

ORIGINAL

Decision 93139 JUN 2 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC LIGHTING)
GAS SUPPLY COMPANY for Authoriza-)
tions to Obtain Additional Debt)
Capital Not to Exceed \$75 Million)
through Issuance of Debt Securi-)
ties and Guarantees of Debt Secu-)
rities of Subsidiaries.)

Application 60482
(Filed April 27, 1981)

O P I N I O N

Pacific Lighting Gas Supply Company (PLGS) requests authority, under Sections 816 through 818, 830, and 851 of the Public Utilities Code, for the following:

1. To issue and sell its debt financings (debt securities) or other evidences of indebtedness in the aggregate principal amount of up to \$75,000,000 either in foreign capital markets (Eurodollars) or in domestic capital markets through negotiated underwritings exempt from competitive bidding or by competitive bidding;
2. To guarantee its debt securities to be issued and sold through its subsidiaries within the constraints set forth in the application; and
3. To shorten to one day the period of time between the public invitation for bids and the opening of bids for PLGS' debt securities or other indebtedness effected through competitive bidding in domestic capital markets.

Notice of the filing of the application appeared on the Commission's Daily Calendar of April 29, 1981. No protests have been received.

PLGS, a California corporation, is a wholly owned subsidiary of Pacific Lighting Corporation (PLC). PLGS is a public utility engaging in the acquisition, compression, transportation, storage, and exchange of natural gas and in the sale of natural gas exclusively to Southern California Gas Company (SoCal), a public utility affiliate of PLC which distributes natural gas throughout most of southern California and portions of central California. PLGS owns natural gas transmission lines, underground storage rights and facilities, metering and regulating stations, and other property necessary in connection with its business. All labor necessary to conduct the operations of PLGS is provided by SoCal.

PLGS reports in its Income Statement for the 12 months ended March 31, 1981, that it generated total operating revenues of \$782,830,057 and net income of \$10,533,240.

PLGS' Balance Sheet as of March 31, 1981, attached to the application as part of Exhibit C, is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$285,243,000
Other Property and Investments	1,000
Current and Accrued Assets	128,649,000
Deferred Debits	198,201,000
Total	<u>\$612,094,000</u>
 <u>Liabilities and Equity</u>	
Common Equity	\$179,967,000
Long-Term Debt	180,923,000
Current and Accrued Liabilities	226,747,000
Deferred Credits	24,457,000
Total	<u>\$612,094,000</u>

PLGS' capital ratios as of March 31, 1981, adjusted to give pro forma effect to the following:

1. The proposed issuance and sale of debt securities or other indebtedness in the aggregate principal amount of up to \$75,000,000;
2. The contribution of \$75,000,000 to PLGS' common equity from PLGS' parent corporation, PLC; and
3. The retirement of \$5,021,000 principal amount of Debentures due in 1982 and 1983

and are as follows:

	<u>March 31, 1981</u>	<u>Pro Forma</u>
Long-Term Debentures	30.7%	21.7%
Intermediate-Term Debt	19.4	13.7
Proposed Debt Securities	-	14.7
Total Debt	<u>50.1</u>	<u>50.1</u>
Common Equity	49.9	49.9
Total	<u>100.0%</u>	<u>100.0%</u>

PLGS reports in its letter dated May 4, 1981, that it expects to have short-term debt outstanding in the amount of \$17,746,000 after taking into effect the proposed issuance of debt securities.

PLGS proposes to obtain additional debt capital in the aggregate principal amount of up to \$75,000,000 through one or more financings effected in domestic or foreign capital markets on or prior to June 30, 1982.

The precise amount and timing of each financing, the market in which it is effected, the method by which it is effected, and the terms and conditions of the securities issued and sold would be determined by PLGS, within the constraints set forth below, with due regard for its financial requirements and then prevailing and anticipated market conditions. PLGS believes the financial flexibility provided by the authorizations requested from this Commission would enable it to respond rapidly to changing market conditions and to obtain long-term financing sufficient to meet its requirements for the remainder of 1981 and for 1982 upon the most favorable available terms.

Foreign Financings

PLGS' proposed debt financings in foreign capital markets would be effected through procedures established for "Eurodollar" debt financings by domestic corporations. The financings would be effected at any time or from time to time on or prior to June 30, 1982, and, together with debt financings in domestic capital markets, would provide PLGS with additional debt capital of up to \$75,000,000.

Eurodollar financing procedures employed by domestic corporations are intended to assure, among other things, that United States taxes will not be withheld from payments on debt securities held by foreign investors. To accomplish this, the financings are effected through the use of a subsidiary incorporated in a foreign

jurisdiction with which the United States has favorable tax treaties. The financing is obtained by the foreign subsidiary's sale of debt securities guaranteed by the domestic parent and the net proceeds of the sale are provided to the domestic parent. The domestic parent's guarantee of the foreign subsidiary's debt securities provides the financial support necessary for the financing and places the ultimate responsibility for the debt securities on the recipient of the proceeds of their sale.

PLGS' proposed debt financings in foreign capital markets would follow this typical pattern. Each financing would be effected through the use of indentures, offering circulars, underwriting agreements, and other documents customary for Eurodollar debt financings by domestic corporations. PLGS would file copies of all such documents with the Commission promptly upon their availability.

The financings would employ one or more wholly-owned subsidiaries of PLGS incorporated in the Netherlands Antilles or other jurisdictions with which the United States has favorable tax treaties. The subsidiaries would be engaged solely in obtaining financing for PLGS in foreign capital markets.

Each of the subsidiaries would be capitalized with an equity contribution by PLGS in an amount sufficient to obtain assurances that withholding of United States taxes would not be required with respect to the debt securities to be issued by the subsidiary. The equity capitalization would be invested by the subsidiary in interest bearing bank deposits and would be funded by a capital contribution to PLGS by PLC, which would borrow the amount of the contribution from the banks with which the contributed funds are ultimately deposited. As a result, a cost will be incurred on the contribution equal to the difference between the interest cost of the borrowings and interest earned on the deposit.

The subsidiaries would issue and sell debt securities which would be purchased by foreign investors either directly or through an underwritten offering. The debt securities would be direct unsecured obligations of the issuing subsidiary and would be guaranteed by PLGS.

The debt securities issued and sold in each financing would be created and issued pursuant to an indenture, supplemental indenture, or other agreement setting forth the terms and conditions of the debt securities and of PLGS' guarantee of the securities. The principal financial terms and conditions of the debt securities issued and sold in each financing include principal amounts, interest rates, maturity dates, rights and terms of redemption (including

sinking fund provisions and period of nonrefundability, if any), subordination provisions (if any), PLGS' guarantee (including subordination provisions, if any), and the price which would be determined by negotiations among PLGS, its subsidiary, and the purchasers of the securities or the underwriters selected for the proposed offering.

The net proceeds of each financing would be loaned to PLGS in return for PLGS' issuance to the subsidiary of one or more of PLGS' debt securities or other evidences of indebtedness. PLGS' debt securities or other evidences of indebtedness would be in an aggregate principal amount equal to that of the debt securities issued by the subsidiary and would provide for payments of principal at such times as necessary to discharge the debt securities issued by the subsidiary. They would also provide for the payment of interest at such times and in such amounts as necessary to pay all costs of the financing not deducted from the net proceeds loaned to PLGS. These costs would include, without limitation, premium (if any), and interest on the subsidiary's debt securities, fees and expenses of trustees and paying agents for the subsidiary's debt securities, taxes and fees imposed by the subsidiary's jurisdiction of incorporation, costs associated with the subsidiary's capital contribution and legal, accounting, and other professional fees and expenses associated with the maintenance of the subsidiary's corporate existence.

Domestic Financings

PLGS' proposed debt financing in domestic capital markets would be effected through the issuance and sale of additional debt securities in one or more public offerings effected through competitive bidding or negotiated underwritings. The offerings would be effected at any time or from time to time on or prior to June 30, 1982, and, together with debt financings in foreign capital markets, would provide PLGS with additional debt capital in the aggregate principal amount of up to \$75,000,000. The method by which offerings would be effected would be determined by PLGS with due regard for its financial condition and then prevailing and anticipated market conditions.

The debt securities issued and sold in each domestic financing would be direct unsecured obligations of PLGS, issued as an additional series of PLGS' currently outstanding Debentures or as notes, subordinated debentures, or subordinated notes. They would be created and issued under an indenture or supplemental indenture between PLGS and a bank as trustees for the holders of the securities. The Indenture or supplemental indenture would set forth the terms and conditions of the debt securities.

The principal amounts, maturities, rights and terms of redemption (including sinking fund provisions and period of nonrefundability, if any) and subordination provisions (if any) of the

debt securities offered in each offering effected through competitive bidding would be established by PLGS prior to the public offering of the securities. The price and interest rate of the debt securities would be that specified by the qualified bid for the securities which provides PLGS with the lowest cost of money. The terms and conditions of the debt securities offered in each offering effected through negotiated underwriting would be determined by negotiations between PLGS and underwriters selected for the offering.

Each offering of debt securities would be effected through the use of indentures, bidding, and the offering of documents, purchase and underwriting agreements, and other documents customary for the public offering, issuance, and sale of debt securities by public utilities by the method selected by PLGS for the offering, except that bidding documents for competitive bid offerings may provide PLGS with the authority to accelerate, postpone, or cancel the date established for bids and to reject all bids submitted, request the resubmission of bids, and reschedule subsequent openings of bids. PLGS would file copies of all such documents with this Commission promptly upon their availability.

PLGS proposes to apply the net proceeds of its proposed financings to reimburse its treasury for monies expended or to be expended for the following purposes:

Retirement of Debentures Through Operation of Sinking Fund Provisions	\$ 5,021,000
Reimbursement for Funds Expended for the Acquisition of Property, Construction and Improvement of Facilities	<u>69,979,000</u>
Total	\$75,000,000

The amounts so reimbursed will become a part of PLGS' general treasury funds and may be used to reduce its short-term indebtedness.

PLGS' plant expenditures were approximately \$50,200,000 in 1980, are estimated to be \$65,200,000 in 1981 and \$59,900,000 in 1982.

Competitive Bidding

PLGS requests an exemption for the proposed sale of its debt securities from the Commission's competitive bidding rule established by Decision (D.) 38614, dated January 15, 1946, as amended from time to time in Case 4761.

In D. 91984, dated July 2, 1980, for the San Diego Gas & Electric Company, Application 59633, we discussed the granting of exemptions from the competitive bidding rule, and we clarified the

nature of the compelling showing that must be made to warrant an exemption from the rule. We served notice that assertions regarding the volatility of the market, the flexibility provided by a negotiated sale, and the importance of maximizing the effectiveness of the underwriting group will not serve as compelling reasons, individually or collectively, for granting an exemption from the competitive bidding rule.

PLGS believes that compelling circumstances may exist in the market place from time to time during the period of the financings. Accordingly, it requests exemption from the competitive bidding requirement for its proposed financings, whether effected in foreign or domestic capital markets. PLGS believes that the financial flexibility that would be afforded by an exemption would enable it to meet its financing requirements on the most favorable terms then available.

Foreign Markets

Competitive bidding markets do not exist for financings effected by domestic corporations in foreign capital markets. The established procedures for these financings are those proposed by PLGS and require a negotiated offering. Accordingly, in the absence of an exemption from this Commission's competitive bidding requirements, PLGS would be precluded from effecting debt financings in foreign capital markets.

Because of the different economic and political forces affecting domestic and foreign capital markets, interest rates and other terms and conditions of financing may from time to time be more favorable in one market than in the other. Thus, corporations which have the flexibility to obtain financing in both markets may, through judicious market selection, obtain more favorable financing than those which are confined to a single market.

PLGS intends to confine its financings in foreign capital markets to those periods in which it is reasonably confident that financing can be obtained upon more favorable terms and conditions than are then available to it in domestic capital markets. PLGS, together with its financial advisors, would closely monitor the market for utility securities in both domestic and foreign markets in order to select the most favorable market for its financings. PLGS believes that the flexibility to enter both foreign and domestic markets and to tailor the terms and conditions of its financings (within the constraints set forth in its application) will enable it to respond to the rapidly changing requirements of these markets and to obtain its necessary financing at the lowest overall available cost.

Domestic Markets

Competitive bidding markets for public utility securities are well-established in the United States. PLGS urges, however, during periods of financial uncertainty and market volatility, the

greater financial flexibility, increased marketing efforts, and absence of investment banking community fragmentation provided by negotiated underwritings may permit public utilities to obtain financing on more favorable terms and conditions than could be obtained through competitive bidding.

PLGS points out that public offerings effected through competitive bidding require that a fixed date and terms for the offering be established. It urges that this causes flexibility to be lost as the issuer does not have the ability to make quick adjustments in the timing or terms of the offering to reflect changes in market conditions. In contrast, PLGS points out that, public offerings effected through negotiated underwritings can be brought to market before the public offering date originally contemplated if market conditions are favorable and sufficient investor interest has been developed. Moreover, if market conditions are unsatisfactory on the public offering date originally contemplated, the public offering date can be readily postponed to permit the development of sufficient investor interest to assure a successful offering.

PLGS also urges that a negotiated underwriting may also help ensure a successful offering through the preselling efforts of the underwriters. It points out that these preselling efforts are likely to be much less extensive in competitive bidding because of uncertainty of prospective bidders regarding whether their bid will be successful.

PLGS also points out that in competitive bidding, the investment banking community forms into several groups to bid for an offering. As a result, potential sellers of the offering are fragmented and many of those best able to distribute the offering may be members of an unsuccessful bidding group. In contrast, in a negotiated underwriting, the managing underwriter has the entire investment banking community to choose from in forming an underwriting group and selling syndicate. It is thus able to assemble the best group for the distribution of the offering and allocate the sales efforts to those firms best able to market the offering.

As a result of these factors, PLGS concludes that offerings effected through negotiated underwritings may from time to time provide more favorable financing than could be obtained through competitive bidding. PLGS believes that such conditions may exist from time to time during the period of the financings contemplated by this application.

PLGS advises us that it intends to confine its domestic financings through negotiated underwritings to those periods in which it is reasonably confident that financing can be obtained upon more favorable terms and conditions than are then available through competitive bidding. During other periods its domestic financings will be effected through competitive bidding. It requests, however, that this Commission shorten to one day the period between the publication of the invitation for bids and the opening of bids.

PLGS believes the flexibility to finance domestically through both negotiated underwritings and competitive bidding to tailor the terms and conditions of the financings (within the constraint set forth in the application) will enable it to respond to rapidly changing market conditions and to obtain its necessary financing at the lowest overall cost.

This Commission has, from time to time, reaffirmed the continuing validity of its competitive bidding requirements. We are persuaded, however, that an inflexible adherence to these requirements may not be in the public interest particularly during periods, such as the present, of high interest rates and chaotic market conditions for public utility securities.

PLGS has recognized that, other things being equal, competitive bidding is the preferred method of public utility debt financing. Accordingly, it intends to confine its domestic financings through negotiated underwritings to those periods in which it is reasonably confident that it can obtain financing upon more favorable terms and conditions than are available through competitive bidding. We do not believe that PLGS should be precluded from doing so. Accordingly, we will grant PLGS' request to obtain domestic financing either through competitive bidding or negotiated underwritings.

Because the proposed debt securities may be sold by negotiated underwriting on terms which will be negotiated after issuance of this decision and because of the Revenue Requirements

Division's conclusion that the debt securities will be sold at a cost as low, if not lower, than would prevail if the debt securities were to be sold at competitive bidding, we are of the opinion that applying the Commission's competitive bidding requirements and conditions set forth in D.91984 in this proceeding may not be in the best interests of PLGS or its ratepayers. These requirements and conditions may not operate to ensure that PLGS' sale of the debt securities would be at the most favorable cost of money. However, in order not to preclude such an offering, we will also grant PLGS the authority to issue the proposed debt securities by means of a competitive offering.

PLGS is put on notice that in its next general rate proceeding before the Commission, the reasonableness of the resulting interest rate and cost of money to the company will be closely scrutinized and may result in a disallowance of interest expense if it is determined that the cost of money incurred was not the most prudent.

The Commission has urged utilities to seek new and innovative forms of financing. The Revenue Requirements Division concurs in PLGS' belief that the ability to finance in foreign capital markets may enable it to obtain more favorable financing than may be available to it in domestic capital markets. The Division believes

that utilities should not be foreclosed from this market. Accordingly, the Division concludes that PLGS's request for exemption from our competitive bidding requirements for financings effected in foreign capital markets should be granted. We will, however, also require PLGS to provide us with a showing of why PLGS believes that the resulting interest rate and cost of money were the most advantageous to the company and its ratepayers. We will require this showing within a reasonable period after the issuance and sale of the proposed debt securities.

Findings of Fact

1. PLGS, a California corporation, operates as a public utility subject to the jurisdiction of this Commission.
2. PLGS has need for external funds for the purposes set forth in its application.
3. PLGS' proposed debt securities are for proper purposes.
4. From time to time during the period of the financings contemplated by PLGS' application, more favorable financing may be available to PLGS in foreign capital markets than could be obtained in domestic capital markets.
5. From time to time during the period of the financings contemplated by PLGS' application, more favorable domestic financing may be available to PLGS through negotiated underwritings than could be obtained through competitive bidding.

6. Authorizing PLGS to determine the precise amount and timing of each financing, the market in which it is effected, the method by which it is effected, and the terms and conditions of the debt securities or other evidences of indebtedness issued and sold and of the guarantees of debt securities issued and sold by its subsidiaries, within the constraints set forth in its application, is in the public interest.

7. Exempting PLGS' financings in foreign capital markets and its financings effected in negotiated underwritings in domestic capital markets from this Commission's competitive bidding requirements is in the public interest.

8. Shortening to one day the period of time between the public invitation for bids and the opening of bids for PLGS' financings effected through competitive bidding in domestic capital markets is in the public interest.

9. The money, property, or labor to be procured or paid for by PLGS' issuances of debt securities, evidences of indebtedness, and guarantees is reasonably required for these purposes. Proceeds from the issuance of these securities may not be charged to operating expenses or income.

10. There is no known opposition and no reason to delay granting the authorizations requested.

Conclusions of Law

1. A public hearing is not necessary.
2. The application should be granted to the extent set forth in the order which follows.

The authorization granted by this decision 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.

The following order should be effective on the date of signature to enable PLGS to issue its debt securities expeditiously.

O R D E R

IT IS ORDERED that:

1. Pacific Lighting Gas Supply Company (PLGS) may issue and sell debt securities or other evidences of its indebtedness in an aggregate principal amount of up to \$75,000,000 at any time or from time to time on or prior to June 30, 1982, either or both (a) to the public in one or more public offering effected through competitive bidding, negotiated underwritings, or both, or (b) to one or more subsidiaries of PLGS through one or more negotiated transactions.
2. PLGS is authorized to guarantee debt securities issued by its subsidiaries in an aggregate principal amount of up to the aggregate principal amount of its debt securities or other evidences of indebtedness issued and sold to its subsidiaries under the authorization provided in clause (b) of Ordering Paragraph 1 above.

3. PLGS is authorized to determine the precise amount and timing of each issuance and sale of its debt securities, the market in which each is effected, the method by which each is effected, and the terms and conditions of such additional debt securities or other evidences of its indebtedness and guarantees in the manner and subject to the limitations set forth in its application.

4. The issuances and sales of debt securities to the public in public offerings effected through negotiated underwritings and to PLGS subsidiaries through negotiated transactions are exempted from this Commission's competitive bidding requirements as set forth in D.38614, dated January 15, 1946, as amended.

5. The period of time between the publication of an invitation for bids and the opening of bids for the issuances and sales of debt securities to the public in public offerings effected through competitive bidding authorized herein, need not be more than one day.

6. PLGS shall apply the net proceeds from the sale of its debt securities to the purposes set forth in its application.

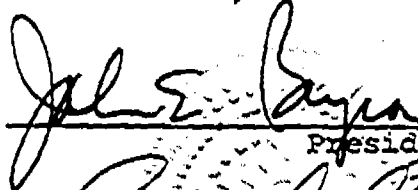
7. If the debt securities are sold by competitive bidding or by a negotiated public offering as soon as available, PLGS shall file with the Commission three copies of its final prospectus relating to the debt securities.


8. PLGS shall file the reports required by General Order Series 24.


9. Within 30 days after the issuance and sale of the debt securities, PLGS shall file with the Commission a report showing why the resulting interest rate and cost of money to the company were the most advantageous to the company and its ratepayers.


10. This order shall be effective upon payment of the \$40,990 fee prescribed by Section 1904(b) of the Public Utilities Code after taking credit for the retirement through Sinking Funds of \$5,021,000 principal amount of Debentures due in 1982 and 1983.

Dated JUN 2 1981, at San Francisco, California.



President






Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.

