

CACD/RHG

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Decision 95-11-002 November 8, 1995

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CALIFORNIA UTILITIES
SERVICE, INC. U-418-S, to issue notes
not to exceed \$100,000.

Application 95-08-014
(Filed August 9, 1995)

O P I N I O N

Summary of Decision

This decision grants California Utilities Service, Inc. (CUS) the authority requested in Application (A.) 95-08-014 (Application).

CUS requests authority, pursuant to §§ 817 et seq. of the Public Utilities (PU) Code, to borrow \$100,000 from Lewis E. Kootstra to repay a note due in September, 1995.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of August 28, 1995. No protests have been received.

Background

CUS, a California corporation, provides sewer service to approximately 1,050 residential sewer customers in an unincorporated area of Monterey County along Salinas Monterey Highway 68, running westerly about three miles from CUS' wastewater treatment plant adjacent to the Salinas River.

On September 24, 1990, CUS borrowed \$100,000 (without Commission authorization) from El Toro, Ltd., Emerald Chamberlain Partners, and Palma Grove Associates (referred to herein jointly as "Chamberlain Group") for a period of three years at an interest rate of 11%. The note is secured by a deed of trust on real property. Annual payments (interest only) are \$11,000. The

proceeds of this loan were applied to the construction of an effluent storage pond.

In Application 91-10-020 dated October 11, 1991 and amended June 4, 1992, CUS requested approval for several long-term loans that were incurred by the utility without Commission authorization. Included in this application is the Chamberlain Group note. By Decision (D.) 92-12-066 dated December 16, 1992, the Commission ordered that replacement notes be executed in lieu of the unauthorized debt instruments, on substantially the same terms and conditions, to be effective prospectively. CUS was also placed on notice that the Commission may review the reasonableness of these borrowings in conjunction with a future ratemaking proceeding to the extent that they affect rates.

On September 20, 1995, CUS provided the Commission Advisory and Compliance Division (CACD), among others, a copy of the re-executed Chamberlain Group construction promissory note dated September 24, 1993. The note provided that upon written request of CUS, the due date of the note may be extended for two successive periods of one year each, provided the accrued interest for the previous year has been paid.

For the four months ended April 30, 1995, CUS reported it generated total operating revenues of \$141,019 and net loss of \$3,220 as shown in Attachment B to the Application.

CUS' Balance Sheet for the same period, shown as Attachment A to the Application is summarized below:

<u>Assets</u>	<u>Amount</u>
Net Property & Equipment	\$2,453,551
Current Assets	9,502
Other Assets	0
Total	\$2,463,053
<u>Capitalization & Liabilities</u>	<u>Amount</u>
Stockholders' Equity	\$ 121,221
Long-Term Debt	283,512
Current Liabilities	208,795
Deferred Credits	1,849,525
Total	\$2,463,053

On October 5, 1995, D.95-10-001 in A.94-08-012, granted CUS rate increases for 1995 and 1996.

Promissory Note

According to CUS, the Chamberlain Group note is due and payable September, 1995. CUS has a tentative commitment from Lewis E. Kootstra for a \$100,000 secured loan to be repaid over 60 months at a 14% fixed interest rate. The proceeds from this loan will be used to refinance the Chamberlain Group note.

CUS has an existing debt to Kootstra, with a principal amount of \$65,000, which will be fully amortized in December of 1996. This note is secured and is payable over five years at 14% interest per annum.

D.95-10-001 described CUS as a small public utility sewer company which took over the sewer facilities in 1986 when they were in a state of disrepair and had been all but abandoned by their previous owners. Over the years, CUS expanded and rebuilt the system (relying mostly on developer contributions) and brought it up to contemporary operating and environmental standards. CUS has incurred losses in each year since it acquired the sewer company. The major problem faced by CUS is one that is faced by most small utility operations -- costs of operation are spread among a relatively small number of residential customers. Moreover, the utility apparently operated for many years before the takeover at artificially low rates.

In discussion with CUS, the utility indicated that it is having difficulty in obtaining outside financing. CUS states that because the Chamberlain Group note is now due, it is opportune to avail of the Kootstra offer for financing.

We will approve CUS' loan request. However, we will not make a finding in this decision on the reasonableness of the interest rate. CUS is placed on notice by this decision that the Commission may review the reasonableness of this debt in conjunction with a future ratemaking proceeding to the extent that it affects rates.

Capital Ratios

CUS' capital ratios as of April 30, 1995, filed as Attachment C to the Application, shows equity of \$121,221 or 30% and long-term debt of \$283,512 or 70%. The proposed refinancing transaction will not have any effect on these ratios.

Findings of Fact

1. CUS, a California corporation, operates as a sewer utility subject to the jurisdiction of this Commission.
2. CUS has need for external funds for the purposes set forth in the Application.
3. The proposed secured loan would not be adverse to the public interest.
4. The money to be paid for by this transaction is reasonably required for the purposes specified in the Application.
5. There is no known opposition to this Application, and the authority requested should be granted.

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.
3. The proposed loan is for lawful purposes and the money to be obtained is required for such purposes. Proceeds from the loan may not be charged to operating expense or income.
4. This authorization is not a finding of the reasonableness of the interest rate of the loan, nor does it indicate the amount to be included in a ratemaking proceeding.
5. Pursuant to PU Code § 1904(b), there is no fee applicable to this transaction because it is a refinancing of a prior outstanding indebtedness for which a fee has previously been paid.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, California Utilities Service, Inc. (CUS) is authorized to borrow \$100,000 principal amount from Lewis S. Kootstra upon terms and conditions substantially consistent with those set forth in or contemplated by Application 95-08-014 (Application).

2. CUS may execute and deliver any or all related documents required for completion of the loan.

3. CUS shall apply the proceeds from the loan to repay the maturing \$100,000 note to El Toro, Ltd., Emerald Chamberlain Partners, and Palma Grove Associates.

4. CUS shall file with the Commission Advisory and Compliance Division a copy of the loan document within fifteen days of execution.

5. The Application is granted as set forth above. This order is effective today.

Dated November 8, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners