

**ORIGINAL**

Decision No. 68782

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
CALIFORNIA-PACIFIC UTILITIES COMPANY )  
for an order authorizing it to issue )  
and sell not more than 135,000 common )  
shares, par value \$5 per share. )

Application No. 47350  
Filed February 23, 1965

Orrick, Dahlquist, Herrington & Sutcliffe,  
by James F. Crafts, Jr., for applicant;  
Sidney J. Webb, for the Commission staff.

O P I N I O N

This is an application for an order of the Commission authorizing California-Pacific Utilities Company to issue and sell, exempt from competitive bidding, not to exceed 135,000 shares of its common stock of the par value of \$5 per share and of the aggregate par value of \$675,000.

After due notice, a public hearing in this matter was held before Examiner Donovan in San Francisco on March 15, 1965, at which time the matter was taken under submission. The Commission has received no protests in the proceeding.

Applicant is a California corporation owning and operating public utility electric, gas, water and telephone systems in various parts of California and Nevada, electric, gas and telephone systems in Oregon, and electric systems in Arizona and Utah. In addition, the company is engaged in the non-utility sale of butane-propane gas in California and Oregon. For the year 1964, it reports total operating revenues amounting to \$15,371,978 and a net income of \$1,537,333.

Subject to receiving the required regulatory authorization, applicant proposes to effect a public sale of 135,000 shares of its common stock through negotiated arrangements with a group of underwriters who, under the terms of a proposed written agreement, would purchase said shares. The underwriters propose to combine a secondary offering of 64,318 shares of the company's common stock with the proposed offering of 135,000 shares so that the offering to the public would consist of 199,318 shares.

The issue price is to be determined on the basis of deducting an underwriting spread of 3½% of the offering price from an amount equal to the latest available dealers' market bid quotation on the effective date of the sale. Applicant contemplates that the price of the shares to the public will not exceed \$35 per share, the quoted bid price at the time of the hearing being \$31 per share. The company seeks an exemption of the proposed issue of common stock from the Commission's competitive bidding rule.

In support of the request for exemption, applicant asserts that the proposed equity issue, the proceeds from which are estimated to aggregate about \$4,000,000, is too small to attract sufficient bids to make the competitive bidding procedure meaningful, and that the terms offered applicant are far more favorable than could be expected under competitive bidding. The company is of the opinion that for it to seek competitive bids for the underwriting of the proposed shares of common stock would necessitate additional delay and expense without improving the terms. In addition, by reason of a negotiated offering applicant avers that it will have the benefit of the services of the underwriters in preparing a market for the issue, services that would

not be available under competitive bidding. The company's president testified that he has no knowledge of any sale of common stock under competitive bidding where the proceeds did not exceed \$5,000,000, that the method of negotiation enables the company to put pressure on the underwriters to sell as much stock as possible in its operating territory, that an obligation exists to combine the proposed offering with stock held by two existing shareholders, and that competitive bidding under such circumstances would be chaotic.

Applicant proposes to use the proceeds to be derived from the sale of the common stock for the purposes of repaying outstanding short-term bank notes, and financing, in part, its 1965 construction program. In this connection, the company reports that it has outstanding \$3,500,000 in short-term notes due in 1965, and that all such loans were incurred for construction purposes. The company expects to expend approximately \$8,000,000 for additions and betterments to its properties during the year 1965.

The company's capitalization ratios at December 31, 1964, as set forth in Exhibit No. 1, and giving effect to the proposed common stock offering assuming that applicant will obtain \$4,000,000 therefrom, are as follows:

	<u>Dec. 31, 1964</u>	<u>Pro forma</u>
Long-term debt	53.7%	48.2%
Preferred stock	4.1	3.7
Common stock equity	<u>42.2</u>	<u>48.1</u>
Total	<u>100.0%</u>	<u>100.0%</u>

The Commission has considered this matter and finds that: (1) the proposed stock issue is for proper purposes; (2) applicant will have need for funds from external sources for the purposes set forth in this proceeding; (3) applicant's plan of selling the proposed issue of common stock through a negotiated underwriting rather than by competitive bidding will not be adverse to the public interest; (4) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes specified herein; and (5) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted.

In issuing our order herein, we place applicant and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of the value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. The issue and sale by California-Pacific Utilities Company of not to exceed 135,000 shares of its \$5 par value common stock are hereby exempted from the Commission's competitive bidding rule which is set forth in Decision No. 38614, dated January 15, 1946, as amended by Decision No. 49941, dated April 20, 1954.

2. California-Pacific Utilities Company, on or after the date hereof and on or before August 31, 1965, may issue and sell not to exceed 135,000 shares of its \$5 par value common stock at a price to be determined in the manner set forth in the preceding opinion.

3. California-Pacific Utilities Company shall use the proceeds to be received from the issue and sale of its common stock for the purposes set forth in this application.

4. Within thirty days after the issue and sale of the shares of common stock herein authorized, California-Pacific Utilities Company shall file with the Commission three copies of its prospectus.

5. This order shall become effective on the date hereof.

Dated at San Francisco, California,  
this 31<sup>st</sup> day of March, 1965.

Frederick B. Hallock  
President

John P. Mitchell

George E. Hoover

Augustine

William M. Bennett  
Commissioners