

ORIGINAL

Decision No. 83037

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)
SOUTHERN PACIFIC COMMUNICATIONS)
COMPANY FOR AUTHORITY TO ISSUE)
ADDITIONAL NOTES.)

Application No. 54089
(Filed May 17, 1974)

James J. Trabucco and Richard S. Kopf, Attorneys at Law,
for applicant.
Sidney J. Webb, for the Commission staff.

O P I N I O N

Southern Pacific Communications Company seeks exemption from the Commission's competitive bidding rule, and authority to issue not exceeding \$25,000,000 aggregate principal amount of its 8-1/4% Notes Due 1984.

After due notice, a public hearing on the above-entitled matter was held before Examiner Donovan in San Francisco on May 31, 1974, at the conclusion of which the matter was taken under submission. The Commission has received no protests in the proceeding.

Applicant is a corporation incorporated on January 23, 1970 under the laws of the State of Delaware, and is a wholly owned subsidiary of Southern Pacific Company. The record in this proceeding shows that applicant is a specialized common carrier of telecommunications, holding station licenses issued by the Federal Communications Commission for stations between San Francisco and Los Angeles, California, and holding permits to construct and operate its specialized common carrier system

between Los Angeles and St. Louis, Missouri, and between New York City and Boston, Massachusetts. In addition, applicant operates a video link in Florida between Fort Meyers and West Palm Beach.

The communications company proposes to issue two promissory notes in an aggregate principal amount of not exceeding \$25,000,000 in favor of Security Pacific National Bank, which notes would bear interest payable semi-annually at the rate of 8-1/4% per annum; principal would be repayable in amounts of 32%, 32% and 36% thereof in 1982, 1983 and 1984, respectively. Southern Pacific Company would be the unconditional guarantor.

The purposes for which the proposed notes are to be issued are for the construction, completion, extension or improvement of facilities, for the acquisition of facilities, and for not exceeding \$5,000,000 working capital. None of the proceeds would be used for intrastate operations in the State of California.

As justification for seeking exemption from competitive bidding requirements with respect to the notes, the application states the following:

"Applicant requests that the Commission find that the Additional Notes may be issued, as aforesaid, without being offered for competitive bidding. It is not desirable or feasible for the Additional Notes to be sold at competitive bidding for the following reasons:

"Since the date of its incorporation in Delaware on January 23, 1970, the Applicant has been continuously occupied in obtaining its required licenses from the FCC and in constructing its communications system. Applicant recently commenced interstate common carrier communications service on December 26, 1973. As shown in Exhibit D, at March 31, 1974, Applicant had total assets in excess of \$19 million, but had received only \$7,182 in revenues for the three months then ended. At the present time, the Applicant possesses

neither the operating experience nor the earnings necessary in order to commend securities to the investing public and to provide standards for judging their ratings and quality. However, due to confidence in the Applicant and its proposed operations, the Lender is prepared to loan necessary funds upon the terms stated, which are believed by the Applicant to be more advantageous and superior to any loan financing which could be obtained by Applicant through competitive bidding, both with respect to terms of repayment and interest cost.

"Greater flexibility is obtained by placing this loan with only one lender rather than making a public distribution of securities. Unexpected developments may occur in any new enterprise, and it is of value to have its securities closely held to permit necessary changes to be negotiated in the event such developments become significant. Private placements of securities, including privately negotiated loans, have been widely adopted for the financing of new companies. Furthermore, the Lender has considerable knowledge of Applicant's proposed communications system and business operations by reason of prior negotiations for the said note financing.

"It is the considered judgment of Applicant, and Applicant has been informed by persons who are actively engaged in the public offering of securities of communications companies, that, under present market conditions, loans on as favorable terms as the proposed note financing cannot be obtained through the public offering of Applicant's securities, or by competitive bidding."

After consideration the Commission finds that:

1. The proposed notes are for proper purposes.
2. Applicant has need for external funds for the purposes set forth in this proceeding.
3. The 8-1/4% per annum interest rate applicable to the proposed notes is favorable to applicant under current market conditions.

4. A financially strong guarantor of the proposed notes controls applicant.
5. The issuance and sale of the proposed notes should not be required to be effected at competitive bidding.
6. The money, property or labor to be procured or paid for by the notes herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be granted. The action taken herein is for the purpose of this proceeding only, and is not to be construed 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 issuance and sale by Southern Pacific Communications Company of not exceeding \$25,000,000 aggregate principal amount of its 3-1/4% Notes Due 1934 are hereby exempted from the Commission's competitive bidding rule set forth in Decision No. 38614, dated January 15, 1946, as amended, in Case No. 4761.

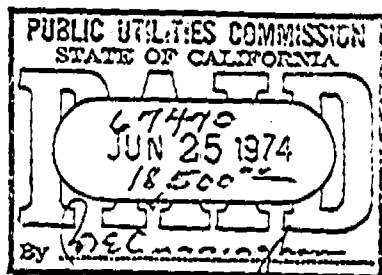
2. Southern Pacific Communications Company may issue and sell at a price of not less than 100% of their principal amount not exceeding \$25,000,000 aggregate principal amount of its 3-1/4% Notes Due 1934. The notes shall be in substantially the same form as that in evidence as part of Exhibit No. 4 and subject to Note Agreements containing terms consistent with Exhibit No. 6.

3. Southern Pacific Communications Company shall use the proceeds from the notes herein authorized for the purposes specified in this proceeding.

4. Southern Pacific Communications Company shall file with the Commission reports required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. This order shall become effective when Southern Pacific Communications Company has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$18,500.

Dated at San Francisco, California, this 25th day of June, 1974.



Verne L. Sturgeon
President
William L. Quinn
William L. Quinn
William L. Quinn
William L. Quinn
Commissioners