

ORIGINAL

Decision No. 85126

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of Southwest Gas Corporation for)	Application No. 55975
Authority to Issue Not to Exceed)	(Filed October 1, 1975)
\$10,000,000 Aggregate Principal)	and Amendment
Amount of Ten-Year, 11-7/8%)	(Filed October 14, 1975)
Unsecured Promissory Notes.)	

Constance L. Howard, Attorney at Law, for applicant.
Sidney J. Webb, for the Commission staff.

O P I N I O N

Southwest Gas Corporation seeks exemption from the Commission's competitive bidding rule, and authority to issue and sell not exceeding \$10,000,000 aggregate principal amount of its unsecured promissory notes.

After due notice, a public hearing in the above-entitled matter was held before Examiner Tomita in San Francisco on October 22, 1975, at the conclusion of which the matter was taken under submission. The Commission has received no protests in the proceeding.

Applicant is a California corporation engaged in the business of selling natural gas in portions of Placer and San Bernardino Counties. In addition, the company transmits, sells and distributes natural gas in the States of Arizona and Nevada. For the 12 months ended July 31, 1975, the utility reports that it derived 8% of its revenues from operations in Arizona, 12% from California and 80% from Nevada.

Pursuant to authority granted by Decision No. 84301, dated April 8, 1975, in Application No. 55563, applicant herein has outstanding \$11,000,000 aggregate principal amount of notes issued under a line of credit with a group of banks. The utility proposes to repay \$10,000,000 of the \$11,000,000 bank indebtedness with proceeds to be derived from the proposed notes; any accrued interest would be used for general corporate purposes.

The proposed unsecured notes would bear interest at a rate of 11-7/8% per annum, would be dated as of December 1, 1975, and mature December 1, 1985, and would be subject to sinking fund requirements of \$1,000,000 per year commencing at the end of the third year. The proposed purchaser of the notes is The Equitable Life Assurance Society of the United States.

Applicant's capital ratios at August 31, 1975, and as adjusted to give effect to the \$8,000,000 aggregate par value of preference stock involved in Application No. 55974 and to the proposed \$10,000,000 of notes, are summarized from the amendment to the application, as follows:

	<u>August 31, 1975</u>	<u>Pro forma</u>
Long-term debt	55.64%	55.88%
Preferred and preference stock	7.01	13.37
Common stock equity	<u>37.35</u>	<u>30.75</u>
Total	<u>100.00%</u>	<u>100.00%</u>

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

" . . . Applicant has had an extremely difficult time finding even one prospective purchaser for bonds or any other form of long-term debt financing. In fact, the Applicant has been trying to privately place any form of long-term debt since shortly after the close of the sale of its Common Stock in April, 1975. Because of the restrictive provisions of its Indentures as set forth in paragraph 8.1 of its Application, Applicant believes that there is very little possibility that it would receive any bids at all to purchase its Notes at any price, under any terms, under the prevailing market conditions, should Applicant solicit competitive bids, and Applicant is so advised by its investment bankers . . ."

After consideration the Commission finds that:

1. The proposed notes would be for proper purposes.
2. Applicant has need for external funds for the purposes set forth herein.
3. The sale of the proposed notes should not be required to be through competitive bidding.
4. 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, except as otherwise authorized for accrued interest, 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, as amended, should be granted. Certain decisions (commencing with Decision No. 83411, dated September 4, 1974, in Application No. 55080, relating to Southern California Gas Company's First Mortgage Bonds, Series J, and most recently Decision No. 85004, dated October 15, 1975, in Application No. 55911, relating to Pacific Lighting Service Company's Debentures, Series F) hold that this Commission in exercising its

authority to regulate public utility debt securities is not restricted by the California Usury Law and its ramifications. We reaffirm this holding and further conclude that although the 11-7/8% interest rate exceeds the interest limitation of the California Usury Law, the transaction is the best the utility can obtain because of market conditions, and the public interest requires this Commission to authorize the issuance and sale of the debt instruments.

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 sale by Southwest Gas Corporation of not exceeding \$10,000,000 aggregate principal amount of its ten-year, 11-7/8%, unsecured promissory notes is 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. On or before December 31, 1975, Southwest Gas Corporation may issue and sell not exceeding \$10,000,000 aggregate principal amount of its ten-year, 11-7/8%, unsecured promissory notes under substantially the terms set forth in this proceeding.

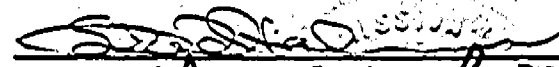
3. Neither Southwest Gas Corporation, nor anyone purporting to act on its behalf, shall at any time assert in any manner, or attempt to raise as a claim or defense in any proceeding, that the interest on the notes herein authorized exceeds the maximum permitted to be charged under the California Usury Law or any similar law establishing the maximum rate of interest that can be charged to or received from a borrower.

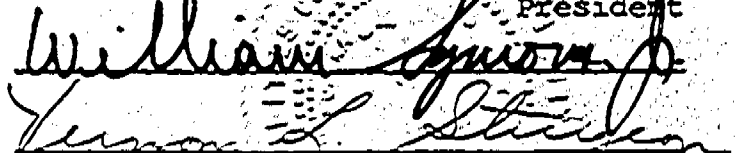
4. Southwest Gas Corporation shall apply the proceeds from the sale of said notes to the purposes set forth in the application, as amended.


5. Southwest Gas Corporation shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

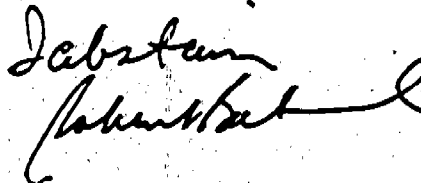
6. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 18th day
of NOVEMBER, 1975.



President






Commissioner

Commissioners