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Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CALIFORNIA WATER & TELEPHONE COMPANY  
to issue and sell \$5,000,000  
principal amount of its First  
Mortgage Bonds, 4-5/8% Series  
due 1991

Application No. 45919  
Filed October 30, 1963

Bacigalupi, Elkus & Salinger by Claude N. Rosenberg and Tadini Bacigalupi, Jr., for California Water & Telephone Company, applicant; Robert H. Schnacke for Halsey, Stuart & Co. Inc., protestant; and Sidney J. Webb for the Commission staff.

O P I N I O N

California Water & Telephone Company has filed this application requesting authorization to issue and sell \$5,000,000 principal amount of its first mortgage bonds, to execute and deliver a supplemental indenture and for exemption from the requirements of the Commission's competitive bidding rule with respect to such issue of first mortgage bonds.

Public hearings on this matter were held before Examiner Donovan in San Francisco on November 18, 19 and 20, 1963, the matter being taken under submission on the latter date.

California Water & Telephone Company, applicant herein, is a public utility engaged in the business of rendering telephone and water service in various sections of the State of California. As of September 30, 1963 it reports an investment in utility properties, less accrued depreciation, of \$120,709,574. Its utility operating income for the nine months ended September 30, 1963, is reported to be \$8,617,497, and its net income transferred to surplus for the same period is reported to be \$3,664,966.

The bonds that applicant proposes to issue will bear interest at the rate of 4.625% per annum, will mature May 1, 1991, and will be callable prior to May 1, 1970, at a premium of 4.625%, and thereafter at annually decreasing premiums, provided, however, that the bonds may not be redeemed prior to May 1, 1969, directly or indirectly, from, or in anticipation of, any borrowings by the company having an effective interest cost to applicant of less than 4-5/8%. Subject to receiving authorization from the Commission, the company proposes to sell the bonds at private placement to seven institutional buyers as follows:

Bankers Trust Company (purchaser as trustee for twelve pension funds)	\$1,500,000
California State Employees Retirement System	750,000
California State Teachers Retirement System	750,000
Los Angeles County Employees Retirement Association	1,000,000
Aid Association for Lutherans	500,000
Modern Woodmen of America	250,000
Occidental Life Insurance Company of California	<u>250,000</u>
Total	<u>\$5,000,000</u>

In order to proceed with its plans, the company requests the Commission to exempt the issue from competitive bidding. The testimony offered by applicant in support of this request was to the effect that it had engaged in rather extensive negotiations for the sale of the securities; that the terms and conditions finally determined compared favorably with those obtained by other utilities selling bonds recently; that the inclusion of a restricted redemption provision in the terms of bonds of the nature of the proposed issue, in general, is required by institutional buyers and results in a better sale price than otherwise would be the case; and that there would be substantial expenses in issuing the securities under competitive bidding, such expenses occurring primarily in connection with the registration of the securities and in underwriters' commissions. Applicant's bonds which presently are outstanding were disposed of by private placement and are not rated or traded on the market.

Halsey, Stuart & Co. Inc., investment bankers, entered an appearance in this proceeding to protest the granting of the requested exemption from the provisions of the Commission's competitive bidding rule. Applicant's attorney objected to the appearance of Halsey, Stuart & Co. Inc., on the grounds that such appearance would not be in accord with the provisions contained in rules 45 and/or 46 of the Commission's Rules of Procedure and moved that the appearance of Halsey, Stuart & Co. Inc., be vacated. The motion of applicant was taken under submission for

subsequent ruling and the hearing continued. While it could be contended that Halsey, Stuart & Co. Inc., is not a customer of applicant or otherwise a party with a direct interest in the proceeding, nevertheless, this Commission in the past has allowed said company to participate in proceedings involving similar issues. It is now, and has been, the Commission's desire that it be fully informed on all matters which may properly come before it. The participation of Halsey, Stuart & Co. Inc., in this proceeding could provide the Commission with data not otherwise readily available. For these reasons the motion of applicant to vacate the appearance of Halsey, Stuart & Co. Inc., as a protestant will be denied.

Halsey, Stuart & Co. Inc., hereinafter referred to as protestant, offered testimony to the effect that applicant's proposed bond issue, while regarded as small in investment banking circles, was of sufficient size to attract bids if offered for sale under competitive bidding; that the best possible terms and conditions could, generally speaking, only be obtained through competitive bidding; that by a public offering an active market would be created which might afford applicant an opportunity to reacquire its securities at an advantageous price to meet sinking fund requirements; that applicant's bonds would then be rated as to quality; and that a wider distribution of applicant's securities would result thus broadening the market for future sales of applicant's securities.

In considering an application for an exemption from the provisions of the competitive bidding rule, the Commission must be convinced that adherence to the rule would be other than in the public interest. Based on the record in this proceeding, it appears that the terms and conditions under the proposed private placement are about equal to those which might prevail under competitive bidding. Under such conditions the Commission could conceivably deny applicant's request for exemption and require adherence to its competitive bidding rule; however, the evidence is quite clear that to do so at this time would unduly delay applicant's procurement of needed funds for a period of about four months and thus interfere with its planned construction program, which delay would not be in the public interest. In addition, because of changes in market conditions which have occurred since the matter was submitted, it does not now appear that applicant would be able to realize as advantageous terms under competitive bidding as it will under the proposed private placement.

Under the conditions herein stated as they apply to the proposed issue, the Commission will grant applicant an exemption from the competitive bidding rule. Applicant is placed on notice that in any future proceeding involving a requested exemption from the provisions of the competitive bidding rule, it will be required to provide evidence which will demonstrate clearly and convincingly that adherence to the rule would be other than in the public interest.

Applicant proposes to use the proceeds to be received from the sale of the \$5,000,000 of bonds to pay expenses incident to the sale, which are estimated at \$25,000, and to reimburse

its treasury for funds already expended for construction, completion, extension and improvement of its facilities which were not obtained from the sale of evidences of ownership or indebtedness. The record shows that applicant, upon reimbursing its treasury, will have need for the cash to enable it to repay short-term bank loans which totaled \$4,050,000 at September 30, 1963 and to proceed with its 1964 construction program which, according to the testimony, will aggregate about \$16,000,000 in 1964. Of this amount approximately one-half will be available from internal sources, leaving a balance of approximately \$8,750,000, plus provision for adequate working capital, to be financed from outside sources. It appears that bank credit is available to provide funds to supplement the proceeds from the present bond issue for the above purposes. Upon the conclusion of the financing, applicant's capital ratios as of September 30, 1963 would be as follows:

Bonds	\$ 52,000,000	43.5%
Debentures	6,875,000	5.7
Preferred stock	12,438,750	10.4
Common stock equity	<u>48,375,255</u>	<u>40.4</u>
Total	<u>\$119,689,005</u>	<u>100.0%</u>

From a review of the application, testimony and exhibits, we find that (1) applicant will have need for externally generated funds for the purposes indicated in this proceeding; (2) an order is warranted authorizing the issue of the bonds; (3) an order requiring applicant to sell the proposed issue of bonds in accordance with the requirements of the Commission's competitive bidding rule would not be in

the public interest; (4) the terms of the proposed bond issue are not adverse to the public interest; (5) applicant would be required to pay a higher interest rate in the absence of a restricted redemption provision; (6) the ensuing lower financial requirements will inure to the benefit of the consumer; (7) the money, property or labor to be procured or paid for by the issue of the bonds herein authorized is reasonably required for the purposes specified herein; and (8) such purposes, except as otherwise authorized, are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Based upon the foregoing findings, we conclude that the application should be granted. The action taken by the Commission on the company's present application is for the issue of securities only and shall not be construed as indicative of amounts to be included in future proceedings for the purpose of determining just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. The issue by California Water & Telephone Company of \$5,000,000 of First Mortgage Bonds, 4-5/8% Series due 1991, hereby is exempted from the Commission's competitive bidding rule which is set forth in Decision No. 38614, dated January 15, 1946, as amended.

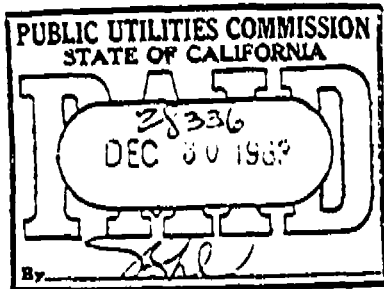
2. California Water & Telephone Company may execute and deliver its Twenty-second Supplemental Indenture in the same form, or in substantially the same form, as that filed in this proceeding as Exhibit No. 3 and may issue and sell said \$5,000,000 of First Mortgage Bonds, 4-5/8% Series due 1991, at not less than the principal amount plus accrued interest and may use the proceeds for the purposes indicated herein. The accrued interest may be used for said purposes or for general corporate purposes.

3. California Water & Telephone Company shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

4. The motion of California Water & Telephone Company to vacate the appearance of Halsey, Stuart & Co. Inc., is denied.

5. This order shall become effective when California Water & Telephone Company has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$3,000.

Dated at San Francisco, California, this 27<sup>th</sup> day of DECEMBER, 1968.



William M. Bennett President  
Frederick B. Halshoff

*I would require competitive bidding.*  
*George D. Hoover*

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.