

CACD/RAX

Decision 92-06-066 June 17, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Pacific Bell (U 1001 C), to issue and)
sell not to exceed \$2 billion)
aggregate principal amount of)
Debentures and/or Notes and for an)
exemption from the Commission's)
Competitive Bidding Rule.)

ORIGINAL
Application 86-12-056
(Petition for Modification
Filed December 23, 1986)

SUPPLEMENTAL OPINION

Summary of Decision

This decision grants Pacific Bell (Pacific) the authority requested in the Petition for Modification of Decision (D.) 87-03-070 as modified by D.89-04-068, D.90-12-117 and D.90-12-020.

Pacific's petition requests the following:

- 1) An exemption from the Commission's Competitive bidding requirements as set forth in D.38614, as amended by D.49941, D.75556, D.81908 and Resolution F-616 (collectively, the Competitive Bidding Rule) for an issue of \$1.35 billion in Debt Securities, and;
- 2) the use of certain procedures when the Competitive Bidding Rules are used, and;
- 3) in lieu of General Order 24-B requirements, the filing of certain reports, and;
- 4) ability to renew and/or refund its Commercial Paper so that the combined terms of its obligations may exceed twelve months without the need for further authorization from this Commission, and;
- 5) ability to enter into certain financial contracts including interest rate caps, collars and swaps.

Pacific's Petition for Modification appeared on the Commission's Daily Calendar of January 8, 1992. No protests have been received.

Exemption from Competitive Bidding

Pursuant to D.87-03-070, as modified, Pacific has remaining authority to issue up to \$1.35 billion aggregate principal amount of debentures and/or notes ("Debt Securities") from an original authorization of \$2 billion, the proceeds of which are to be used to refund maturing debt and preferred issues, as well as repurchase and retire high cost debt securities. Pacific expects to issue debt securities in the amount of up to \$1.35 billion pursuant to this authority, as soon as it is economically reasonable to do so.

Recent market events and the current instability of the capital markets have affected the availability and viability of competitive bidding in the markets. Current market conditions indicate a continued period of volatile interest rates. These conditions are expected to persist for the foreseeable future, making the timing and the setting of terms of any debt issue extremely important. Pacific argues that a negotiated offering provides greater flexibility to adjust the timing and terms of a proposed debt offering to meet these changing market conditions than would be available through the competitive bid process.

Pacific seeks an exemption from the Commission's Competitive Bidding Rule for this issue of Debt Securities. Pursuant to the Competitive Bidding Rule, the Commission may grant exemptions for the Rule for debt issues in excess of \$200 million upon a compelling showing by a utility that because of the size of the issue an exemption is warranted.

Description of Debt Securities

Pacific would like to highlight, in particular, that it may issue Medium Term Notes ("MTNs"), Debt Securities containing a

"put" option, and Debt Securities in combination with interest rate caps, collars or swaps. All of these are forms of securities that do not lend themselves to competitive bidding based on their unique characteristics.

A. Medium Term Notes

MTNs are notes which may be offered on a continuous or periodic basis pursuant to a "shelf" registration statement filed with the Securities and Exchange Commission. Maturities range from nine months to 20 years. MTNs may be sold publicly or privately and may have fixed or floating rates. MTNs are sold in the United States or in foreign capital markets, denominated in U.S. dollars or in a foreign currency. If MTNs are denominated in a foreign currency, Pacific may enter into separate contract(s) whereby its debt servicing would be converted to U.S. dollars. MTNs may be sold through dealers on a best efforts or agency basis.

The Commission's requirements for competitive bidding under the Competitive Bidding Rules exempt debt issues for which competitive bidding is not viable or available. MTNs which are sold through dealers on a best efforts or agency basis have been previously recognized by this Commission to meet that criteria (see D.87-12-002, D.88-04-063 and D.90-04-029).

B. Put options

Pacific anticipates that, from time to time, the effective cost of Debt Securities may be reduced by the inclusion of a "put" option. This option would allow the holders of the Debt Securities to require Pacific to repurchase all or a portion of each holder's securities. Since the universe of investors interested in "put" bonds is somewhat limited, issuing securities with a "put" option through competitive bidding may not be viable. Therefore, Pacific requests an exemption from the Commission's

Competitive Bidding Rules for Debt Securities containing "put" options, as well as MTNs, all as described above.

C. Combination Debt Securities and interest rate caps, collars or swaps

Pacific also anticipates that, from time to time, it may reduce the effective cost of Debt Securities and reduce its exposure to interest rate risk by combining Debt Securities with interest rate caps, collars or swaps. Pacific's fixed rate financing combined with the swap results in a floating rate financing for Pacific. Since the timing of such a financing, including the ability to execute all of the pieces simultaneously, is usually critical to achieving the desired results, it may not be practical or advisable to separate the component parts for competitive bidding. Pacific seeks the flexibility to pursue such transactions on a negotiated basis and therefore requests an exemption from the Commission's Competitive Bidding Rules for Debt Securities issued in combination with interest rate caps, collars or swaps.

D. Issues of Debt Securities of \$200 million or greater

Pacific also seeks an exemption from the Competitive Bidding Rules for issues of Debt Securities in the amount of \$200 million or greater. This Commission granted Pacific the necessary flexibility to use either negotiated or competitive bidding for those issues of Debt Securities of \$300 million or greater (D.87-03-070). Recently, this Commission also granted Pacific's request for an exemption from the Competitive Bidding Rule for an issue of Debt Securities of \$225 million (D.90-12-020) recognizing, among other things, that the competitive bidding process may be hampered by volatile interest rates, fears of an ongoing recession and the large demand for long-term funds by both government and private industry. Pacific now seeks to have that same flexibility extended

to the remaining \$1.35 billion of debt securities requested in the application to the extent that they are issued in increments of of \$200 million or greater.

E. Short-Term Debt

Another form of debt issued by Pacific is short-term debt or commercial paper which is issued with maturities of less than one year. Previously issued commercial paper may be refunded or rolled over. The commercial paper may be sold privately or publicly in the domestic or foreign capital markets. The commercial paper may be sold through placement agents who market commercial paper on a best efforts basis, or may be sold directly to investors. Pacific seeks the authority to refund or renew its commercial paper such that the combined terms of its commercial paper may exceed 12 months without the need to periodically request new authorization from this Commission.

The commercial paper interest rate will include the effective yield, plus any expenses associated with issuing commercial paper. These expenses include, but are not limited to, dealer Commissions, issuing and paying agent fees and Credit Agreement fees.

Commission authorization

The Commission Advisory and Compliance Division (CACD) has reviewed Pacific's petition and has decided that the sale of Pacific's Debt Securities through negotiation at this time would likely enable it to obtain a lower cost of money than obtainable by sale with competitive bidding. Furthermore, CACD concludes, an exemption from the Competitive Bidding Rule for sale and issuance of the proposed \$1.35 billion in Debt Securities would not be adverse to the public interest. This exemption will afford Pacific the flexibility to meet its financial requirements on the most favorable terms available.

The forms of securities and indentures, and the term or terms, including any redemption provisions and sale dates, are to be determined by Pacific based on market conditions prevailing at the time of a proposed issuance.

The Commission has considered CACD's recommendations, and finding them reasonable, will adopt them as stated above.

Reports to the Commission

Within 30 days after entering into a swap, Pacific will furnish this Commission with a report comparing the all-in cost of money with the swap with the all-in cost of money without a swap.

Pacific will submit a semiannual report to this Commission showing all swap, cap and collar receipts and payments. This report would only be filed for periods during which a swap, cap or collar is outstanding.

In lieu of General Order 24-B requirements, Pacific proposes to continue filing reports pursuant to D.87-03-070 and also proposes filing semi-annual reports in connection with the sale of Debt Securities under an MTN program. Pacific proposes to file with the Commission, on or before the 25th day of the month following each semi-annual period, a statement for the preceding semi-annual period showing the aggregate principal amount, interest rate, maturity and cost to the company of Debt Securities sold in connection with an MTN program, if such securities are issued.

Findings of Fact

1. Pacific, a California Corporation, operates as a public utility under the jurisdiction of this Commission.
2. The authorization of an exemption from the Commission's Competitive Bidding Rule for Debt Securities containing a "put" option, or for MTNs, or for Debt Securities issued in combination with interest rate caps, collars or swaps, or

for any other Debt Securities of Pacific in an amount of \$200 million or greater would not be adverse to the public interest.

3. Exempting Pacific from the Commission's Competitive Bidding Rule, as set forth in the Petition for Modification, is not adverse to the public interest.

4. Pacific's filing of reports as permitted by D.87-03-070 in lieu General Order 24-B requirements is not adverse to the public interest.

5. The authorization for Pacific to enter into financial contracts, including interest rate caps, collars and/or swaps is not adverse to the public interest.

6. Pacific's refunding or renewal of its commercial paper, such that the combined term of its outstanding commercial paper may exceed 12 months without further authorization from this Commission, is not adverse to the public interest.

7. There is no known opposition to this proceeding and there is no reason to delay granting the authority requested.

Conclusions of Law

1. A public hearing is not necessary.
2. The Petition for Modification should be granted.
3. The following order should be effective on the date of signature to enable Pacific to proceed with its financing expeditiously.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

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

2. In all other respects, D.87-03-070, as modified by D.89-04-068, D.90-12-117, and D.90-12-020 remains in full force and effect.

3. In lieu of General Order 24-B requirements, Pacific shall file reports as set forth in the Petition for Modification.

4. Pacific may renew or refund its commercial paper such that the combined terms of its outstanding commercial paper may exceed 12 months without further authorization from this Commission.

5. Pacific may enter into certain financial contracts, including interest rate swaps, caps or collars, as described in the Petition for Modification.

This supplemental order is effective today.

Dated June 17, 1992, at San Francisco, California.

DANIEL Wm. FESSLER

President

JOHN B. OHANIAN

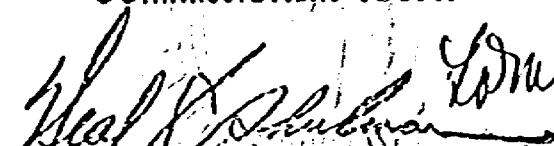
PATRICIA M. ECKERT

NORMAN D. SHUKWAY

Commissioners

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


NEAL J. SULMAN, Executive Director