold \$3,668,000 of First Mortgage 3-3/4% Bonds, Series A. Subsequent to the issue thereof, it has redeemed or purchased and retired through its sinking fund, \$194,000 of such bonds, leaving \$3,474,000 outstanding as shown in the preceding balance sheet. These bonds are dated as of December 1, 1936, bear interest at the rate of 3-3/4% per annum, and mature December 1, 1961. They are redeemable at this time, at the option of the company, upon giving the required notice, at the principal amount thereof, the accrued interest to the date of redemption and a premium of 3% of their face value.

The company now proposes to call its outstanding bonds for payment on December 1, 1945. To provide the necessary funds, it proposes, and asks permission, to issue \$3,474,000 of a new series of bonds to be designated as First Mortgage 3% Bonds, Series B, to be dated November 1, 1945, and to mature November 1, 1975. It has made arrangements to sell its new bonds, for investment, to John Hancock Mutual Life Insurance Company, Bank of America National Trust & Savings Association and Occidental Life Insurance Company of California at 104.04% of face value plus interest accrued from November 1, 1945, a price yielding it \$3,614,349.60, less expenses of issue and sale, and exclusive of the accrued interest. At the selling price indicated the effective interest rate is 2.80%, if held to maturity. On this point, applicant's president testified that after consultation with investment banking firms it appeared to him that the price of 104.04% was the most advantageous to the company. Under the proposed bond purchase agreements, the company is not required to deliver the bonds until sixty days after the execution of such agreements. This provision enables it to withhold delivery until

shortly before the date of redemption of the presently outstanding bonds and saves it the expense of paying double interest for this sixty-day period. In addition, the sale to private companies, as proposed, saves applicant the cost of filing a registration statement with the Securities and Exchange Commission.

The company will deposit the net proceeds, estimated at \$3,580,749, which it will receive from the sale of its 3% bonds with the trustee under its trust indenture of December 1, 1936, for the redemption of its 3-3/4% bonds. The redemption of such bonds calls for an expenditure of \$3,578,220.

To secure the payment of the new Series B bonds the company proposes to execute an indenture supplemental to its present indenture of December 1, 1936. The new instrument, which is filed as Exhibit 1, among other things, provides that the principal amount of additional bonds which may be authenticated by the Trustee in respect to property constructed or acquired by the company prior to October 31, 1945, shall not exceed \$400,000 and that as to property acquired or constructed after October 31, 1945, additional bonds may be authenticated in an amount based on 67% of the cost or fair value, whichever is less, of such property. While the order herein will authorize the execution of the supplemental indenture, it should be understood that said order does not authorize applicant to issue bonds in addition to the \$3,474,000 of Series B bonds or commit the Commission in the future to authorize the issue of \$400,000 of additional bonds against the properties acquired or constructed prior to October 31, 1945, or the issue of bonds based on 67% of the cost or value of properties acquired or constructed after that date.

Applicant, as of July 31, 1945, had recorded on its books unamortized bond premium, discount and expense of \$35,549.19 said to refer to the Series A, 3-3/4% bonds now outstanding, which amount is in process of amortization over the original life of such bonds, that is, the period ending December 1, 1961. Applicant now proposes to charge to the same account the premiums of \$104,220 it must pay to redeem its present 3-3/4% bonds and to credit to the account the amount of all reductions of federal income and excess profits taxes which may be directly attributable to the redemption of said bonds, which reductions are estimated by applicant at approximately \$125,000. The balance of the account the company plans to amortize or charge off on or before December 1, 1961. The premium which the company will receive upon the issue and sale of its new 3% bonds, less the expenses incident to the issue and sale, will be credited to Account 31--Unamortized Premium on Debt--and amortized over the period ending November 1, 1975, the date of maturity of such new bonds.

For accounting purposes, we have no objection to the company's proposal.

O R D E R

San Jose Water Works, having applied to the Railroad Commission for authority to execute a Supplemental Mortgage of Chattels and Trust Indenture and to issue and sell \$3,474,000 of bonds; a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for is reasonably required by applicant for the purposes specified herein, and that the expenditures to pay the principal of the outstanding bonds are not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED as follows:

1. San Jose Water Works may, after the effective date hereof and on or before January 2, 1946, execute and deliver a Supplemental Mortgage of Chattels and Trust Indenture (Sixth Supplemental Indenture) in, or substantially in, the same form as that filed in this application as Exhibit 1.
2. San Jose Water Works may, after the effective date hereof and on or before January 2, 1946, issue and sell \$3,474,000 of its First Mortgage 3% Bonds, Series B, due November 1, 1975, at not less than 104.04% of face value plus accrued interest and use the proceeds to pay and redeem its presently outstanding \$3,474,000 of Series A bonds and for the reimbursement of its treasury.
3. San Jose Water Works may account for the bond premiums, discounts and expenses in the manner set forth in the foregoing opinion.

4. San Jose Water Works shall file with the Commission a report, or reports, as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

5. San Jose Water Works shall file with the Commission, on or before February 28, 1946, two certified copies of said Sixth Supplemental Indenture as executed and a statement showing in detail the expenses incurred in connection with the issue and sale of the bonds herein authorized to be issued.

6. The authority herein granted will become effective when San Jose Water Works has paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 20<sup>th</sup> day of September, 1945.

David Anderson  
Justin F. Curran  
Richard Kachue  
Frank W. ...  
Wm. H. ...  
Commissioners

