ENERGY/RHG

ORIGINAL

Decision 98-12-019 December 3, 1998

BEFORE THE PUBLIC UTILITITES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SIERRA PACIFIC POWER COMPANY U-903-E, for an Order Authorizing it to issue securities having an aggregate principal amount not to exceed $200,000,000, consisting of one or more series of Debt Securities (including Debt Securities issued in connection with a Tax Advantaged Preferred Security arrangement); to execute and deliver one or more indentures; to guarantee securities; and to sell, assign, mortgage, or encumber utility property.	Application 98-09-035 (Filed September 14, 1998)

OPINION

Summary of Decision

This decision grants Sierra Pacific Power Company (Sierra Pacific) the authority requested in Application (A.) 98-09-035 (Application).

Sierra Pacific requests authority, pursuant to §§ 816, 817 through 825, 830 and 851 and § 701.5 of the Public Utilities (PU) Code and the Commission's Rules of Practice and Procedure for the following:

1. To issue, sell, and deliver one or more series of debentures, notes, loans, floating rate debt, bonds, secured notes, deferrable interest debentures, and/or other forms or types of debt securities (collectively, Debt Securities), said Debt Securities to include, at Sierra Pacific's discretion, one or more of the debt enhancement features described herein, all such issues, sales and deliveries of such Debt Securities to take place and being upon terms and conditions substantially consistent with those set forth in or contemplated by the Application; to unconditionally guarantee or otherwise secure from time to time, through one or more agreements to such effect, the issuance of tax advantaged preferred securities, issued by one or more special purpose entity from time to

time, for the benefit of Sierra Pacific, and to enter into one or more agreements to pay, guarantee, or otherwise secure all costs, expenses and liabilities of the special purpose entities; with all such Debt Securities, guarantees and agreements being on terms and conditions substantially consistent with those set forth in or contemplated by the Application and not to exceed an aggregate principal amount of $200,000,000;

2. To enter into a tax advantaged preferred securities arrangement as described in the Application, upon the condition that Sierra Pacific and not the ratepayer will be responsible for any added expenses that may arise due to a change in the tax treatment of the tax advantaged preferred securities arrangement;

3. To issue fixed rate or floating rate debt;

4. To arrange credit agreements or other credit facilities and agreements as may be necessary for the purpose of issuing the securities or making the borrowings as set forth in the Application, and to modify such credit facilities and agreements in a manner consistent with the Application without further authorization from the Commission;

5. To utilize and enter into interest rate caps and collars at Sierra Pacific's discretion as described in the Application;

6. To execute any and all related financial documents required or desirable for the completion of the debt issues described in the Application;

7. To execute and deliver indentures and/or supplemental indentures as necessary or appropriate in connection with any issue of Debt Securities and to sell, assign, mortgage, or otherwise dispose of or encumber utility property in connection with the issuance and sale of Debt Securities, subject to such limitations as described in the Application;

8. To use the net proceeds from the issue and sale of Debt Securities, exclusive of accrued interest, for all of the purposes referred to in the Application;

9. To be exempted from the Competitive Bidding Rule;

10. To use a special purpose entity in connection with a tax advantaged preferred securities arrangement as described in the Application;

Notice of the filing of the Application appeared on the Commission's Daily Calendar of October 2, 1998. No protests have been received.

Background

Sierra Pacific was incorporated under the laws of the State of Nevada on January 15, 1965, as Sierra Nevada Power Company. Its name was changed on March 31, 1965, to Sierra Pacific Power Company. Through a merger on or about that date, it became the successor in interest to Sierra Pacific Power Company, a Maine corporation, which was incorporated on March 13, 1912, as the Truckee River General Electric Company. Sierra Pacific is engaged in public utility electric operations in California and Nevada, and is also engaged in public utility gas and water operations in Nevada.

For the six months ended June 30, 1998, Sierra Pacific reports it generated total operating income of $356,114,000 and net income of $41,672,000, as shown in its unaudited Consolidated Statements of Income, attached to the Application.

Sierra Pacific's Balance Sheet for the same period, is summarized below:

(Thousands of Dollars)

Assets	Amount
Net Plant	$1,455,318
Construction Work-in Progress	168,439
Net Investments in Subsidiaries & Other Property	55,696
Current Assets	124,302
Deferred Charges	145,792
Total	$1,949,547

Capitalization and Liabilities	Amount
Common Shareholders' Equity	$ 651,665
Preferred Stock	73,115
Preferred Stock Subject to Mandatory Redemption	48,500
Long-term Debt	611,936
Current Liabilities	212,579
Deferred Credits	351,752
Total	$1,949,547

Description of Debt Securities

Sierra Pacific proposes to issue any of the following Debt Securities which are described in detail on pages 5 to 9 of the Application:

1. Unsecured Debt Securities (debentures)
2. Unsecured Medium Term Notes (notes)
3. Direct Loans (loans)
4. Floating Rate Debt
5. Secured Debt Securities (bonds)
6. Secured Medium-Term Notes (secured notes)
7. Deferrable Interest Rate Subordinated Debentures (deferrable interest debentures)
8. Guarantees
9. Other Types of Debt Securities

Terms and Conditions

Each issue of Debt Securities may contain a provision allowing it to be redeemed or repaid prior to maturity. Any such provision may allow the Debt Securities to be redeemed or repaid at any time, or after a certain restrictive period. In either case, it is likely that a redemption of the Debt Securities would require the payment of a premium over par.

Debt Securities may bear a fixed or floating rate of interest and may be issued at par or with an original issue discount or premium.

Sierra Pacific states in the Application that with the exception of notes and floating rate debt, each series of Debt Securities is expected to have a maturity of between one year and forty years. Notes are expected to have a maturity of between nine months and forty years. The maturity of floating rate debt will be determined at the time of issue.

With the exception of loans and floating rate debt, each issue of Debt Securities may be issued under an indenture or a supplement to an existing indenture to be delivered to a trustee for such issue. The indenture or supplemental indenture will set forth the terms and conditions of each issue of Debt Securities.

Features to Enhance Debt Securities

The following features, which are described in detail on pages 9 to 10 of the Application, will be used as appropriate by Sierra Pacific to improve the terms and conditions of its issue of Debt Securities:

1. Put Option
2. Sinking Fund
3. Interest Rate Caps and Collars

Description of Tax Advantaged Preferred Securities Arrangement

Sierra Pacific proposes to enter into a tax advantaged preferred securities financing arrangement similar to one approved by the Commission in Decision (D.) 95-08-045 and issued by Sierra Pacific in 1996. Tax advantage preferred securities have certain characteristics of preferred stock and therefore receive equity credit from the major rating agencies comparable to that of preferred stock. In addition, they have a significant tax advantage in that Sierra Pacific's capital costs are comprised of interest, not dividends, and would therefore be tax deductible.

Under this financing arrangement, a form of tax advantaged preferred securities is issued and sold privately or publicly through a special purpose entity (SPE) (either a limited liability company, a limited partnership or a trust), the common securities of which are owned by Sierra Pacific. The sole purpose of the SPE is to issue the tax advantaged preferred securities and lend the proceeds thereof to Sierra Pacific. Such loans would be evidenced by deferrable interest debentures issued by Sierra Pacific, and Sierra Pacific would guarantee payment of the expenses and certain other obligations of the SPE. Investors in the tax advantaged preferred securities would not be subject to withholding tax or benefit from the dividends received deduction. Sierra Pacific states in the Application that its use of a tax advantaged preferred securities arrangement would be on the condition that Sierra Pacific, not its ratepayers, would be responsible for any added expenses that may arise due to a change in the tax treatment of this type of arrangement.

Sierra Pacific's SPE would be created solely for the purpose of issuing securities to the public or privately to support Sierra Pacific's operations or service. Sierra Pacific would have 100% ownership and control of the SPE. In addition, the activities of the SPE would be subject to federal or state securities regulation and to the regulation of the Commission through its oversight of Sierra Pacific's financing activities.

We will grant Sierra Pacific the authority to issue Debt Securities and to use any of the debt enhancement features and the terms and conditions contemplated in the Application.

In D.95-08-045, the Commission granted Sierra Pacific the use of a special purpose entity for the purpose of issuing preferred securities. Having explicitly determined them reasonable previously, we see no reason to object, and we will grant, pursuant to PU Code § 701.5, Sierra Pacific the authority to use a special purpose entity to facilitate a tax advantaged preferred securities financing arrangement.

As we do with all financial authorizations, we remind Sierra Pacific that it will be expected to demonstrate and support in a future proceeding that the specific capital costs incurred in conjunction with a tax advantaged preferred securities financing arrangement were appropriate and beneficial under the circumstances. We will limit ratepayers' responsibility for expenses that may arise from interest on taxes that may be assessed by the Internal Revenue Service if expected tax advantages do not materialize (back taxes), as well as any penalties or interest on penalties. Ratepayers will be responsible for (1) back taxes, to the extent that benefits of reduced taxes were flowed through to them, and (2) interest on ratepayer recovered back taxes, calculated at no more than the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release, G-13.

Exemption from the Competitive Bidding Rule

In approving previous financing requests, most recently in D.95-08-045, the Commission recognized Sierra Pacific's statements that its debt issues which are privately placed with specific lenders and bank term loans must be negotiated; certain tax-exempt bonds and variable interest rate debt securities are normally completed on a negotiated basis; and that only 6.1% of its 1998 total operating revenues are derived in California as reasons for exempting Sierra Pacific from the requirements of the Competitive Bidding Rule.

To the extent that it would otherwise apply, we will not subject Sierra Pacific's proposed issue of Debt Securities in this Application to the Competitive Bidding Rule.

Capital Expenditures

Sierra Pacific's projected capital expenditures are as follows:

(Thousands of Dollars)

Item	1998	1999	2000
Electric Department	$123.5	$ 92.9	$ 88.7
Gas Department	9.8	8.6	8.6
Water Department	6.0	11.6	11.0
Common Plant	6.7	6.9	1.7
Total	$146.0	$120.0	$110.0

Capital Ratios

Sierra Pacific's capital ratios as of June 30, 1998, are presented below as recorded and adjusted to give pro forma effect to the proposed issue of $200,000,000 of Debt Securities (of which $100,000,000 relates to a tax advantage preferred securities arrangement); $35,000,000 of medium-term notes authorized by D.95-08-045; the retirement of $23,100,000 of preferred stock; and the repayment of all short-term indebtedness authorized by D.97-12-111, as modified by D.98-03-058:

(Thousands of Dollars)

	Recorded		Pro-Forma	
	Amount	Percentage	Amount	Percentage
Common Equity	$ 644,725	44.3%	$ 644,725	40.8%
Preferred Stock	121,615	8.3%	198,515	12.6%
Long-Term Debt	602,173	41.3%	737,173	46.6%
Short-Term Debt	88,400	6.1%	0	0.0 %
Total	$1,456,913	100.0%	$1,580,413	100.0%

Sierra Pacific's ratesetting matters are normally reviewed during its Performance Based Ratemaking filings. We make no finding in this decision of the reasonableness of Sierra Pacific's projected capital budget and capital ratios.

Cash Flow

Sierra Pacific's projected cash flow statement for 1998 through 2000 is summarized as follows:

(Thousands of Dollars)

	1998	1999	2000
Internal Cash Generation	64,549	78,243	85,597
Capital Investment (net)	146,000	120,000	110,000
Cash Requirements	81,451	41,757	24,403
Net Proceeds from Financing	86,700	37,594	23,694
Increase/(Decrease) in Cash Balance	5,249	(4,163)	(709)
Beginning Cash	2,200	7,449	3,286
Cash - End of Period	7,449	3,286	2,577

Sierra Pacific's projected cash flow statement indicates that it would require additional funds from external sources amounting to $147,611,000 for 1998 through 2000.

Use of Proceeds

Sierra Pacific states in the Application that the proceeds from the issue and sale of its Debt Securities will be used for all lawful purposes including, but not limited to, the acquisition of property, the construction, completion, extension or improvement of facilities, or for the refinancing or discharge or refunding of obligations or reimbursement of treasury for expenditures made for the foregoing purposes, all as permitted under PU Code § 817.

Sierra Pacific states in its supplemental data to the Application that approximately $141,885,000 of the proposed $200,000,000 would constitute new debt.

In accordance with PU Code § 1904(b), Sierra Pacific claims fee exemption in this proceeding for debt issues whereby a fee has been previously paid to the Commission. The amount of $23,115,000 from the proceeds of the Debt Securities will be used for the redemption of preferred stock and $35,000,000 for the redemption of medium term notes.

Sierra Pacific is placed on notice that the proceeds from the loan cannot be charged to operating expenses or income.

In Resolution (Res.) ALJ 176-3001 dated October 8, 1998, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and there is no need to alter the preliminary determinations made in Res. ALJ 176-3001.

Findings of Fact

1. Sierra Pacific, a Nevada corporation, operates as a public utility subject to the jurisdiction of this Commission.

2. Sierra Pacific has need for external funds for the purposes as discussed above in the Use of Proceeds section.

3. The proposed issuance and sale of Debt Securities is for proper purposes and would not be adverse to the public interest.

4. The money, property, or labor to be procured or paid for by the Debt Securities is reasonably required for the purposes specified in the Application.

5. Authorizing Sierra Pacific to determine the precise amount and timing of each debt issue, the market in and method by which each debt issue is effected, and the price, interest rate, and other material provision of each debt issue, within the constraints set forth in this decision, is not adverse to the public interest.

6. Debt Securities features are tools which may improve the terms and condition of debt issues and may lower overall cost of money for the benefit of ratepayers.

7. The use of interest caps and collars as contemplated in the Application is reasonable and for proper purposes.

8. Sierra Pacific's proposal to use a special purpose entity for the purpose of issuing Preferred Securities and unconditionally guaranteeing or otherwise securing the entity's payment obligations would be for proper purposes and could offer financial advantages to Sierra Pacific and its ratepayers.

9. Savings resulting from the difference in costs between raising capital through a tax advantaged preferred securities and a traditional preferred stock issuance will be passed to ratepayers in the annual revisions of Sierra Pacific's authorized cost of capital.

10. For tax advantaged preferred securities, ratepayers should not be responsible for penalties or interest on penalties, if any. Ratepayers will be responsible for any back taxes to the extent that benefits of reduced taxes were previously flowed through to them. Ratepayers will also be responsible for interest on ratepayer recovered back taxes, calculated at the prime, three-month commercial paper rate, as reported in the Federal Reserve Statistical Release, G-13.

11. The special purpose entity described in the Application would be under Sierra Pacific's ownership and control and would engaged only in activities in support of Sierra Pacific's regulated operations.

12. Res. No. F-616 specifically provides that debt issues for which competitive bidding is not viable or available are exempt.

13. Sierra Pacific's 1998 operating revenues for its California operations is 6.1% of total operating revenues.

14. Authorizing Sierra Pacific to encumber its properties as security for its Debt Securities is not adverse to the public interest.

15. The Commission does not by this decision determine that the capital structure and cash requirements forecast presented herein are necessary or reasonable for ratemaking purposes.

16. Notice of the filing of the Application appeared on the Commission's Daily Calendar of October 2, 1998, and no protests have been received. There is no known opposition to the Application and 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 issue of Debt Securities, including features to enhance the terms and conditions of the offerings, is for lawful purposes and the money, property, or labor to be obtained is required for these purposes. Proceeds from the debt issue may not be charged to operating expense or income.

4. Pursuant to PU Code § 701.5(c), a utility may be authorized by the Commission to issue bonds, notes, guarantees, or pledge assets on behalf of a wholly owned subsidiary, provided the subsidiary supports the utility's operations or service.

5. Sierra Pacific should pay the fee in accordance with PU Code § 1904(b). The fee computation should take into account the fee exemption for the refunding of outstanding indebtedness on which a fee has already been paid.

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

IT IS ORDERED that:

1. Sierra Pacific Power Company (Sierra Pacific), on or after the effective date of this order, is authorized:

a. to issue, sell, and deliver one or more series of debentures, notes, loans, floating rate debt, bonds, secured notes, deferrable interest debentures, and/or other forms or types of debt securities (collectively, Debt Securities), said Debt Securities to include, at Sierra Pacific's discretion, one or more of the debt enhancement features described herein, all such issues, sales and deliveries of such Debt Securities to take place and being upon terms and conditions substantially consistent with those set forth in or contemplated by the Application; to unconditionally guarantee or otherwise secure from time to time, through one or more agreements to such effect, the issuance of tax advantaged preferred securities, issued by one or more special purpose entity from time to time, for the benefit of Sierra Pacific, and to enter into one or more agreements to pay, guarantee, or otherwise secure all costs, expenses and liabilities of the special purpose entities; with all such Debt Securities, guarantees and agreements being on terms and conditions substantially consistent with those set forth in or contemplated by Application 98-09-035 (Application) and not to exceed an aggregate principal amount of $200,000,000;

b. to enter into a tax advantaged preferred securities arrangement as described in the Application, upon the condition that Sierra Pacific and not the ratepayer will be responsible for any added expenses that may arise due to a change in the tax treatment of the tax advantaged preferred securities arrangement;

c. to issue fixed rate or floating rate debt;

d. to arrange credit agreements or other credit facilities and agreements as may be necessary for the purpose of issuing the securities or making the borrowings as set forth in the Application, and to modify such credit facilities and agreements in a manner consistent with the Application without further authorization from the Commission;

e. to utilize and enter into interest rate caps and collars at Sierra Pacific's discretion as described in the Application;

f. to execute any and all related financial documents required or desirable for the completion of the debt issues described in the Application;

g. to execute and deliver indentures and/or supplemental indentures as sell, assign, mortgage, or otherwise dispose of or encumber utility property in necessary or appropriate in connection with any issue of Debt Securities and to connection with the issuance and sale of Debt Securities, subject to such limitations as described in the Application;

h. to use a special purpose entity in connection with a tax advantaged preferred securities arrangement as described in the Application;

i. to use the net proceeds from the issue and sale of Debt Securities, exclusive of accrued interest, for all of the purposes referred to in the Application;

2. Sierra Pacific's proposed Debt Securities as described in the Application are exempted from the requirements of the Commission's Competitive Bidding Rule.

3. Tax Advantaged Preferred Securities transactions shall be subject to conditions consistent with our findings.

4. Sierra Pacific shall maintain and, within thirty days from request, provide the Energy 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 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 issues of bonds and debentures.

c. 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.

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

6. The authority granted by this order shall become effective when Sierra Pacific pays $9,655, the fee set forth by Public Utilities Code § 1904(b).

7. Application 98-09-035 is closed.

This order is effective today.

Dated December 3, 1998, at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
PAID
DEC 30 1998
by ye ck# 58466

CSR# 40235
$9,655.00

RICHARD A. BILAS
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