ORIGINAL
Mailed
7/21/97

ENERGY/RHG

Decision 97-07-048 July 16, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of the Application of SFPP, L.P. PLC 009, for an Order to issue Promissory Notes in an aggregate principal amount not to exceed $175 million, and to secure such Notes under existing mortgages or other encumbrances of utility property. | Application 97-05-023 (Filed May 12, 1997) |

## OPINION

### Summary of Decision

This decision grants SFPP, L.P. (SFPP) the authority requested in Application 97-05-023 (Application).

SFPP requests authority, pursuant to §§ 816 through 818 and § 851 of the Public Utilities (PU) Code for the following:

1. to issue promissory notes (each, a Proposed Note) and obtain associated loans in an aggregate principal amount not to exceed $175 million, pursuant to the terms of a proposed Amended and Restated Credit Agreement (Amended Credit Agreement);

2. to secure the Proposed Notes and related loans by executing and delivering mortgages or liens on utility property as required by the terms of the Amended Credit Agreement and the existing Deeds of Trust;

3. to obtain an exemption from the Commission's competitive bidding Rule with respect to issuing the Proposed Notes and obtaining the associated loans.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of May 13, 1997. No protests have been received.

Background

SFPP is a limited partnership organized under the laws of the State of Delaware, and qualified to do business in California. Santa Fe Pacific Pipelines, Inc., formerly known as Southern Pacific Pipe Lines, Inc. (the General Partner), is SFPP's sole general partner, owning a 1.0101% interest in SFPP. Santa Fe Pacific Pipeline Partners, L.P. (the Limited Partner) is SFPP's sole limited partner, owning the remaining 98.9899% interest. The Limited Partner is also a limited partnership. Fifty-six percent (56%) of the ownership interests in the Limited Partner is publicly traded. The Limited Partner's sole asset is its interest in SFPP.

SFPP is a pipeline company under the jurisdiction of the Commission and is primarily engaged in the business of transporting refined petroleum products, in liquid form, in intrastate and interstate commerce.

The pipeline system is comprised of the following common carrier lines: the South line which transports refined products from the Los Angeles area to Phoenix and from the El Paso area to Tucson and Phoenix and various intermediate points; the North line which transports refined products among various cities in northern California and western Nevada; the Oregon line which transports refined products between Portland and Eugene, Oregon, and intermediate points; and the San Diego line which transports refined products from the Los Angeles basin area to San Diego and intermediate points. Transportation via these lines is in interstate commerce in some cases and in intrastate commerce in others.

For the year ended December 31, 1996, SFPP reported that it generated total operating revenues of $240,142,000 and net income of $54,018,000.

Shown as part of Exhibit D to the Application is SFPP's Balance Sheet as of December 31, 1996, which is summarized below:

(in thousands of dollars)

| Assets | Amount |
|---|---|
| Total current assets | 77,908 |
| Net properties, plant and equipment | 628,694 |
| Other assets | 19,215 |
| Total | 725,817 |
| **Liabilities and Partners' Capital** | |
| Total current liabilities | 35,546 |
| Long-term debt | 355,000 |
| Other long-term liabilities | 71,351 |
| Total partners' capital | 263,920 |
| Total | 725,817 |

## Description of Indebtedness

In Decision (D.) 88-11-059, the Commission authorized SFPP to borrow up to $375 million, pursuant to a Credit Agreement and to encumber its assets under a Deeds of Trust to secure the loans. Accordingly, SFPP issued $355 million aggregate principal amount of promissory notes (the Outstanding Notes). SFPP issued the Outstanding notes and encumbered its assets under the terms of the Deeds of Trust in order to finance, in part, the reorganization of SFPP and its affiliates.

In addition, D.93-09-068 dated September 17, 1993, authorized SFPP to issue promissory notes pursuant to the Existing Credit Agreement in an aggregate principal amount not to exceed $60 million (the Existing Notes).

SFPP proposes to enter into the Amended Credit Agreement allowing it to borrow funds in an aggregate principal amount, at any time outstanding, not to exceed $175 million. The Amended Credit Agreement is an amendment to and restatement of the Credit Agreement, dated October 14, 1993 (Existing Credit Agreement), by and between SFPP and various lenders. The borrowings made from time to time will take the form of revolving loans from commercial banks which are parties to the Amended Credit Agreement. On approximately June 30, 2000, the revolving credit facility will terminate and the outstanding balance of all revolving loans will mature. SFPP plans to issue to each bank a Proposed Note evidencing SFPP's indebtedness, each in the aggregate principal amount of such bank's revolving loan commitment.

Any given loan will accrue interest at a rate calculated by reference to either a base rate, Eurodollar rate, The London InterBank Offering Rate (LIBOR) or a rate determined by competitive bid, and SFPP will determine which rate will apply to each loan. Interest on all loans will be payable upon payment or prepayment of principal and at maturity. In addition, interest on base rate loans and loans with an interest determined by competitive bid will be payable quarterly, and interest on Eurodollar and LIBOR rate loans will be payable at the last day of the selected interest period (but in no event less frequently than every three months). The principal of all loans will be subject to voluntary and mandatory prepayment.

The principal of and interest on the loans evidenced by the Proposed Notes will be secured equally and ratably with the Outstanding Notes by a first priority lien on all rights, title and interest of SFPP in substantially all of its real property and equipment. The Deed of Trust, Security Agreement and Fixture Filing and the Mortgage, Security Agreement and Fixture Filing, each dated December 8, 1988 (collectively, the Deeds of Trust), created a first priority lien on substantially all of SFPP's real property, pipelines, pipeline facilities, and other improvements, to secure the Outstanding Notes. Pursuant to the terms of the Deeds of Trust, such lien will extend to secure subsequent parity indebtedness, including the indebtedness evidenced by the Proposed Notes, equally and ratably with the Outstanding Notes.

SFPP's Proposed Notes and related loans raise no questions that should dissuade us from giving favorable consideration to the authorization requested in the Application. We make no finding regarding the reasonableness of the proposed debt and we place SFPP on notice that the Amended Credit Agreement may be reviewed in conjunction with a future ratemaking proceeding to the extent that it affects rates.

The authorization herein given 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.

## California Environmental Quality Act (CEQA)

SFPP states that the California Environmental Quality Act (CEQA) does not apply to its Application because approval is not sought for a "project" or a portion of a "project" as defined by CEQA. The Application does not qualify as a project because (1) the approval is not a necessary step in a sequence of events culminating in any environmental change and (2) the ultimate activities, if any, that may affect the environment cannot be feasibly defined at this time.

We place SFPP on notice that while we recognize its claim that CEQA requirements are not applicable in this instance because no activity or project can be identified, in no way should it be construed to constitute an implied or expressed waiver of applicable environmental regulations or of any prospective CEQA requirements for any capital improvement undertaken by SFPP relative to this decision.

## Construction Budgets

SFPP's estimated construction budget, shown as Exhibit A to the Application, is as follows:

($ in millions)

| Item | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Expand Existing Pipeline | 2.2 | 7.1 | 22.9 | 5.3 |
| Expand Existing Terminals | 3.6 | 2.5 | 2.5 | 1.3 |
| Cost Reduction Projects | 4.6 | 3.9 | 3.0 | 0.6 |
| Sustaining Pipeline and Terminal Projects | 15.7 | 16.0 | 17.0 | 8.3 |
| Total Construction Spending | 26.1 | 29.5 | 45.4 | 15.5 |

We make no finding in this decision on the reasonableness of SFPP's proposed construction program. Construction expenditures are issues which are normally addressed in ratemaking proceedings.

Capital Ratios

SFPP's capital ratios as of December 31, 1996, shown as Exhibit E to the Application and supplemental information thereto, are presented below as recorded and as adjusted to give pro forma effect to the $175 million Proposed Notes:

($ in millions)

| | Recorded | | Pro Forma | |
|---|---|---|---|---|
| | Amount | Percentage | Amount | Percentage |
| Long-Term Debt | $355.0 | 57.4% | $377.5 | 58.4% |
| Partnership Equity | 263.9 | 42.6 | 268.5 | 41.6% |
| Total | $618.9 | 100.0% | $646.0 | 100.0% |

SFPP anticipates that $92.5 million of the authority requested in the Application will be utilized to retire certain Outstanding Notes and $50 million will be used to replace the Existing Notes.

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

Cash Requirements Forecasts

SFPP's cash requirements forecasts for 1997 through 2000, shown as Exhibit B to the Application and supplemental information thereto, are summarized as follows:

($ in millions)

| Components | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Funds required for construction | 26.1 | 29.5 | 45.4 | 15.4 |
| Retire outstanding debt | 28.5 | 32.5 | 63.0 | - |
| Replace existing debt | 50.0 | - | - | - |
| 20 million project | - | 3.6 | 16.4 | - |
| Total | 104.6 | 65.6 | 124.8 | 15.4 |
| Less: Cash from internal sources | 13.6 | 16.9 | 35.0 | 21.9 |
| Additional funds required from external sources | 91.0 | 48.7 | 89.8 | ( 6.5) |

SFPP's 4-year forecasted cash requirements indicate that it would require additional funds from external sources amounting to a total of $223 million. Internally generated funds will provide approximately 28.2% of the 4-year cash requirements. The proposed debt in the Application is necessary to help SFPP meet part of its forecasted cash requirements.

Use of Proceeds

SFPP intends to use the proceeds from the Proposed Notes for the following purposes:

1. to retire $92.5 million of the Outstanding Notes;
2. to prepay and replace $50 million Existing Notes;
3. to finance and refinance, from time to time, expenditures for repairs to or replacement of certain existing facilities;

4. to finance and refinance, from time to time, expenditures for capital improvements and additions to SFPP's facilities; and

5. to provide working capital should the need arise.

SFPP states that no specific capital expenditures have been identified at this time for funding from the net proceeds of the Proposed Notes remaining after payment and retirement of the Outstanding Notes and prepayment and replacement of the Existing Notes. However, capital expenditures must continue to be made on a regular basis to maintain the level of service that SFPP currently provides.

Upon order of the Commission and for proper cause, PU Code § 818 allows the use of proceeds from the issue of debt security for purposes reasonably required in the operation of a utility.

We will approve the use of the proceeds as requested in the Application. However, SFPP is placed on notice by this decision that the proceeds from the financing transaction cannot be charged to operating expenses or income.

Concurrent with the filing of the Application, SFPP paid $93,500 representing the fee required by PU Code § 1904(b). However, SFPP's fee computation did not take into account the allowed fee exemption as a result of the intended refunding of prior indebtedness for which a fee has previously been paid. SFPP contemplates of retiring $92.5 million of its Outstanding Notes[1] and repaying $50 million of its Existing Notes[2].

By letter dated June 17, 1997, SFPP states that by oversight, it did not take into consideration the retirement of

---

1 On November 28, 1988, SFPP paid a fee of $193,500 in connection with the $375 million debt authorized in D.88-11-059.
2 On June 22, 1993, SFPP paid a fee of $36,000 in connection with the $60 million debt authorized in D.93-09-068.

certain of its Outstanding Notes and the repayment of its Existing Notes in the computation of the fee and therefore requests a refund.

PU Code § 1904(b) states in part:

> No fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the commission.

The correct fee computation is as follows:

| | |
|---|---|
| Proposed debt per Application | $175,000,000 |
| Retirement of Outstanding Notes | ( 92,500,000) |
| Replacement of Existing Notes | ( 50,000,000) |
| Net amount on which fee should be paid | $ 32,500,000 |
| PU Code § 1904(b) Fee for $32,500,000 | $ 22,250 |
| Actual amount paid | 93,500 |
| Overpayment | $ 71,250 |

The correct fee based on the amount of the debt net of refunding where a fee has been paid for is $22,250. Pursuant to Receipt Number 97151995 dated May 14, 1997 for $93,500, SFPP is entitled to a refund of $71,250, representing overpayment of fee.

<u>Exemption from Competitive Bidding</u>

SFPP requests an exemption from the Commission's Competitive Bidding Rule on the grounds that securities placed with specific lenders and bank term loans normally have to be negotiated. In addition, SFPP or its outstanding debt has not been rated by any rating agency.

Exhibit A to Commission Resolution F-616 dated October 1, 1986, states, "Securities privately placed with specific lenders and bank term loans obviously must be negotiated . . . . Variable interest rate debt is normally completed on a negotiated basis. it is reasonable that these types of debt instruments should be exempt from the Competitive Bidding Rule." Furthermore, the Competitive Bidding Rule applies only to utilities with bond ratings of "A" or higher.

The May 1997 and earlier issues of Standard and Poor's Bond Guide do not include SFPP in its broad list of bonds.

Because the Proposed Notes and related loans would be completed on a negotiated basis, and in the absence of a debt rating, we will grant SFPP's request for exemption from the Competitive Bidding Rule. We find the request reasonable and within the purview of the Commission's policy relating to exemptions from the Competitive Bidding Rule.

## Findings of Fact

1. SFPP, a Delaware limited partnership, operates as a public utility subject to the jurisdiction of this Commission.

2. SFPP has need for external funds for the purposes set forth in the Application.

3. The issuance of the Proposed Notes pursuant to an Amended Credit Agreement is for proper purposes.

4. SFPP does not have any bond rating.

5. The money, property, or labor to be procured, or paid for by the Proposed Notes and related loans is reasonably required for the purposes specified in the Application.

6. SFPP has declared that its Application is not subject to the CEQA and other environmental regulations.

7. The Commission does not by this decision determine that SFPP's construction budget, capital ratios and cash requirement forecasts are necessary or reasonable for ratemaking purposes. These issues are normally tested in ratemaking proceedings.

8. PU Code § 1904(b) provides that no fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the Commission.

9. There is no known opposition to the Application and there is no reason to delay granting the authority 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.

3. The Proposed Notes and related loans are for proper purposes and the money, property, or labor to be procured or paid for by the issue of the Notes authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. SFPP has previously paid the fee of $93,500. The correct fee is $22,250. Pursuant to PU Code § 1904(b), SFPP is entitled to a refund of $71,250, representing overpayment of fee.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, SFPP, L.P. (SFPP) may issue Promissory Notes (Notes) and enter into the loans pursuant to an Amended and Restated Credit Agreement (Amended Credit Agreement); the Notes, Amended Credit Agreement and loans being upon terms and conditions substantially consistent with those set forth in or contemplated by Application 97-05-023 (Application).

2. SFPP may, for the purposes specified in the Application, issue Notes and related loans in the aggregate principal amount not to exceed $175 million.

3. SFPP may execute and deliver supplemental mortgages or liens on utility property as are required by the Amended Credit Agreement and existing Deeds of Trust.

4. SFPP shall file with the Energy Division copies of the Amended Credit Agreement, Notes, supplemental mortgages and other security instruments not later than 15 days after the documents have been executed.

5. SFPP's proposed issuance of Notes and related loans are exempted from the requirements of the Commission's Competitive Bidding Rule.

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

7. The Commission shall refund to SFPP the amount of $71,250, representing overpayment of fee in relation to the Application.

8. The Application is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

ORIGINAL

Mailed
7/21/97



Decision 97-07-048 July 16, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of the Application of SFPP, L.P. PLC 009, for an Order to issue Promissory Notes in an aggregate principal amount not to exceed $175 million, and to secure such Notes under existing mortgages or other encumbrances of utility property. | Application 97-05-023 (Filed May 12, 1997) |

## O P I N I O N

### Summary of Decision

This decision grants SFPP, L.P. (SFPP) the authority requested in Application 97-05-023 (Application).

SFPP requests authority, pursuant to §§ 816 through 818 and § 851 of the Public Utilities (PU) Code for the following:

1. to issue promissory notes (each, a Proposed Note) and obtain associated loans in an aggregate principal amount not to exceed $175 million, pursuant to the terms of a proposed Amended and Restated Credit Agreement (Amended Credit Agreement);

2. to secure the Proposed Notes and related loans by executing and delivering mortgages or liens on utility property as required by the terms of the Amended Credit Agreement and the existing Deeds of Trust;

3. to obtain an exemption from the Commission's competitive bidding Rule with respect to issuing the Proposed Notes and obtaining the associated loans.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of May 13, 1997. No protests have been received.

Background

SFPP is a limited partnership organized under the laws of the State of Delaware, and qualified to do business in California. Santa Fe Pacific Pipelines, Inc., formerly known as Southern Pacific Pipe Lines, Inc. (the General Partner), is SFPP's sole general partner, owning a 1.0101% interest in SFPP. Santa Fe Pacific Pipeline Partners, L.P. (the Limited Partner) is SFPP's sole limited partner, owning the remaining 98.9899% interest. The Limited Partner is also a limited partnership. Fifty-six percent (56%) of the ownership interests in the Limited Partner is publicly traded. The Limited Partner's sole asset is its interest in SFPP.

SFPP is a pipeline company under the jurisdiction of the Commission and is primarily engaged in the business of transporting refined petroleum products, in liquid form, in intrastate and interstate commerce.

The pipeline system is comprised of the following common carrier lines: the South line which transports refined products from the Los Angeles area to Phoenix and from the El Paso area to Tucson and Phoenix and various intermediate points; the North line which transports refined products among various cities in northern California and western Nevada; the Oregon line which transports refined products between Portland and Eugene, Oregon, and intermediate points; and the San Diego line which transports refined products from the Los Angeles basin area to San Diego and intermediate points. Transportation via these lines is in interstate commerce in some cases and in intrastate commerce in others.

For the year ended December 31, 1996, SFPP reported that it generated total operating revenues of $240,142,000 and net income of $54,018,000.

Shown as part of Exhibit D to the Application is SFPP's Balance Sheet as of December 31, 1996, which is summarized below:

(in thousands of dollars)

| Assets | Amount |
|---|---|
| Total current assets | 77,908 |
| Net properties, plant and equipment | 628,694 |
| Other assets | 19,215 |
| Total | 725,817 |
| **Liabilities and Partners' Capital** | |
| Total current liabilities | 35,546 |
| Long-term debt | 355,000 |
| Other long-term liabilities | 71,351 |
| Total partners' capital | 263,920 |
| Total | 725,817 |

## Description of Indebtedness

In Decision (D.) 88-11-059, the Commission authorized SFPP to borrow up to $375 million, pursuant to a Credit Agreement and to encumber its assets under a Deeds of Trust to secure the loans. Accordingly, SFPP issued $355 million aggregate principal amount of promissory notes (the Outstanding Notes). SFPP issued the Outstanding notes and encumbered its assets under the terms of the Deeds of Trust in order to finance, in part, the reorganization of SFPP and its affiliates.

In addition, D.93-09-068 dated September 17, 1993, authorized SFPP to issue promissory notes pursuant to the Existing Credit Agreement in an aggregate principal amount not to exceed $60 million (the Existing Notes).

SFPP proposes to enter into the Amended Credit Agreement allowing it to borrow funds in an aggregate principal amount, at any time outstanding, not to exceed $175 million. The Amended Credit Agreement is an amendment to and restatement of the Credit Agreement, dated October 14, 1993 (Existing Credit Agreement), by and between SFPP and various lenders. The borrowings made from time to time will take the form of revolving loans from commercial banks which are parties to the Amended Credit Agreement. On approximately June 30, 2000, the revolving credit facility will terminate and the outstanding balance of all revolving loans will mature. SFPP plans to issue to each bank a Proposed Note evidencing SFPP's indebtedness, each in the aggregate principal amount of such bank's revolving loan commitment.

Any given loan will accrue interest at a rate calculated by reference to either a base rate, Eurodollar rate, The London InterBank Offering Rate (LIBOR) or a rate determined by competitive bid, and SFPP will determine which rate will apply to each loan. Interest on all loans will be payable upon payment or prepayment of principal and at maturity. In addition, interest on base rate loans and loans with an interest determined by competitive bid will be payable quarterly, and interest on Eurodollar and LIBOR rate loans will be payable at the last day of the selected interest period (but in no event less frequently than every three months). The principal of all loans will be subject to voluntary and mandatory prepayment.

The principal of and interest on the loans evidenced by the Proposed Notes will be secured equally and ratably with the Outstanding Notes by a first priority lien on all rights, title and interest of SFPP in substantially all of its real property and equipment. The Deed of Trust, Security Agreement and Fixture Filing and the Mortgage, Security Agreement and Fixture Filing, each dated December 8, 1988 (collectively, the Deeds of Trust), created a first priority lien on substantially all of SFPP's real property, pipelines, pipeline facilities, and other improvements, to secure the Outstanding Notes. Pursuant to the terms of the Deeds of Trust, such lien will extend to secure subsequent parity indebtedness, including the indebtedness evidenced by the Proposed Notes, equally and ratably with the Outstanding Notes.

SFPP's Proposed Notes and related loans raise no questions that should dissuade us from giving favorable consideration to the authorization requested in the Application. We make no finding regarding the reasonableness of the proposed debt and we place SFPP on notice that the Amended Credit Agreement may be reviewed in conjunction with a future ratemaking proceeding to the extent that it affects rates.

The authorization herein given 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.

## California Environmental Quality Act (CEQA)

SFPP states that the California Environmental Quality Act (CEQA) does not apply to its Application because approval is not sought for a "project" or a portion of a "project" as defined by CEQA. The Application does not qualify as a project because (1) the approval is not a necessary step in a sequence of events culminating in any environmental change and (2) the ultimate activities, if any, that may affect the environment cannot be feasibly defined at this time.

We place SFPP on notice that while we recognize its claim that CEQA requirements are not applicable in this instance because no activity or project can be identified, in no way should it be construed to constitute an implied or expressed waiver of applicable environmental regulations or of any prospective CEQA requirements for any capital improvement undertaken by SFPP relative to this decision.

## Construction Budgets

SFPP's estimated construction budget, shown as Exhibit A to the Application, is as follows:

($ in millions)

| Item | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Expand Existing Pipeline | 2.2 | 7.1 | 22.9 | 5.3 |
| Expand Existing Terminals | 3.6 | 2.5 | 2.5 | 1.3 |
| Cost Reduction Projects | 4.6 | 3.9 | 3.0 | 0.6 |
| Sustaining Pipeline and Terminal Projects | 15.7 | 16.0 | 17.0 | 8.3 |
| Total Construction Spending | 26.1 | 29.5 | 45.4 | 15.5 |

We make no finding in this decision on the reasonableness of SFPP's proposed construction program. Construction expenditures are issues which are normally addressed in ratemaking proceedings.

Capital Ratios

SFPP's capital ratios as of December 31, 1996, shown as Exhibit B to the Application and supplemental information thereto, are presented below as recorded and as adjusted to give pro forma effect to the $175 million Proposed Notes:

($ in millions)

| | Recorded | | Pro Forma | |
|---|---|---|---|---|
| | Amount | Percentage | Amount | Percentage |
| Long-Term Debt | $355.0 | 57.4% | $377.5 | 58.4% |
| Partnership Equity | 263.9 | 42.6 | 268.5 | 41.6% |
| Total | $618.9 | 100.0% | $646.0 | 100.0% |

SFPP anticipates that $92.5 million of the authority requested in the Application will be utilized to retire certain Outstanding Notes and $50 million will be used to replace the Existing Notes.

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

Cash Requirements Forecasts

SFPP's cash requirements forecasts for 1997 through 2000, shown as Exhibit B to the Application and supplemental information thereto, are summarized as follows:

($ in millions)

| Components | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Funds required for construction | 26.1 | 29.5 | 45.4 | 15.4 |
| Retire outstanding debt | 28.5 | 32.5 | 63.0 | - |
| Replace existing debt | 50.0 | - | - | - |
| 20 million project | - | 3.6 | 16.4 | - |
| Total | 104.6 | 65.6 | 124.8 | 15.4 |
| Less: Cash from internal sources | 13.6 | 16.9 | 35.0 | 21.9 |
| Additional funds required from external sources | 91.0 | 48.7 | 89.8 | ( 6.5) |

SFPP's 4-year forecasted cash requirements indicate that it would require additional funds from external sources amounting to a total of $223 million. Internally generated funds will provide approximately 28.2% of the 4-year cash requirements. The proposed debt in the Application is necessary to help SFPP meet part of its forecasted cash requirements.

Use of Proceeds

SFPP intends to use the proceeds from the Proposed Notes for the following purposes:

1. to retire $92.5 million of the Outstanding Notes;
2. to prepay and replace $50 million Existing Notes;
3. to finance and refinance, from time to time, expenditures for repairs to or replacement of certain existing facilities;

4. to finance and refinance, from time to time, expenditures for capital improvements and additions to SFPP's facilities; and

5. to provide working capital should the need arise.

SFPP states that no specific capital expenditures have been identified at this time for funding from the net proceeds of the Proposed Notes remaining after payment and retirement of the Outstanding Notes and prepayment and replacement of the Existing Notes. However, capital expenditures must continue to be made on a regular basis to maintain the level of service that SFPP currently provides.

Upon order of the Commission and for proper cause, PU Code § 818 allows the use of proceeds from the issue of debt security for purposes reasonably required in the operation of a utility.

We will approve the use of the proceeds as requested in the Application. However, SFPP is placed on notice by this decision that the proceeds from the financing transaction cannot be charged to operating expenses or income.

Concurrent with the filing of the Application, SFPP paid $93,500 representing the fee required by PU Code § 1904(b). However, SFPP's fee computation did not take into account the allowed fee exemption as a result of the intended refunding of prior indebtedness for which a fee has previously been paid. SFPP contemplates of retiring $92.5 million of its Outstanding Notes[1] and repaying $50 million of its Existing Notes[2].

By letter dated June 17, 1997, SFPP states that by oversight, it did not take into consideration the retirement of

---

1 On November 28, 1988, SFPP paid a fee of $193,500 in connection with the $375 million debt authorized in D.88-11-059.
2 On June 22, 1993, SFPP paid a fee of $36,000 in connection with the $60 million debt authorized in D.93-09-068.

certain of its Outstanding Notes and the repayment of its Existing Notes in the computation of the fee and therefore requests a refund.

PU Code § 1904(b) states in part:

> No fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the commission.

The correct fee computation is as follows:

| | |
|---|---|
| Proposed debt per Application | $175,000,000 |
| Retirement of Outstanding Notes | ( 92,500,000) |
| Replacement of Existing Notes | ( 50,000,000) |
| Net amount on which fee should be paid | $ 32,500,000 |
| PU Code § 1904(b) Fee for $32,500,000 | $ 22,250 |
| Actual amount paid | 93,500 |
| Overpayment | $ 71,250 |

The correct fee based on the amount of the debt net of refunding where a fee has been paid for is $22,250. Pursuant to Receipt Number 97151995 dated May 14, 1997 for $93,500, SFPP is entitled to a refund of $71,250, representing overpayment of fee.

Exemption from Competitive Bidding

SFPP requests an exemption from the Commission's Competitive Bidding Rule on the grounds that securities placed with specific lenders and bank term loans normally have to be negotiated. In addition, SFPP or its outstanding debt has not been rated by any rating agency.

Exhibit A to Commission Resolution F-616 dated October 1, 1986, states, "Securities privately placed with specific lenders and bank term loans obviously must be negotiated . . . . Variable interest rate debt is normally completed on a negotiated basis. it is reasonable that these types of debt instruments should be exempt from the Competitive Bidding Rule." Furthermore, the Competitive Bidding Rule applies only to utilities with bond ratings of "A" or higher.

The May 1997 and earlier issues of Standard and Poor's Bond Guide do not include SFPP in its broad list of bonds.

Because the Proposed Notes and related loans would be completed on a negotiated basis, and in the absence of a debt rating, we will grant SFPP's request for exemption from the Competitive Bidding Rule. We find the request reasonable and within the purview of the Commission's policy relating to exemptions from the Competitive Bidding Rule.

## Findings of Fact

1. SFPP, a Delaware limited partnership, operates as a public utility subject to the jurisdiction of this Commission.

2. SFPP has need for external funds for the purposes set forth in the Application.

3. The issuance of the Proposed Notes pursuant to an Amended Credit Agreement is for proper purposes.

4. SFPP does not have any bond rating.

5. The money, property, or labor to be procured, or paid for by the Proposed Notes and related loans is reasonably required for the purposes specified in the Application.

6. SFPP has declared that its Application is not subject to the CEQA and other environmental regulations.

7. The Commission does not by this decision determine that SFPP's construction budget, capital ratios and cash requirement forecasts are necessary or reasonable for ratemaking purposes. These issues are normally tested in ratemaking proceedings.

8. PU Code § 1904(b) provides that no fee need be paid on such portion of any such issue as may be used to guarantee, take over, refund, discharge, or retire any stock, bond, note or other evidence of indebtedness on which a fee has theretofore been paid to the Commission.

9. There is no known opposition to the Application and there is no reason to delay granting the authority 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.

3. The Proposed Notes and related loans are for proper purposes and the money, property, or labor to be procured or paid for by the issue of the Notes authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. SFPP has previously paid the fee of $93,500. The correct fee is $22,250. Pursuant to PU Code § 1904(b), SFPP is entitled to a refund of $71,250, representing overpayment of fee.

## O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order, SFPP, L.P. (SFPP) may issue Promissory Notes (Notes) and enter into the loans pursuant to an Amended and Restated Credit Agreement (Amended Credit Agreement); the Notes, Amended Credit Agreement and loans being upon terms and conditions substantially consistent with those set forth in or contemplated by Application 97-05-023 (Application).

2. SFPP may, for the purposes specified in the Application, issue Notes and related loans in the aggregate principal amount not to exceed $175 million.

3. SFPP may execute and deliver supplemental mortgages or liens on utility property as are required by the Amended Credit Agreement and existing Deeds of Trust.

4. SFPP shall file with the Energy Division copies of the Amended Credit Agreement, Notes, supplemental mortgages and other security instruments not later than 15 days after the documents have been executed.

5. SFPP's proposed issuance of Notes and related loans are exempted from the requirements of the Commission's Competitive Bidding Rule.

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

7. The Commission shall refund to SFPP the amount of $71,250, representing overpayment of fee in relation to the Application.

8. The Application is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners