

CACD/RHG

ORIGINAL

Decision 96-09-059 September 20, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN CALIFORNIA WATER COMPANY)
U-133-M, to issue, sell and deliver)
its Common Shares, \$2.50 par value,)
and one or more series of Debt Securi-))
ties, the total aggregate principal)
amount of such offerings not to exceed))
\$60,000,000; to execute and deliver)
one or more Indenture(s) and/or)
Supplemental Indenture(s) and/or Loan)
Agreement(s); to seek modification of)
Decision No. 94-11-056; and for an)
exemption from the Commission's Compe-))
titive Bidding Rule.)

Application No. 96-07-015
(Filed July 10, 1996)

O P I N I O N

Summary of Decision

This decision grants Southern California Water Company (SCW) the authority request in Application 96-07-015 (Application).

SCW requests authority, pursuant to §§ 816-818, 823, 830 and 851 of the Public Utilities (PU) Code for the following:

1. To issue, sell and deliver some combination of new securities consisting of its common stock, \$2.50 par value (Equity Securities) and its mortgage bonds, debentures or term notes (Debt Securities), such securities not exceeding \$60,000,000 in aggregate principal amount and to use the net proceeds therefrom for the retirement of all or a portion of then-outstanding short-term bank loans and the balance, if any, for any or all of the following purposes including reimbursement of SCW for capital expenditures, for the acquisition of utility properties, refunding of existing long-term debt obligations and payment of expected 1996, 1997 and 1998 cash requirements on or before December 31, 1998;

2. To execute and deliver one or more indenture(s) and/or supplemental indenture(s) and/or loan agreements (Agreements) in connection with the sale of Debt Securities;
3. To modify Commission Decision (D.) 94-11-056 to extend the authority granted therein from December 31, 1996 to December 31, 1998;
4. To utilize in its discretion, singularly or in combination, features in its Debt Securities to improve the terms and conditions to SCW and lower the overall cost of money; and
5. To have the issuance of Debt Securities in the public markets exempted from the requirements of the Commission Competitive Bidding Rule.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of July 19, 1996 and on July 25, 1996 (as corrected). No protests have been received.

Background

SCW, a California corporation, operates as a public utility subject to the jurisdiction of this Commission. SCW provides water service to customers in portions of 10 California counties and electric service in the vicinity of Big Bear Lake in San Bernardino County.

For the 12 months ended March 31, 1996, SCW reported that it generated total operating revenues of \$135,233,000 and net income of \$13,214,000 shown as part of the Supplemental Data to the Application. Also shown as part of Exhibit B attached to the

Application is SCW's Balance Sheet as of March 31, 1996 summarized as follows:

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$337,597,000
Other Property and Investments	755,000
Current Assets	42,183,000
Deferred Charges	<u>27,675,000</u>
Total	\$408,210,000
<u>Liabilities and Other Credits</u>	<u>Amount</u>
Common Equity	\$121,327,000
Preferred Stock	2,120,000
Long-term Debt	107,336,000
Current Liabilities	48,480,000
Advances and Contributions	83,071,000
Deferred Credits	<u>45,876,000</u>
Total	\$408,210,000

Common Shares

SCW proposes to issue and sell Equity Securities on a negotiated basis through various underwriting firms who will agree to purchase the shares pursuant to an underwriting agreement with SCW, with the intention that said underwriters will then offer the shares to the public. The final terms of the underwriting agreement and other terms of the proposed offering, including price, the aggregate number of shares to be offered, and the underwriting spread will be determined by negotiation. SCW seeks authority at this time to issue the common shares rather than waiting until all agreements have been executed so as to have authority, in dynamic market conditions, to sell the shares in an expeditious manner.

Debt Securities

SCW proposes to issue and sell the Debt Securities using one or a combination of three methods: the issuance of bonds, the issuance debentures and the issuance of unsecured notes. SCW cannot state now which debt instrument or combination of

instruments would provide the most favorable terms to SCW or state the exact terms and conditions of the Debt Securities. The terms that SCW believes would be applicable to each security are described in pages 4 to 8 of the Application. SCW seeks authority at this time to issue the Debt Securities rather than waiting until all terms and conditions are known so as to have authority in a dynamic money market to secure long-term indebtedness in an expeditious and cost-effective manner.

SCW anticipates that the bonds would be sold for cash at 100% of par value, plus accrued interest and would range in maturity from nine months to thirty years. The bonds would be redeemable at the option of SCW at any time, subject to certain restrictions. In order to issue the bonds, SCW also anticipates that it would be required to enter into a mortgage indenture and each series of bonds would be issued in accordance with the provisions of a supplemental indenture.

Debentures would be sold for cash at 100% of par value, plus accrued interest, have a maturity from nine months to thirty years, and would be redeemable at the option of SCW at any time, subject to certain restrictions. Each series of debentures would be issued in accordance with the provisions of an indenture.

Notes would be sold for cash at 100% of par value, plus accrued interest and would mature anytime from nine months to ten or more years. They would be redeemable at the option of SCW at any time, subject to certain restrictions and may be issued pursuant to a loan agreement. Notes may also be issued under a Medium Term Note (MTN) Program and may be offered on a continuous or periodic basis and may be sold privately or publicly. The MTN may be issued in one or more series under the terms of a supplemental indenture and may be subject to redemption prior to maturity at the option of SCW.

The following debt enhancement features, which are described in detail on pages 9 to 11 of the Application, will be used as appropriate by SCW to improve the terms and conditions of Debt Securities and to lower overall cost of money.

1. Put Option
2. Sinking Fund
3. Tax-Exempt Option (with one or more political subdivisions)

The proposed issue of securities and use of features to enhance debt raises no questions that should dissuade the Commission from giving favorable consideration to their approval.

We will authorize SCW's proposed issue of Equity and Debt Securities in the aggregate principal amount not exceeding \$60,000,000 and require SCW to maintain, and, within thirty days from request, provide the Commission Advisory and Compliance Division (CACD) any or all of the following:

1. The price, interest rate and other terms pertaining to its issuance of Debt Securities.
2. Copies of the purchase and underwriting agreements and the final prospectus pertaining to the common shares offering.
3. Copies of the indentures and supplemental indentures setting forth, among other things, the aggregate principal amount, interest rate, conversion factors, redemption and sinking fund requirements and the maturity date of the series of the debentures.
4. Copies of the agreements setting forth, among other things, the aggregate principal amount, interest rate, final maturity date and other items of any series of notes.

Competitive Bidding Rule

SCW requests an exemption from the Competitive Bidding Rule with respect to issues of medium-term notes and debt issued

through its MTN program, placement of securities in connection with tax-exempt financing, and entering into structured transactions.

Exhibit A to Resolution (Res.) F-616 dated October 1, 1986, states, "Securities privately placed with specific lenders and bank term loans obviously must be negotiated. Competitive Bidding is not presently available in European or Japanese markets. Certain tax-exempt pollution control bonds have terms which are specifically negotiated. Variable interest rate debt securities are normally completed on a negotiated basis. It is reasonable that these types of debt instruments should be exempt from the Competitive Bidding Rule." Moreover, notes and variable rate debt securities are sold through a placement agent on a reasonable efforts basis in a manner analogous to that used for issuing commercial paper.

CACD advises us that SCW's request raises no questions that should dissuade us from giving favorable consideration to the matter. SCW's request for exemption is within the purview of the modified and prevailing conditions of enforcement and exemptions defined in Res. F-616. We will accept CACD's recommendation and grant SCW exemption as stated above. However, all underwritten public offerings of fixed interest rate debentures and bonds in the principal amount over \$20 million should be competitively bid.

We place SCW on notice that the reasonableness of any resulting interest rate and cost of money arising from debt capital are normally subject to review in cost of capital or general rate case proceedings.

The Competitive Bidding Rule, first adopted in 1946 and amended a half-dozen times since, has evolved over the years to track changes in the financial markets, utilities' financing practices, and regulatory changes. The exemptions we are granting SCW in this decision have become more and more accepted, to the point that some appear to have become routine. CACD informs us that it is currently re-evaluating the Rule to determine whether specific conditions in it should be revised or discontinued, and will work with the utilities and interested parties in the process. If the conclusion is that changes are warranted, they will be presented for our consideration.

Modification of Previous Order

SCW, by this Application seeks further extension of the authority to issue Debt Securities granted in D.93-05-053, as modified and extended by D.93-12-011 until December 31 1994, and further extended by D.94-11-056 until December 31, 1996. SCW states that it has \$15,000,000 unused authority under D.93-05-053 and currently has a pending application with the California Pollution Control Financing Authority (CPCFA) for \$8,000,000 in tax-exempt financing. SCW believes that tax-exempt debt will carry a coupon rate lower than a comparable taxable instrument and will, consequently, lower costs to its customers. SCW cannot predict either when allocation of funds will be received by CPCFA or when it will be able to issue the remaining authority. SCW has utilized its short-term bank lines of credit in order to defer the issuance of its remaining medium term notes, pending market conditions.

SCW requests that the Commission extend from December 31, 1996 until December 31, 1998 the time covered by the authorization granted in D.93-05-053, as modified and extended.

CACD has reviewed SCW's request and has determined that it is for proper purposes and is not adverse to public interest. CACD recommends and the Commission concurs that SCW's request for an extension of time from December 31, 1996 to December 31, 1998 be granted.

Construction Budget

SCW's actual 1995 and estimated construction budgets for 1996 through 1998, as shown in Schedule I to the Application are as follows:

	<u>Actual</u> <u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
Land	\$ 25,100	\$ 250,000	\$ 0	\$ 500,000
Water Supply	6,788,500	8,712,800	11,098,000	10,918,000
Street Improvements	2,839,700	1,568,800	1,359,000	1,441,000
Distribution				
Improvements	3,312,400	3,749,100	10,678,000	10,301,000
Miscellaneous	3,578,400	1,313,700	409,000	222,000
Contingencies	0	1,651,800	2,998,000	3,069,000
New Business	2,535,000	6,538,500	5,156,000	5,443,000
Meters	5,173,000	1,604,700	2,620,000	2,096,000
Services	1,041,200	969,900	1,202,000	1,238,000
Minor Main				
Replacements	80,800	275,300	376,000	391,000
Minor Pump &				
Purifier Equipment	24,700	211,600	156,000	164,000
Office Equipment	678,900	767,500	526,000	539,000
Transportation				
Equipment	384,100	587,800	1,030,000	1,062,000
Other Equipment	428,300	214,200	363,000	381,000
Electric Plant	<u>3,626,400</u>	<u>2,870,500</u>	<u>2,407,000</u>	<u>2,685,000</u>
Total	\$30,516,500	\$31,286,200	\$40,378,000	\$40,450,000

We will not make a finding in this decision on the reasonableness of SCW's proposed construction program. Construction expenditures and the resulting plant balances in rate base are issues which are normally addressed in general rate cases.

Capital Ratios

SCW's capital ratios as of March 31, 1996 are shown below as recorded and as adjusted to give pro forma effect to the transactions that follow:

	<u>Recorded</u> (\$000)		<u>Pro Forma</u> (\$000)	
Long-Term Debt	107,720	42.4%	165,720	49.5%
Short-Term Debt	23,000	9.0%	0	0.0%
Total	130,720	51.4%	165,720	49.5%
Preferred Shares	2,160	0.9%	2,160	0.6%
Common Equity	121,327	47.7%	167,027	49.9%
Total Capitalization	254,207	100.0%	334,907	100.0%

1. Long-Term Debt includes issuance of securities requested in the Application and unused amount from prior authorization estimated to be a total of \$68,000,000 and approximately \$10,000,000 of debt to be retired in 1997.

2. Common Equity includes issuance of shares requested in the Application and unused amount from prior authorization amounting to \$38,200,000 plus an estimated retained earnings of \$7,500,000.

Capital structures are normally subject to review in cost of capital or general rate case proceedings. We will not, therefore, make a finding in this decision of the reasonableness of the projected capital ratios for ratemaking purposes.

Cash Requirements Forecast

SCW's estimate of cash requirements for 1996 through 1998 is summarized as follows:

	1996	(\$000) 1997	1998
Funds Required for Construction	31,564	40,378	40,452
Bonds, Notes, Debentures Retired	15,329	10,060	68
Preferred Shares Retired	40	40	40
Refunds of Advances	3,114	3,001	2,700
Taxes on Advances and Contribution- Company Portion	1,349	1,175	1,200
Short-Term Debt Repaid	<u>35,000</u>	<u>30,000</u>	<u>17,500</u>
Total Cash Requirements	86,396	84,654	61,960
Cash from Internal Sources (net of dividends)	12,258	15,716	15,860
Funds Required from Other Sources	74,138	68,938	46,100
To Be Provided by:			
Issuance of Common Shares	21,600	800	15,800
Issuance of Debt	15,000	38,000	7,000
Advances and Contributions	6,700	4,100	4,200
Short-Term Borrowings	49,000	34,000	14,500
Changes in Working Capital/Other	(18,162)	(7,962)	4,600

SCW's estimated cash requirements indicate that internally generated funds will only provide 14.19% of SCW's cash requirements for 1996, 18.57% for 1997, and 25.60% for 1998.

Use of Proceeds

SCW indicates that the estimated \$60,000,000 from the proposed sale of Equity and Debt Securities requested in the Application, as well as the additional amounts carried forward from D.94-11-056 would be used for the retirement and discharge of all or a portion of SCW's outstanding short-term bank loans. The balance, if any, would be used for the reimbursement of SCW for capital expenditures in 1996, 1997, and 1998, for the acquisition of utility properties, refunding of existing long-term obligations and payment of expected cash requirements.

PU Code § 823(d) provides:

No note payable at a period of not more than 12 months after the date of issuance of such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates or other evidence of interest or ownership, or of bonds, notes of any term or character, or any other evidence of indebtedness, without the consent of the commission.

CACD advises us that SCW's proposed use of proceeds is for proper purposes and is not adverse to the public interest. For purposes of this Application and pursuant to PU Code §§ 818 and 823(d), we will approve SCW's intended use of proceeds (including retirement and discharge of short-term debt) from the proposed issue of Equity and Debt Securities.

SCW is placed on notice by this decision that the proceeds from the financing transaction cannot be charged to operating expenses or income.

Findings of Fact

1. SCW, a California corporation, is a water utility subject to the jurisdiction of this Commission.
2. SCW has need for external funds for the purposes set forth in the Application.
3. The money, property, or labor to be procured or paid for by the proposed issue of Equity and Debt Securities is reasonably required for the purposes specified in the Application.
4. Authorizing SCW to determine the amount, timing, terms and conditions, and method of offering its proposed financing would not be adverse to the public interest.
5. The use of debt enhancement features in appropriate circumstances is not adverse to the public interest.

6. PU Code § 823(d) provides that no note payable at a period of not more than 12 months after the date of issuance of such note shall be refunded, in whole or in part, by any issue of stocks or stock certificates or other evidence of interest or ownership, or of bonds, notes of any term or character, or any other evidence of indebtedness, without the consent of the Commission.

7. SCW's request for exemption from the Competitive Bidding Rule with respect to issues of medium-term notes and debt issued through its MTN program, placement of securities in connection with tax-exempt financing, and entering into structured transactions is within the purview of the modified and prevailing conditions of enforcement and exemptions defined in Res. F-616.

8. The proposed extension of time to December 31, 1998, during which SCW may issue Debt Securities as authorized by D.93-05-053, as modified and extended, would be for proper purposes and would not be adverse to the public interest.

9. In this decision the Commission does not determine that SCW's construction budget, capital ratios, and forecasted cash requirements are necessary or reasonable for ratemaking purposes. These issues are normally tested in general rate cases or cost of capital proceedings.

10. 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 issue of Equity and Debt Securities is for lawful purposes and the money, property, or labor to be obtained is required for these purposes. Proceeds from the issue may not be charged to operating expense or income.

4. This authorization is not a finding of the reasonableness of the proposed transactions, nor does it indicate the amount to be included in a ratemaking proceeding.

5. SCW has previously paid the fee of \$32,500.00 determined in accordance with PU Code § 1904.

6. The following order should be effective on the date of signature.

O R D E R

IT IS ORDERED that:

1. Southern California Water Company (SCW), on or after the effective date of this order, is authorized to do the following upon terms and conditions substantially consistent with those set forth or contemplated in Application 97-07-015 (Application):

- (a) Issue, sell and deliver, by public offering or private placement, securities not exceeding \$60,000,000 in aggregate principal offering amount, said securities consisting of common shares, \$2.50 par value (Equity Securities) and bonds, debentures and notes (Debt Securities);
- (b) Use the net proceeds to be received from the securities for the retirement and discharge of all or a portion of its outstanding short-term bank loans issued for temporary financing of additions to SCW's utility plant, and the balance, if any, to reimburse SCW for capital expenditures, for the acquisition of utility properties, refunding of existing long-term debt obligations and for projected 1996, 1997, and 1998 cash requirements;

- (c) Determine the precise amount and timing of each financing, the market in and method by which each is effected, price and interest rate (which may be fixed, adjustable, variable or set by auction or remarketing procedures) and other material terms and provisions (including, if any, the terms of redemption, repurchase, security and subordination provisions of the borrowings and of any securities related thereto;
- (d) Arrange credit agreements or other credit facilities as may be necessary for the purpose of issuing the Debt Securities in the manner set forth in the Application;
- (e) Execute and deliver an indenture or one or more supplemental indentures in connection with any issue of Debt Securities, and to sell, lease, assign, mortgage or otherwise dispose of or encumber utility property in connection with the issuance and sale of Debt Securities.

2. SCW shall maintain and within thirty days from request, provide the Commission Advisory and Compliance Division any or all of the following:

- (a) The price, interest rate and other terms pertaining to its issuance of Debt Securities.
- (b) Copies of the purchase and underwriting agreements and the final prospectus pertaining to the Common Shares offering.
- (d) Copies of the indentures and supplemental indentures setting forth, among other things, the aggregate principal amount, interest rate, conversion factors, redemption and sinking fund requirements and the maturity date of the series of the debentures.
- (e) Copies of the agreements setting forth, among other things, the aggregate principal amount, interest rate, final maturity date and other items of any series of notes.

3. The authority granted to SCW in Decision (D.) 93-05-053, as modified and extended by D.93-12-011 until December 31 1994, and further extended by D.94-11-056 until December 31, 1996 is modified to extend the time period of authorization to December 31, 1998.

4. In all other respects, D.93-05-053, as modified and extended remains in full force and effect.

5. SCW's request for exemption from the Competitive Bidding Rule with respect to issues of medium-term notes and debt issued through its Medium Term Note Program, placement of securities in connection with tax-exempt financing, and entering into structured transactions is granted.

6. SCW's domestic underwritten public offering of fixed-rate bonds and debentures over \$20,000,000 shall be subject to the Competitive Bidding Rule.

7. On or before the 25th day of each month, SCW shall file the reports required by General Order Series 24.

8. The Application is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated September 20, 1996, at San Francisco, California.

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