

Decision No. 85715

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA)
 GAS COMPANY for Authority to Issue)
 and Sell Not Exceeding \$50,000,000)
 First Mortgage Bonds, Series K,)
 Mortgage its Properties and to)
 Execute and Deliver a Supplemental)
 Indenture.)

Application No. 56305
 (Filed March 2, 1976)

Jay V. Lake and David B. Follett, Attorneys at
 Law, for applicant.
Sidney J. Webb, for the Commission staff.

O P I N I O N

Southern California Gas Company, a California corporation, seeks authority to execute and deliver a Supplemental Indenture, and to issue and sell not exceeding \$50,000,000 aggregate principal amount of its First Mortgage Bonds, Series K, through negotiations to be conducted in the State of New York.

After due notice, a public hearing in the above-entitled matter was held before Examiner Tomita in San Francisco on March 26, 1976, at the conclusion of which the matter was taken under submission.

Applicant is a subsidiary of Pacific Lighting Corporation and sells natural gas to customers located in portions of central and southern California. Its capitalization percentages on January 31, 1976, and as adjusted to give effect to the proposed bond issue, are summarized from the application as follows:

| | <u>January 31, 1976</u> | <u>Pro Forma</u> |
|-----------------|-------------------------|------------------|
| Long-term debt | 47.34% | 50.25% |
| Preferred stock | 2.52 | 2.38 |
| Common equity | 50.14 | 47.37 |
| Total | <u>100.00%</u> | <u>100.00%</u> |

The utility contemplates that a nationwide group of investment bankers, headed by Morgan Stanley & Co. Incorporated, would underwrite the \$50,000,000 of new bonds, and that the terms, including but not limited to the price and interest rate, would be determined through negotiations. The bonds would be secured by an existing Indenture as heretofore supplemented and as further supplemented by a proposed Supplemental Indenture.

Applicant proposes to use the proceeds from the sale of the Series K bonds for reimbursement of moneys used, or to be used, in its construction program and for meeting sinking fund requirements.

After extensive study the Commission, by Decision No. 38614, dated January 15, 1946, in Case No. 4761 (46 C.R.C. 281) promulgated a rule which requires competitive bidding pertaining to the securities presently under consideration unless the utility makes a due showing that the sale thereof at competitive bidding should not be required. The only material issue in this proceeding is whether or not the company has made a clear and convincing showing that adherence to such rule would be adverse to the utility and its customers. In addition, applicant specifically requests certain findings and authorizations due to the existence of the California Usury Law.

Upon consideration of the entire record in this proceeding, we find that:

1. Applicant is a California corporation operating under the jurisdiction of this Commission.
2. On March 12, 1976, the Notice of Hearing was published in newspapers of general circulation in the counties of Imperial, Kings, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, Tulare and Ventura.

3. Through inadvertence, the Notice of Hearing was not published until March 25, 1976 in a newspaper of general circulation in the City and County of San Francisco.
4. Public necessity required the hearing to be held on less than ten days' notice published in a newspaper of general circulation in the City and County of San Francisco.
5. The terms of the \$50,000,000 negotiated offering on October 16, 1974 of applicant's 10-1/4% First Mortgage Bonds, Series J, Due 1981, reflected market conditions which were substantially inferior to those prevailing at the present time.
6. Applicant asserts the desirability of a negotiated offering of its Series K bonds principally because of the alleged concern on the part of investors with respect to the long-term adequacy of natural gas supplies available to natural gas utilities.
7. The success of recently offered gas utility securities shows that adequacy of gas supply is not a factor for this Commission to consider for determining whether an offering should be negotiated instead of competitive.
8. Upon granting applicant herein a partial general rate increase the Commission in Decision No. 85354, dated January 20, 1976, on Application No. 55345, included a finding that: "Since a decision in this matter will not be issued in time to provide the test year 1976 revenues found reasonable, a partial general increase in rates, to be construed as an initial phase in this proceeding, is reasonable and justified to arrest SoCal's continuing erosion of earnings and to materially improve its financial performance, to enhance its ability to raise additional capital required for financing its continuing construction programs, (which are required to provide its peaking and seasonal load requirements), to provide better investor acceptance of SoCal's securities, and to reduce the risk of derating of its securities."
9. Applicant has failed to make a clear and convincing showing that a competitive bidding offering of its Series K bonds would be adverse to itself and its customers.

10. The proposed bonds would be for a proper purpose.
11. The proposed Supplemental Indenture would not be adverse to the public interest.
12. Applicant has need for external funds for the purpose set forth herein.
13. The money, property or labor to be procured or paid for by the bonds herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.
14. To situate and structure the issuance and sale of applicant's Series K bonds in the State of New York without restricting the market for such bonds to areas outside California would not be adverse to the public interest.
15. We have repeatedly held on recent occasions that the California Usury Law does not apply to security issues authorized by this Commission.

On the basis of the foregoing findings we conclude that:

(a) applicant's request for exemption from the Commission's competitive bidding rule should be denied, (b) applicant's request for certain findings and authorizations due to the existence of the California Usury Law should be dismissed, and (c) the application should be granted in all other respects.

The authorization herein granted 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 request of Southern California Gas Company for exemption from the Commission's competitive bidding rule set forth in Decision No. 38614, dated January 15, 1946, as amended, in Case No. 4761 is hereby denied.

2. Southern California Gas Company may execute and deliver a Supplemental Indenture in substantially the same form as that attached to the application as Exhibit A.

3. Southern California Gas Company may invite the submission of written sealed bids for the purchase of not exceeding \$50,000,000 aggregate principal amount of its First Mortgage Bonds, Series K. The invitation for bids shall be published at least five days prior to the date set for the opening of the bids.

4. Southern California Gas Company may issue and sell said bonds in the aggregate principal amount of not exceeding \$50,000,000, at the price offered in the bid which will provide the lowest annual cost of money to applicant.

5. Southern California Gas Company shall apply the proceeds from the sale of said bonds to the purpose set forth in this proceeding.

6. Promptly after awarding the contract for the sale of said bonds, Southern California Gas Company shall file a written report with the Commission showing, as to each bid received, the name of the bidder, the price, the interest rate and the cost of money to applicant based on such price and interest rate.

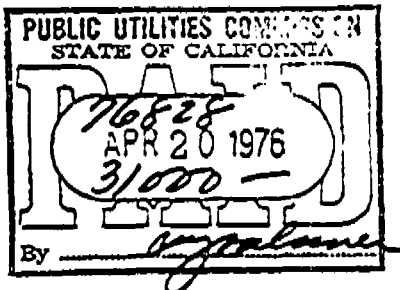
7. As soon as available, Southern California Gas Company shall file with the Commission three copies of its final prospectus pertaining to said bonds.

8. Within one month after such issue and sale, Southern California Gas Company shall file with the Commission a statement, in lieu of a report under General Order No. 24-B, disclosing the purpose for which the bond proceeds were used.

9. Insofar as it requests certain findings and authorizations due to the existence of the California Usury Law, the application is hereby dismissed;

10. The effective date of paragraphs 1 and 9 of this order shall be twenty days after the date hereof. In all other respects this order shall become effective when Southern California Gas Company has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$31,000.

Dated at San Francisco, California, this 20th day of APRIL, 1976.



President
William S. ...

...

Robert Bateman
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.