ORIGINAL

Decision No. 49650

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of THE CALIFORNIA OREGON POWER COMPANY for an order authorizing the issuance and sale of 300,000 shares of common stock and $10,000,000 principal amount of bonds, and the execution of a Fifth Supplemental Indenture; and exempting from the Commission's competitive bidding rule the issuance and sale of said common stock.	Application No. 35049

Brobeck, Phleger & Harrison, by George D. Rives, for applicant.

OPINION

The California Oregon Power Company has filed this application for authorization to issue and sell $10,000,000 in principal amount of its First Mortgage Bonds, Series due March 1, 1984, and 300,000 shares of its common stock of the par value of $20 each and of the aggregate par value of $6,000,000.

The application was filed with the Commission on January 14, 1954. Thereafter, a public hearing was held before Commissioner Potter and Examiner Coleman in San Francisco on February 1, 1954, at which time the matter was taken under submission. The Commission has received no protests to the granting of applicant's requests.

Applicant proposes to offer its bonds for sale at competitive bidding, the interest rate on the bonds as well as the price to be fixed as a result of such bidding. With respect to the issue and sale of the shares of common stock, however, applicant requests the Commission to exempt the same from competitive bidding and to authorize it to dispose of its shares by means of a negotiated underwriting at a price hereafter to be fixed by the Commission. It asserts in this connection that it has been able to obtain a higher price for its stock in the past when sold under negotiated arrangements than when sold through competitive bidding, and that it believes, in view of the relatively low level of its earnings during the past twelve months, it is reasonable to expect a more favorable price for the proposed issue if the sale is made to underwriters familiar with its affairs than if the sale is attempted through a competitive offering.

Testimony in support of the request for exemption was given by applicant's president. The record shows that in March of 1948 applicant offered a block of 100,000 shares for sale at competitive bidding and received two bids, one for $18.86 a share and one for $19.91. It shows that thereafter, upon receiving authorization from the Commission, applicant disposed of three offerings by means of negotiated sales, one for 250,000 shares in August of 1949 at $21.735 a share, a second for 250,000 shares in June of 1951 at $23.10 a share, and the third for 250,000 shares in October of 1952 at $25.20 a share. Although the successive issues were accomplished at higher prices, during this period the recorded earnings declined from $2.82 a share in 1948 to $1.76 a share in 1953, although some improvement no doubt will follow recently authorized rate increases.

In view of its declining earnings applicant feels that maximum results can be obtained by a sale to a selected group of underwriters and dealers who are acquainted with its operations, who have handled its past financing and who will provide the prior preparation of the market which is essential to the successful distribution of the shares. The record indicates that applicant's stock is traded in a limited market and it is clear that in this particular case greater flexibility in gearing the offering to the market can be accomplished through negotiation.

If applicant is authorized by the Commission to issue its bonds and shares of stock, it proposes to use the proceeds to retire outstanding promissory notes which were issued in payment of capital additions. The record shows that presently it has outstanding $14,000,000 of notes issued under its credit agreement of September 24, 1952, and $7,000,000 of notes issued under a second credit agreement dated July 21, 1953, a total of $21,000,000 all maturing April 1, 1954. It expects it will realize not less than $17,500,000 from its proposed financing, which would leave a balance of $3,500,000 of notes still outstanding. It intends to liquidate this remaining balance through the issue of new notes under a new credit agreement it presently is negotiating.

The record indicates that it has been applicant's practice to meet its capital costs in the first instance with borrowings under lines of credit established with banks and from time to time to refinance these temporary borrowings with the issue of bonds and shares of preferred and common stock. Its capital ratios as of November 30, 1953, and after giving effect to the issue of the bonds and stock covered by this application, are as follows:

	Nov. 30, 1953	Pro Forma
Long-term debt -		
Bonds	39.3%	49.6%
Notes	20.2	3.7
Total	59.5	53.3
Preferred stock	7.7	7.7
Common stock equity -		
Common stock at par	26.9	33.1
Earned surplus	3.3	3.3
Premium on common stock	2.6	2.6
Total	32.8	39.0
Totals	100.0%	100.0%

Applicant has been faced with an extensive program of expansion of its facilities requiring a continuing flow of capital funds into its treasury. During the five years ended December 31, 1953, its net additions for plant amounted to $63,911,045 and its estimated expenditures for the next three years are stated at $31,400,000. It is important that its capital structure be kept properly balanced and that it obtain equity funds when possible and under reasonable terms if it is to furnish adequate service and to provide the plant necessary to meet demands of customers.

From a review of the evidence submitted in this proceeding it is apparent that applicant has obtained satisfactory results from the issue and sale of its shares of stock under negotiated underwritings and therefore that it should be authorized to dispose of the presently proposed offering under similar arrangements. In our opinion applicant has need for the proceeds from the sale of its securities for the purposes indicated in this proceeding and accordingly we will enter a preliminary order at this time authorizing the execution of a supplemental indenture which defines the terms of the new series of bonds now to be issued, and authorizing the issue and sale of such bonds and of the shares of stock. We will give further consideration to these issues upon the filing by applicant of a supplemental application, or applications, setting forth the prices, terms and conditions of the proposed offerings.

O R D E R

A public hearing having been held on the above entitled matter and the Commission having considered the evidence and 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 by the issue and sale of the bonds and shares of common stock herein authorized is reasonably required by applicant for the purposes specified herein, and that the expenditures for such purposes, except as otherwise authorized, are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. The California Oregon Power Company, after the effective date hereof and on or before June 30, 1954, may execute a Fifth Supplemental Indenture in, or substantially in, the same form as that filed in this proceeding as Exhibit 1.

2. The California Oregon Power Company, after the effective date hereof and on or before June 30, 1954, may publish invitations for bids for the purchase of $10,000,000 of First Mortgage Bonds, Series due March 1, 1984, not less than five days prior to the date set for the opening of said bids, and may issue and sell such bonds at a price to be fixed by the Commission in a supplemental order. Pending the preparation and delivery of definitive bonds, applicant may issue and sell temporary bonds under the same terms and conditions as those under which it is authorized to issue and sell said definitive bonds.

3. The issue and sale of 300,000 shares of common stock hereby is exempted from the Commission's competitive bidding rule set forth in Decision No. 38614, dated January 15, 1946, provided that applicant make arrangements for the sale of said shares at a price satisfactory to the Commission.

4. The California Oregon Power Company, after the effective date hereof and on or before December 31, 1954, may issue and sell said 300,000 shares of common stock at a price to be fixed by the Commission in a supplemental order.

5. The California Oregon Power Company shall use the proceeds from the sale of said shares of stock and said bonds, other

than accrued interest, to pay outstanding notes. The accrued interest from the sale of the bonds may be used for general corporate purposes.

6. The authority herein granted to issue and sell bonds and shares of common stock will not become effective until the Commission by a supplemental order, or orders, has fixed the prices at which applicant may sell the same. In other respects, the authority herein granted is effective upon the date hereof.

7. Within 60 days after the issue and sale of the bonds and shares of stock herein authorized, applicant shall file with the Commission three copies of its prospectus and a report, or reports, showing the amount of bonds and shares of stock issued and sold, the prices at which sold, the names of those to whom sold and the purposes for which the proceeds were used, and two copies of its Fifth Supplemental Indenture as executed. Within six months after such issue and sale, applicant shall file a statement showing in some detail the expenses incurred by it incident to the issue and sale of said bonds and shares of stock and the accounts to which such expenses were charged.

Dated at San Francisco, California, this 9th day of February, 1954.

R. E. Mitchell
President

Justus F. Craemer

Kenneth Potter

Peter E. Mitchell

Ray E. Untereiner

Commissioners