

ORIGINAL

Decision No. 73877

BEFORE THE PUBLIC UTILITIES 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 an additional amount of)
its Common Stock)

Application No. 50031
Filed February 20, 1968
and Amendment
Filed March 1, 1968

O P I N I O N

San Jose Water Works requests authorization from the Commission to issue and sell not exceeding 58,090 shares of its \$12.50 par value common stock pursuant to a proposed issue of subscription rights to the holders of its common stock.

Applicant is a California corporation engaged in the business of supplying water to domestic, commercial and industrial consumers located in portions of Santa Clara County. For the year ended December 31, 1967, the company reports gross operating revenues of \$12,932,945 and net income of \$1,923,950. The balance sheet, attached to the application as part of Exhibit C, discloses that as of December 31, 1967, the company's investment in net utility plant, after deducting depreciation and amortization reserves, amounted to \$62,249,472 and that no short-term loans were outstanding.

Applicant states that prior to the proposed issue and sale of common stock, it plans to finance the cost of its current construction program through bank borrowings which will not exceed \$1,500,000 and which will be evidenced by short-term promissory notes. According to Exhibit A, attached to the application, the utility's capital expenditures which had not been financed with permanent securities, advances for construction or contributions in aid of construction amounted to \$4,449,451 as of December 31, 1967.

In this proceeding applicant proposes to issue to its common stockholders transferable subscription warrants evidencing rights to subscribe to one share of common stock for each 10 shares of its common stock held on the record date, at a subscription price equal to an amount which would not be more than 10% less than the bid price in the over-the-counter market of its common stock at the close of business on the day immediately preceding the record date.

Applicant presently plans to enter into an underwriting agreement whereby the underwriter will agree to purchase the unsubscribed shares. Said agreement will also provide for compensation to the underwriter on the basis of 1% of the subscription price of all shares to be offered and 2-3/4% of the subscription price for each share acquired by the underwriter for its own account through the exercise of subscription rights and by purchase of unsubscribed stock. Moreover, if the average net price of all unsubscribed shares sold by the underwriter prior to a specified date exceeds 102-3/4% of the subscription

price, an amount equal to 50% of such excess will be refunded to applicant.

The application shows that on January 31, 1968, applicant's outstanding common stock totaled 575,612 shares. In addition, the utility also had outstanding shares of convertible preferred stock which, if all were converted, would increase the number of outstanding shares of common stock to 580,896 and would entitle stockholders to subscribe to an aggregate of 58,090 shares under the proposed offering. Based on an assumed subscription price of \$31 per share for 58,090 shares, applicant estimates that it would receive a total consideration of \$1,800,790 before deducting underwriter's compensation.

Assuming that preferred stock will not be converted and that the subscription price of the common stock will be \$31 per share, the corporation's capitalization percentages as of December 31, 1967, excluding \$1,559,816 of contributions in aid of construction and adjusted to give effect to the proposed common stock offering, are approximately as follows:

	<u>December 31, 1967</u>	<u>Pro Forma</u>
Long-term debt	45%	44%
Advances for construction	20	19
Preferred stock	8	8
Common stock equity	<u>27</u>	<u>29</u>
Total	<u>100%</u>	<u>100%</u>

The company plans to apply the gross proceeds to be derived from the sale of its common stock toward (a) defraying the expenses related to issuance and sale of the shares, (b) repaying short-term bank loans, and (c) reimbursing applicant's treasury.

The Commission has considered this matter and finds that: (1) the proposed stock issue is for proper purposes; (2) applicant has need for funds from external sources for the purposes set forth in this proceeding; (3) 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 (4) 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, as amended, should be granted. A public hearing is not necessary.

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 granted 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. On or after the effective date hereof and on or before August 31, 1968, for the purposes specified in this proceeding, San Jose Water Works may issue subscription rights evidenced by transferable warrants and, upon the exercise of said rights, may issue and sell not exceeding 58,090 shares of its common stock at a price to be fixed in accordance with the formula set forth in this proceeding, one share to be issued for each 10 shares held on the record date.

2. San Jose Water Works, on or after the date hereof and on or before August 31, 1968, for the purposes specified in this proceeding, may issue and sell to an underwriter, or underwriters, the unsubscribed portion of said shares at the subscription price, and may pay to said underwriter, or underwriters, compensation for underwriting said unsubscribed shares in accordance with an underwriting agreement to be negotiated, which compensation shall not exceed a limit computed in accordance with the formula set forth in this proceeding.

3. Within thirty days after the issue and sale of the common stock herein authorized, San Jose Water Works shall file with the Commission one copy of said underwriting agreement and three copies of its prospectus relating to said common stock issue.

4. Within sixty days after issuing the common stock herein authorized, San Jose Water Works shall file with the Commission a report showing the number of common shareholders of record at the close of business on the record date, the number of shares subscribed by shareholders, by others upon purchase of rights to subscribe, and by the underwriter, or underwriters. Such report shall be filed in lieu of a report, or reports, under General Order No. 24-B.

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

Dated at San Francisco, California, this
19th day of MARCH, 1968.

[Signature]
President
[Signature]
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Commissioners