

CACD/BVC

Decision 91-03-063 March 22, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAN JOSE WATER )  
COMPANY, U-168-W, a corporation, )  
to issue and sell not to exceed )  
\$12,000,000 principal amount of )  
its First Mortgage Bonds, Series )  
AA, and to execute and deliver a )  
Supplemental Mortgage of Chattels )  
and Trust Indenture. )

**ORIGINAL**  
Application 90-07-072  
(Petition for Modification  
filed January 11, 1991)

SUPPLEMENTAL OPINION

Summary of Decision

This decision grants San Jose Water Company (San Jose Water) the authority requested in its Petition for Modification of Decision (D.) 90-10-031.

Notice of the filing of the Petition for Modification appeared on the Commission's Daily Calendar of January 16, 1990. No protests have been received.

By D.90-10-031, dated October 10, 1990 the Commission authorized San Jose Water to issue and sell up to \$12,000,000 principal amount of its First Mortgage Bonds, Series AA (Bonds). In Finding of Fact Number 1, San Jose Water is referred to as a Nevada corporation. This is an erroneous statement. San Jose Water is, in fact, a California corporation. Therefore, Finding of Fact Number 1 shall be revised to read, in its entirety:

"1. San Jose Water, a California corporation, is under the jurisdiction of this Commission."

In connection with the issuance of the Bonds, San Jose Water also requested authority to execute and deliver a Supplemental Mortgage of Chattels and Trust Indenture (Thirty-First Supplemental Indenture). Ordering Paragraph 2 authorized San Jose Water to execute ". . . any and all related documents required for completion of the proposed financing." Within the

context of this phrase, Ordering Paragraph Number 2 authorizes San Jose Water to execute the Thirty-First Supplemental Indenture.

However, San Jose Water notes that the form of the Thirty-First Supplemental Indenture was not filed with Application (A.) 90-07-072 and had not heretofore been filed with the Commission. A.90-07-072 stated that the Thirty-First Supplemental Indenture would be late-filed, since the terms of the Indenture had not been negotiated with the prospective purchasers of the Bonds at the time A.90-07-072 was filed.

San Jose Water has now attached a copy of the Thirty-First Supplemental Indenture to the Petition for Modification as late-filed Exhibit D. Now that the form of the Thirty-First Supplemental Indenture has been substantially determined and is before the Commission, San Jose Water requests that Ordering Paragraph Number 2 be revised in its entirety to read as follows:

"2. San Jose Water may execute and deliver any and all related documents required for completion of the proposed financing, including without limitation the Supplemental Mortgage of Chattels and Trust Indenture (Thirty-First Supplemental Indenture) in or substantially in the same form set forth in late-filed Exhibit D attached to San Jose Water's Petition for Modification."

The Commission Advisory and Compliance Division has reviewed late-filed Exhibit D and, finding no fault with the aforementioned document recommends, and we agree, that San Jose Water's language should be adopted and Ordering Paragraph 2 in D.90-07-072 should be revised so that no errors shall be made in interpreting its meaning in context to the remainder of the decision.

Findings of Fact

1. San Jose Water is a California corporation and operates as a water utility subject to the jurisdiction of this Commission.

2. D.90-10-031 authorized San Jose Water to issue and sell up to \$12,000,000 principal amount of its Bonds.

3. In connection with such issuance, San Jose Water also requested authority to execute and deliver a Supplemental Mortgage of Chattels and Trust Indenture (Thirty-First Supplemental Indenture).

4. San Jose Water did not attach the Thirty-First Supplemental Indenture as a part of A.90-07-072.

5. San Jose Water has substantially negotiated the Thirty-First Supplemental Indenture with the prospective purchasers of the Bonds and has filed a copy as late-filed Exhibit D attached to the Petition for Modification.

6. Ordering Paragraph Number 2 of D.90-10-031, which asserted that San Jose Water may execute ". . . any and all related documents required for completion of the proposed financing," (which by its generality included the Thirty-First Supplemental Indenture) should be corrected.

7. Notice of the filing of the Petition for Modification appeared on the Commission's Daily Calendar of January 16, 1990. No protests have been received.

Conclusions of Law

1. A public hearing is not necessary.

2. The Petition for Modification should be granted to the extent set forth in the order which follows.

3. The following supplemental order should be effective on the date of signature in order to reduce any confusion created in D.90-10-031.

S U P P L E M E N T A L O R D E R

IT IS ORDERED that:

1. Finding of Fact Number 1 of D.90-10-031 is corrected to read as follows:

"1. San Jose Water, a California corporation, is under the jurisdiction of this Commission."

2. Ordering Paragraph Number 2 of D.90-10-031 is corrected to read as follows:

"2. San Jose Water may execute and deliver any and all related documents required for completion of the proposed financing, including without limitation the Supplemental Mortgage of Chattels and Trust Indenture (Thirty-First Supplemental Indenture) in or substantially in the same form set forth in late-filed Exhibit D attached to San Jose Water's Petition for Modification."

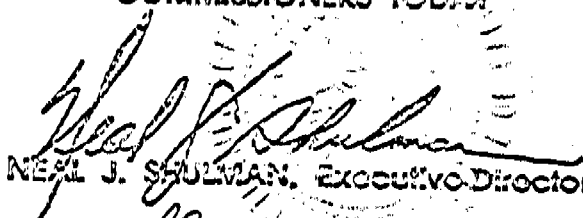
3. The Petition for Modification is granted as set forth above.

4. The authority granted by this supplemental order is effective today.

Dated March 22, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
DANIEL WM. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
NEAL J. SHULMAN, Executive Director  
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