KD

Decision No. 90419 JUN 15 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY for modification of Decision No. 89468 in Application No. 58310 and Decision No. 89672 in Application No. 58428, eliminating the language prohibiting use of proceeds from the sale of debentures.	Application No. 58552 (Filed December 26, 1978)
Application of THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, to issue and sell not to exceed $300,000,000 principal amount of Debentures and to execute and deliver an Indenture; and for an exemption of such proposed issue of Debentures from the requirements of the Competitive Bidding Rule.	Application No. 58844 (Filed May 4, 1979)

Appearances in Application No. 58552

Joan Drake Durham, Attorney at Law, for The Pacific Telephone and Telegraph Company, applicant.
Sidney J. Webb, for himself, protestant.
Elinore C. Morgan, Attorney at Law, for the Commission staff.

Appearances in Application No. 58844

William F. Anderson, Attorney at Law, for The Pacific Telephone and Telegraph Company, applicant.
Sidney J. Webb, for himself, protestant.

O P I N I O N

These proceedings, having been consolidated by ruling of the administrative law judge, will be disposed of in a single opinion. We will first address ourselves to the issues raised by Application No. 58552.

Application No. 58552

In Decision No. 89468, dated October 3, 1978, in Application No. 58310, the Commission in authorizing the issuance by The Pacific Telephone and Telegraph Company (Pacific) of $300,000,000 of debentures ordered that:

> "...no part of the proceeds of such issuance shall be used for the benefit of, or to reimburse the treasury of Pacific on account of expenditures in behalf of, Bell Telephone Company of Nevada." (Decision No. 89468, p. 13.)

The precedent set by Decision No. 89468 was followed by the Commission in two subsequent financing decisions, No. 89672, dated November 28, 1978, in Application No. 58428, involving $200,000,000 par value of Pacific's nonvoting preferred shares, and No. 89822, dated January 4, 1979, in Application No. 58492, involving $300,000,000 of Pacific's debentures.

Application No. 58552 seeks modification of Decisions Nos. 89468 and 89672 to eliminate the above-quoted language, which appears in each order.

One day of hearing was held in San Francisco on February 26, 1979 before Administrative Law Judge Robert T. Baer and the matter was submitted.

Bell Telephone of Nevada (Bell-Nevada) is a wholly owned subsidiary of Pacific. Pacific provides all of Bell-Nevada's financing by making advances (loans) to Bell-Nevada at Pacific's composite cost of short-term borrowings. When such advances reach the level of approximately $10,000,000, Bell-Nevada issues common stock which Pacific purchases. Bell-Nevada then uses the proceeds of the sale of common stock to pay down the accumulated advances.

Since the restriction was first imposed, Pacific has made advances to Bell-Nevada solely from internally generated funds. The stock purchases, however, are made from cash on hand, whatever the source.

Pacific takes the position that its internally generated funds are more than adequate to cover Bell-Nevada's financing needs. However, it argues that the restriction on its use of proceeds from securities issues has the potential of creating concern on the part of underwriters' counsel. For instance, Pacific's witness stated, underwriters' counsel might well call upon the company to make some demonstration that, indeed, no part of the proceeds would be used for Bell-Nevada. Although Pacific takes the position that internally generated funds are being used to finance Bell-Nevada, underwriters' counsel, the witness fears, might raise the question as to whether internally generated funds were really the source of Bell-Nevada's financing. The witness also testified that no actual concern has been expressed by underwriters' counsel with respect to the issue of debentures authorized by Decision No. 89822, dated January 4, 1979, in Application No. 58492, and we infer that had such concern existed regarding the issue of preferred shares authorized by Decision No. 89672, dated November 28, 1978, in Application No. 58428, Pacific would have so testified.

Sidney J. Webb appeared in the proceeding as a protestant. Mr. Webb's cross-examination of Pacific's witness disclosed that as of the time of the hearing, the authority granted by Decision No. 89468, one of the decisions to which Pacific seeks modification, had been completely exercised, and that the authority granted by Decision No. 89672, the other of the decisions to which Pacific seeks modification, would be completely exercised as of March 1, 1979.[1/]

1/ The evidence also revealed that the authority granted by Decision No. 89822, to which Pacific does not seek modification, had also been completely exercised.

Mr. Webb argued with respect to the foregoing facts that once the authority has been exercised the decisions are no longer of any outstanding importance and that any modification of them would be an idle act. He contends, in other words, that once the sales of securities have been consummated and after the proceeds have been expended - in these cases to reimburse Pacific's treasury - there is nothing left to modify and "we are talking about a moot situation." (Tr. 22.)

We agree that modification of Decisions Nos. 89468 and 89672 will have no direct effect. Pacific's real concern is future financing decisions, as demonstrated by the following exchange between Mr. Webb and Pacific's witness:

> "MR. WEBB: Q. Mr. Joses, when does Pacific contemplate filing its next application for issuing stock or debentures?
>
> "A. We don't have any firm date on that, Mr. Webb. We are reviewing on an ongoing basis our financing plans for this year and out beyond this year, for that matter. We have not settled on any specific action.
>
> "Q. So what you really want here is that whenever that next decision comes out, it will have language which does not contain this Bell of Nevada problem. Is that correct?
>
> "A. Well, certainly. We would hope that would be the case.
>
> "Q. So it really doesn't, you are not really too concerned about these three decisions which we have just referred to?
>
> "A. Clearly I am very concerned about the future decisions. I think that the posture that these past decisions have assumed or might be considered to have assumed comes down to a legal matter." (Tr. 22-23.)

Pacific has introduced no evidence that modification of Decisions Nos. 89468 and 89672 would have any effect on it other than an effect on future decisions. In other words, Pacific wants us to advise it what the Commission will do with the Bell-Nevada restriction in future proceedings.

Such a proceeding, Application No. 58844, involving $300,000,000 of debentures, is now before us and is consolidated with Application No. 58552. The issue whether the restriction on the use of the proceeds of the debenture issue should be applied, as it has in the last three of Pacific's financing matters, is again before us. Thus, Application No. 58552 involves a recurring issue which cannot properly be regarded as moot.

The Commission staff supported Pacific's Application No. 58552. A member of the Commission's Finance Division testified in favor of the reversal of the Commission's new policy concerning Section 817 of the Public Utilities Code and a return to the previous broad interpretation of Section 817. He cited several reasons for his position.

He first noted that the Commission had not restricted any other utility from using security proceeds for the benefit of affiliates or subsidiaries. He cited Decision No. 89631, dated November 9, 1978, in Pacific Gas and Electric Company (PG&E) Application No. 58338; Decision No. 89632, dated November 9, 1978, in San Diego Gas & Electric Company Application No. 58394; and Decision No. 89674, dated November 28, 1978, in PG&E Application No. 58406 as instances of the inapplicability of the Section 817 restriction to the named utilities. The rationale used to escape the restriction was in each case that the activity of the subsidiary or the affiliate assisted the utility in meeting its utility obligation in California.[2/]

2/ Pacific's witness testified that Bell-Nevada assists Pacific to maintain and improve its utility service by earning a higher rate of return on its invested capital than does Pacific, by providing switching services for toll calls originating in the Lake Tahoe and Truckee areas, and by providing the capability to route California intrastate toll calls over Bell-Nevada's network if the California network becomes loaded to capacity.

Second, the witness testified that the Commission's restriction may adversely affect other utilities. He stated that Southern California Edison Company is not investing additional funds in its subsidiary, Associated Southern Investment; that the policy may impede Pacific Power and Light Company's acquisition of RCA Alascom an Alaskan telephone and telegraph utility; and that Southwest Gas Corporation's operating utility subsidiaries in Nevada and Arizona may be affected.

Third, the witness stated that the Commission's policy may require California utilities to incur additional and needless expense in restructuring and reorganizing their out-of-state corporate operations.

Fourth, he said that the Commission's new policy would necessitate additional Commission and staff effort at a very inopportune time. It was the witness' opinion that future financing decisions will require twisted reasoning, subjective value judgments, and intricate wording to distinguish between so-called "good" subsidiaries, those that benefit California, and "bad" subsidiaries, those that benefit the customers in other states and the parent company stockholders.

We conclude, based upon the foregoing testimony and upon the following reasons, that we should return to the historic interpretation of Section 817. First, we note that a major exception has been made to the restriction as initially promulgated in Decision No. 89468. That exception, for subsidiaries providing a benefit to the California parent corporation, is so broad that it is arguable that any parent-subsidiary relationship could be encompassed thereunder, including Pacific's relationship to Bell-Nevada.

Second, it is questionable that the new interpretation serves a public purpose that would justify the expense of corporate reorganizations that might result from it. When asked by the administrative law judge how the public interest is served by a rule which distinguishes between a parent-subsidiary operation and a single corporation operating both in and out of the state, Mr. Webb could only suggest that the Commission has greater control in the latter case, since it could affect the single corporation's out-of-state operations but could not bring influences to bear on the out-of-state subsidiary. However, this is a rather tenuous reason for preserving the restriction.

Third, Pacific argues that financing a subsidiary is a proper purpose for the use of security issue proceeds, citing Section 817(a). That section allows a public utility to issue evidences of ownership or of indebtedness for the "acquisition of property". The Commission has interpreted "property" broadly to include shares of stock. (Decision No. 85145, dated November 18, 1975, in Dominguez Water Corporation's Application No. 55685.)[3/] It follows from the Dominguez decision that the purchase of Bell-Nevada shares from the proceeds of debt or equity issues is lawful, and that the use of such proceeds to finance the subsidiary is lawful.

3/ This citation was furnished by Mr. Webb, despite his realization that it "might weaken [his] position regarding Application 58552". (Letter of May 27, 1979.)

Accordingly, the Commission concludes that the new interpretation of Section 817, as promulgated in Decision No. 89468 and as followed in Decisions Nos. 89672 and 89822, should be abandoned and that the Commission should return to its broad interpretation of Section 817. The Commission further concludes that it should reflect this change of interpretation in its disposition of Application No. 58844, which follows immediately.

Application No. 58844

Pacific requests authority to execute and deliver an indenture and to issue and sell, either by competitive bidding or negotiation, not to exceed $300,000,000 principal amount of debentures having a term of not to exceed 40 years.

The purpose of the proposed financing is to reimburse Pacific's treasury for moneys actually expended for capital purposes from income and from other treasury funds of Pacific and its subsidiary. Such expenditures amounted to a cumulative total of $2,583,184,185 as of March 31, 1979, as set forth in the following summary:

		Amount
Total capital expenditures, October 31, 1922 to March 31, 1979		$12,842,741,428
Deduct proceeds of:		
Stock issues	$3,111,814,207	
Promissory notes	43,254,000	
Funded debt	4,472,781,100	
Other	147,635,231	
Total deductions		7,775,484,538
Balance obtained from other sources		5,067,256,890
Less: Reserve for Depreciation		2,484,072,705
Unreimbursed balance		$ 2,583,184,185

Pacific anticipates that the proceeds from the sale would be available on or about July 25, 1979. When the treasury has been reimbursed, as described above, Pacific intends to apply an equivalent amount to repayment of its then outstanding short-term borrowings.

Pacific's capital ratios, excluding short-term borrowings, as recorded on March 31, 1979 are as follows:

	March 31, 1979	
	Recorded	Pro Forma
Funded debt	52.1	53.7
Preferred stock	6.7	6.5
Common equity	41.2	39.8
	100.0%	100.0%

Pacific estimates for the years 1978 and 1979 indicate the need for $3,845,000,000 gross construction outlays related to customer growth and movement, and for plant modernization and replacement as follows:

Item	
Customer growth	$2,350,000,000
Customer movement	665,000,000
Plant modernization	564,000,000
Plant replacement	266,000,000
Total	$3,845,000,000

Review of these estimates confirms the necessity for such expenditures; the Operations Division reserves the right, however, to reconsider the reasonableness of any construction expenditures in future rate proceedings.

The proposed debentures are to be issued under an indenture between Pacific and Manufacturers Hanover Trust Company, as Trustee. Among other things, the indenture provides that the debentures may not be redeemed at Pacific's option until on or after a date five years from the date of the indenture. Pacific states that inclusion of this restriction would result in a lower cost of money for its debentures and would broaden the market further than would be the case if such provision were not included.

Pacific requests exemption from competitive bidding requirements because "substantial demands for funds, both in the private and public sectors, coupled with investors' expectations of high inflation rates have resulted in high interest rates and a volatile market" as well as other factors. Pacific has submitted evidence that both its November 9, 1978 and February 7, 1979 sales of $300,000,000 of debentures on a negotiated basis achieved the lowest cost of money at which those issues could have been successfully marketed.

If future market conditions are adverse, Pacific proposes to sell the debentures by means of a negotiated underwriting by a nationwide group of investment banking firms. The underwriters would purchase all of the debentures, in accordance with an underwriting agreement substantially in the form of the purchase agreement attached to the application as part of Exhibit E.

However, if future market conditions so warrant, Pacific desires alternative authority to sell them pursuant to competitive bidding in the event of substantially improved market conditions.

A public hearing was held May 25, 1979, before Administrative Law Judge Robert T. Baer and the matter was submitted, subject to the filing of late-filed Exhibits 3 and 4.

We are persuaded that the present unsettled market conditions, the size of the offering, and other factors justify a negotiated offering of the securities. We do not find that a sale on a competitive bid basis is always necessarily in the public interest. This decision is not intended to modify the competitive bidding rule as initially set out in Decision No. 38614 (46 CRC 281 (1946)).

Pacific is also concerned that the effective interest rate on the proposed debentures may exceed 10 percent per annum, the maximum generally permitted under the California Usury Law, and requests a finding that sale of the debentures at an effective interest rate in excess of 10 percent would be in the public interest.

In Decision No. 83411, dated September 4, 1974 (Southern California Gas Company), Decision No. 88612, dated March 21, 1978 (San Diego Gas & Electric Company), Decision No. 89468, dated October 3, 1978 (Pacific), and Decision No. 89822 dated January 4, 1979 (Pacific), among others, this Commission held that the California Usury Law does not apply to the issuance and sale of securities authorized by this Commission.

Sidney J. Webb, protestant, appeared for himself as a stockholder of Pacific. He limited his protest, however, to the usury issue. In his view it is unconstitutional for the Commission to authorize Pacific to borrow at an interest rate exceeding the limit set by California Usury Law. He asked that the Commission reconsider its prior holdings on the usury issue in light of the following factors:

> "a. The Commission should reexamine its 1974 usury interpretation in the light of the June 8, 1976 defeat of Proposition 12 and November 2, 1976 defeat of Proposition 5. The people of the State of California expressed their opposition to increasing such maximum interest rate.

"b. The second paragraph of the Argument Against Proposition 12 states: 'This Constitutional amendment was initially sponsored in the Legislature by gas and electric public utilities. It would have substantial and widespread effects on consumer finance in California.'

"c. The third paragraph of the Rebuttal to Argument in Favor of Proposition 5 states: 'Second, Proposition 5 was sponsored initially by utility companies. They wanted more money available to them and were willing to pay higher interest rates to get it. If it costs public utilities and other businesses more money to borrow money they will pass their increased costs on to you. Expect higher utility bills and prices if Proposition 5 passes.'

"d. The California Supreme Court recognizes the fact that election brochure arguments may be used as an aid in construing constitutional amendments. (White v. Davis (1975) 13 Cal.3d 757, 775.)

"e. The penultimate sentence on prospectus page 4 pertaining to the November 9, 1978 and February 7, 1979 offerings of corresponding debenture issues states: 'Furthermore, in determining the types and amounts of future financings, the Company may be limited by the California Usury Law.'

"f. Recently, in Decisions 90208-90209-90210, dated April 24, 1979, pertaining to San Diego Gas & Electric Company, the Commission recognized the concern of a substantial segment of major financial institutions by quoting: 'That said underwriters obtained responses to their solicitations from all of the major financial institutions which had purchased securities privately from SDGE in the past and that none of these institutions were interested in investing in SDGE debt securities at this time due to SDGE's debt rate in the current market exceeding California's usury limitation of 10 percent per annum.'

"g. Paragraph (f) on page 6 of Exhibit B states: 'This Indenture and each Debenture shall be deemed a contract made under the laws of the State of New York and for all purposes shall be governed by and construed in accordance with the laws of said State.' The choice-of-law question is not foreclosed by the existence of an applicable California statute where New York State has substantial contacts with the transaction and the parties, if no attempt to evade California law appears. Moreover, California has a strong public policy against usury, and an agreement designating applicable law will not be given effect if it would violate such policy. (Gamer v. duPont Glore Forgan, Inc. (1976) 65 C.A.3d 280, 287.) Pacific Telephone's inconvenience of transacting in New York instead of California creates the appearance of an attempt to evade the California Usury Law.

"h. Pacific Telephone, by proposed Ordering Paragraph 5 in Exhibit G, agrees that: 'Neither The Pacific Telephone and Telegraph Company nor any person 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 said debentures 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.' However, such would conflict with the intent of Civil Code Section 3513 which provides: 'Anyone may waive the advantage of a law intended solely for his benefit. But a law established for a public reason cannot be contravened by a private agreement.'" (Brief of Sidney J. Webb, pp. 3-4.)

We will respond to each of these points. With respect to items a through d, ballot arguments might be useful in construing constitutional amendments which passed, but they do not influence our prior holding on the usury issue. New constitutional amendments, statutory enactments, or case law could conceivably influence our view of the powers vested in us by the Constitution and statutes of this State. But arguments based on defeated constitutional propositions do not achieve the status of positive law.

In item e, Mr. Webb cites the cautious language of Pacific's prospectus as a factor which should influence us to abandon our prior holdings on the usury issue. Such language merely reflects an opinion that until the California Supreme Court squarely addresses the usury issue, there remains a possibility, however slight, that the Court might not agree with the Commission's and Pacific's view of California law. That language is neither new nor crucial to our holding on the usury issue.

In item f, Mr. Webb cites language from Decisions Nos. 90208, 90209, and 90210 involving financing proposals of San Diego Gas & Electric Company. Of course, there is no evidence in this record corresponding to the statements quoted in the San Diego Gas & Electric decisions. This may be due to the fact that Pacific has structured its debenture issue as a New York transaction subject to New York law.

In item g, Mr. Webb attacks Pacific's choice of New York law to govern the issuance of the debentures.

Three California cases have considered the issue of usury where there was a choice of law stipulation. In Murphy v Wilson (1957) 153 CA 2d 132, the court, without discussion, applied the New Mexico usury law, to which the parties had stipulated. In Ury v Jewelry Acceptance Corp. (1964) 227 CA 2d 11, a retail jewelry and appliance business financed its receivables with a New York lender at 20.3 percent interest. The interest rate was in violation of California's, but not of New York's usury law. However, because the loan agreement provided that it would be construed pursuant to the laws of New York, and because the transaction had substantial connections with New York, the court held that New York law would govern the transaction. In addition

the court noted that California does not have a strong public policy against a loan with an interest rate of 20.3 percent. The trial court, moreover, specifically found that such a rate was not unconscionable. In Gamer v duPont Glore Forgan, Inc. (1976) 65 CA 3d, the court held that a choice of law provision in a securities margin account contract, permitting a charge of interest legal in New York although in excess of the legal rate then permitted in California, did not offend California's policy against usury.

The record supports a finding that Pacific's issue of debentures has substantial connections with the State of New York. In view of the case law cited above, we have every reason to conclude that even if such debentures were sold at an interest rate in excess of 10 percent, California and federal courts would uphold the choice of law provision contained in the relevant documents.

In his last item, Mr. Webb argues that Pacific cannot, by agreement, waive the protections of the usury law. We believe the foregoing citations indicate that Pacific may do so.

We reaffirm our holding on the usury issue and conclude that if the interest limitation of the California Usury Law is exceeded but it is determined that the transaction, whether negotiated or by competitive bid, is the best the utility can obtain because of market conditions, then the public interest requires this Commission to authorize the issuance and sale of the debt instruments.

Findings of Fact

1. Pacific is a California corporation operating under the jurisdiction of this Commission.

2. The proposed debenture sale is for proper purposes.

3. The utility has need for external funds for the purposes set forth in these proceedings.

4. The terms and conditions of the proposed issue and sale of debentures, including the restricted redemption provision, are just and reasonable and in the public interest.

5. The money, property, or labor to be procured or paid for by the issuance and sale of the debentures 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.

6. The sale of the proposed debentures should not be required to be at competitive bidding.

7. The debentures being unsecured, no California property would become encumbered thereby.

8. If prevailing market conditions necessitate that applicant's debentures be issued and sold with a rate of interest exceeding the limitations provided in Article XV of the California Constitution, then the public interest requires that the Commission authorize said issuance and sale irrespective of limitations contained in the California Usury Law.

9. Pacific may be able to obtain a more favorable interest rate if Commission authorization of this debenture issue is obtained prior to June 19, 1979, the date of the Commission's next regularly scheduled meeting. It is in the public interest that Pacific obtain the lowest interest rate possible. In a volatile market, where interest rate fluctuations occur rapidly, time is of the essence.

10. If the duties of the Commission are to be fulfilled, and the public interest served, Pacific should be authorized to issue and sell its debentures as soon as possible. The situation with which the Commission is faced constitutes an unforeseen emergency condition and justifies the taking of action during an unscheduled meeting of the Commission.

Conclusions of Law

1. Pursuant to plenary powers granted to the Legislature by Article XII, Section 5 of the California Constitution, the Legislature is authorized to confer additional consistent powers upon the Public Utilities Commission as it deems necessary and appropriate, unrestricted by any other provisions of the California Constitution.

2. The Legislature has conferred upon the Public Utilities Commission the authority to regulate the issuance of public utility securities, including evidences of indebtedness, and to prescribe restrictions and conditions as it deems reasonable and necessary (Sections 816 et seq. of the Public Utilities Code).

3. Pursuant to the plenary powers granted to the Legislature in Article XII, Section 5 of the California Constitution, it conferred on the Public Utilities Commission the comprehensive and exclusive power over the issuance of public utility securities, including evidences of indebtedness, and the California Usury Law cannot be applied as a restriction on the Public Utilities Commission's regulation of such issuances of public utility securities, including its authorization of a reasonable rate of interest.

4. If the usury limitation contained in Article XV, of the California Constitution, and the Usury Law Initiative Act is exceeded, but the transaction is authorized by this Commission and the terms thereof are the best Pacific can obtain because of market conditions, Pacific, its assignees or successors in interest will have no occasion to and cannot assert any claim or defense under the California Usury Law; further, and necessarily, because of lawful issuance by Pacific of debentures in compliance with authorization by the Public Utilities Commission, persons collecting interest on such authorized debentures are not subject to the Usury Law sanctions.

5. The restriction imposed in Decisions Nos. 89468, 89672, and 89822 on the use of the proceeds of the securities issue authorized by those decisions for the benefit of Bell-Nevada should not be imposed on the proceeds of the issue of debentures involved in Application No. 58844. The interpretation of Section 817 of the Public Utilities Code, which resulted in the imposition of such restriction, was too narrow and not in the public interest.

6. Application No. 58844 should be granted.

7. The authorization granted herein is for the purposes 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.

8. Application No. 58552 should be denied.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company (Pacific) may issue, sell, and deliver, on or before December 31, 1979, not to exceed $300,000,000 principal amount of debentures in accordance with the application and the terms and provisions of a debenture purchase agreement substantially in the form filed as Exhibit E to the application, with a term not to exceed forty years and with a maturity date appropriate to the actual sale date.

2. Said sale is hereby exempted from the Commission's competitive bidding rule set forth in Decision No. 38614, dated January 15, 1946, as amended.

3. Pacific is authorized to execute and deliver an indenture substantially in the form filed as Exhibit B to the application, with maturity, interest payment and other relevant dates appropriate to the actual sale date of said debentures.

4. Pacific is authorized to pay on such debentures an interest rate in excess of the maximum annual interest rate otherwise permitted under the California Usury Law, as contained in Article XV of the California Constitution and the Usury Law Initiative Act, if market conditions so require.

5. Neither Pacific nor any person 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 said debentures 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.

6. Pacific shall use the proceeds of the issuance and sale of not exceeding $300,000,000 principal amount of said securities for the purposes stated in the application (accrued interest may be used for general corporate purposes).

7. Promptly after Pacific determines the price or prices and interest rate or rates pertaining to the securities herein authorized, it shall notify the Commission thereof in writing.

8. In the event Pacific utilizes competitive bidding, in lieu of the notification required by paragraph 7 hereof, it shall file with the Commission a written report showing as to each bid received, the name of the bidders, the price, the interest rate, and the cost of money to it based upon said price and interest rate.

9. As soon as available, Pacific shall file with the Commission three copies of the final prospectus pertaining to said debentures.

10. Within thirty days after selling the debentures herein authorized to be issued and sold, Pacific shall file with the Commission a letter reporting the amount of such debentures issued and sold and the use of the proceeds therefrom substantially in the format set forth in Appendix C of Decision No. 85287 dated December 30, 1975 in Application No. 55214 and Case No. 9832.

11. The relief sought in Application No. 58552 is denied.

This order shall become effective when Pacific has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is $156,000.

Dated at San Francisco, California, this 15th day of JUNE, 1979.

President

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
94973
JUN 15 1979
156,000
By