

COMM/RSK/KOK/DLW/RHG

Ratesetting

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of THE PONDEROSA TELEPHONE COMPANY (U-1014-C), for an Order authorizing it to issue notes in an amount not exceeding \$27,288,000, and to execute a related agreement and supplemental security instruments.

Application 08-04-025
(Filed April 15, 2008)

DECISION GRANTING AUTHORITY TO BORROW

1. Summary

This decision grants The Ponderosa Telephone Company (PTC) the authority requested in Application (A.) 08-04-025 (Application).

PTC requests authority, pursuant to §§ 818 and 851 of the California Public Utilities (Pub. Util.) Code¹ to:

1. Enter into a loan agreement with The United States of America, acting through the Administrator of the Rural Utilities Service (RUS), for the purpose of borrowing \$27,288,000, to be used for the acquisition of equipment and the improvement of PTC's facilities; and
2. Execute mortgage notes and security instruments.

2. Background

PTC is a California corporation and operates as a local exchange telephone company, providing service to portions of Fresno, Madera and San Bernardino Counties, California. PTC's property principally consists

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

of telephone facilities, including central office equipment, aerial and buried cable, land and buildings.

PTC's income statement, for the year ended December 31, 2007, included in Exhibit B to the Application, presents total operating revenues of \$20,404,638, and a net income of \$2,885,475. The balance sheet, as of December 31, 2007, also included in Exhibit B, is summarized below:

<u>Assets</u>	<u>Amount</u>
Current Assets	\$22,172,606
Noncurrent Assets	2,878,139
Net Plant	<u>28,491,269</u>
Total Assets	<u>\$53,542,014</u>
 <u>Liabilities & Equity</u> 	
Current Liabilities	\$ 7,512,333
Long-Term Debt	19,509,542
Other Liabilities & Deferred Credits	(55,579)
Stockholders' Equity	<u>26,575,718</u>
Total Liabilities & Equity	<u>\$53,542,014</u>

PTC previously obtained long-term secured borrowings from the RUS (formerly the Rural Electrification Administration) and from the Rural Telephone Bank (RTB). In Decision (D.) 98-09-069, dated September 17, 1998, in A.98-06-041, the Commission authorized PTC to secure a \$20,445,000 loan from the RUS, the RTB, and the Federal Finance Bank, to finance additions and improvements to its plant. In D.93-09-047, dated September 1, 1993, in A.93-05-053 and A.91-10-023, the Commission authorized PTC to secure a loan from the RUS and the RTB, in the amount of \$2,623,950 and \$8,607,900, respectively. As of December 31, 2007, PTC's outstanding loan balances, with the above entities, totaled \$19,509,542.

3. Notice and Protests

Notice of the filing of the Application appeared on the Commission's Daily Calendar of April 18, 2008. No protests have been received.

4. Description of Financing

PTC seeks authority to enter into a loan agreement with the RUS for \$27,288,000. The proposed loan will be paid out in several advances and will be secured by a mortgage of PTC's property, and will be subject to documentation substantially similar to that which is attached as Exhibit D to the Application.² The RUS mortgage note will be repaid in amortizing monthly installment payments, commencing two years after execution and concluding seventeen years after execution, with interest rates to be determined for each advance by reference to the Rural Electrification Act of 1936, and implementing regulations.

There is no stated rate of interest for the RUS subsidized loans to telephone companies. Instead, the applicable rate of interest for advances is determined on the date of each advance and is essentially equal to the U.S. Government's cost of funds. The rates, so determined, are generally and consistently much lower than rates available from private and commercial lenders.

5. Use of Proceeds

The Application states that because of the increasing demand for telecommunications services, PTC requires funds for the future acquisition of electronic equipment and for network improvements.

Using the proceeds of debt issues for the construction or improvement of facilities are proper uses of funds, pursuant to § 817(b).

² As of December 31, 2007, PTC has total assets of \$53,542,014.

6. Construction Budget

PTC's 5-year construction budget, included in Exhibit C to the Application follows:

	(\$ in Thousands)					
	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Total</u>
Land & Building	265	0	0	0	0	265
Distribution						
Improvements	8,264	10,019	9,000	9,000	9,000	45,283
Office Equipment	482	355	300	300	300	1,737
Transportation Equipment	75	75	75	75	75	375
Other Equipment	<u>323</u>	<u>60</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>683</u>
 Total	 <u>9,409</u>	 <u>10,509</u>	 <u>9,475</u>	 <u>9,475</u>	 <u>9,475</u>	 <u>48,343</u>

PTC estimates that it will require a total of \$48,343,000 for construction and system improvements. While the construction or improvement of a company's facilities are proper uses for financing authority, pursuant to § 817(b), we will not make a finding in this decision on the reasonableness of PTC's proposed construction program. The reasonableness of plant additions are normally addressed in general rate cases. Generally, PTC submits its general rate case filing with the Commission, every three years.

7. Cash Requirements Forecast

PTC's 5-year cash requirements forecast, included in Exhibit C to the Application, is summarized as follows:

	(\$ in Thousands)					
	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Total</u>
Funds for construction	9,409	10,509	9,475	9,475	9,475	48,343
Bonds, notes retired	4,134	4,575	4,858	4,958	4,995	23,520
Dividends	1,048	1,048	1,048	1,048	1,048	5,240
Short-term debt repaid	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total cash required	14,591	16,132	15,381	15,481	15,518	77,103
Less:						
Estimated cash available from internal sources ³	<u>8,802</u>	<u>10,794</u>	<u>10,594</u>	<u>10,394</u>	<u>10,194</u>	<u>50,778</u>
External funding required	<u>5,789</u>	<u>5,338</u>	<u>4,787</u>	<u>5,087</u>	<u>5,324</u>	<u>26,325</u>

PTC's projected cash requirements indicate that internally generated funds will provide approximately \$50.8 million or 66% of its cash requirements of \$77.1 million, for years 2008 through 2012.

The Application states that approximately \$11.5 million of the loan proceeds will be used for electronic equipment and the balance of \$15.8 million for network improvements. The requested \$27.3 million debt issue, the subject of this Application, appears necessary to help PTC meet its projected external funds requirements.

³ According to PTC, the revenue projections were derived from its Advice Letter (AL) No. 374, filed December 28, 2007, requesting an increase in its High Cost Fund-A (CHCF-A) draw, and increases to certain discretionary service rates. The amount of PTC's 2008 draw from the CHCF-A, included in Resolution (Res.) T-17122, dated January 10, 2008, is \$2,254,710.03. In AL No. 374, PTC proposes its CHCF-A support for 2009, to be \$5,843,734. AL No. 374 is currently being processed. PTC's estimated cash available from internal sources reflect yearly net income and depreciation.

8. Capital Structure

The capital ratios, as presented by PTC, included in Exhibit C to the Application, are shown below as recorded and as adjusted, to give pro forma effect to the transactions listed below:

	<u>Recorded</u>		<u>Adjustments</u>		<u>Proforma</u>	
Long-term debt	\$19,509,546	42.33%	\$ 3,767,100(A)	\$23,276,646	41.35%	
Short-term debt	<u>0</u>	<u>0.00%</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>	
Subtotal	\$19,509,546	42.33%	\$ 3,767,100	\$23,276,646	41.35%	
Common Equity	\$ 61,060	0.13%	\$ 0	\$ 61,060	0.11%	
Paid-in Capital	792,720	1.72%	0	792,720	1.41%	
Retained Earnings	<u>25,721,938</u>	<u>55.81%</u>	<u>6,443,000(B)</u>	<u>32,164,938</u>	<u>57.13%</u>	
Total Equity	\$26,575,718	57.67%	\$ 6,443,000	\$33,018,718	58.65%	
Total Capitalization	<u>\$46,085,264</u>	<u>100.00%</u>	<u>\$10,210,100</u>	<u>\$56,295,364</u>	<u>100.00%</u>	

A. Long-term Debt:

- (1) Issuance of \$27,287,100 debt requested in this Application.
- (2) Retirement of approximately \$23,520,000 of existing long-term debt from 2008 through 2012.

B. Equity:

- (1) Projected increase in retained earnings of \$6,443,000 (\$11,683,000 in net income less dividends of \$5,240,000).

Consistent with the rate-of-return treatment for rate-regulated local exchange carriers, the Commission, beginning in 1997, merely identifies an overall rate of return, without adopting a capital structure in rate case proceedings of rural Incumbent Local Exchange Carriers.

In PTC's latest general rate case filing, the Commission in Res.

T-16771, dated October 30, 2003, merely identified an overall rate of return of 10% for PTC, without setting a particular capital ratio. While the estimated change in PTC's capital structure does not appear to be material, we make no finding in this decision of the reasonableness of PTC's projected capital ratios.

9. Loan Approval

PTC's request to issue debt is subject to §§ 816 *et seq.*, which provide, in relevant parts as follows:

Section 816: The power of public utilities to issue... evidences of indebtedness and to create liens on their property situated within this State is a special privilege, the right of supervision, regulation, restriction, and control of which is vested in the State, and such power shall be exercised as provided by law under such rules as the commission prescribes.

Section 817: A public utility may issue stocks and stock certificates or other evidence of interest or ownership, and bonds, notes, and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, for any one or more of the following purposes and no others:

(b) For the construction, completion, extension, or improvement of its facilities.

Section 818:

No public utility may issue stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness payable at periods of more than 12 months...unless... in addition to the other requirements of law it shall first have secured from the commission an order authorizing the issue, stating the amount thereof and the purposes to which the issue or the proceeds thereof are to be applied...

Section 851:

No public utility... shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its... plant, system, or other property necessary or useful in the performance of its duties to the public....without first having secured from the commission an order authorizing it so to do.

The Commission has broad discretion under §§ 816 *et seq.*, to determine if a utility should be authorized to issue debt. The primary standard used by the Commission is whether a utility has demonstrated a reasonable need to issue debt for proper purposes.⁴

PTC proposes to fund part of its projected 5-year construction budget by external debt. This construction appears to be for the public good and financing it with a below market interest loan is in the best interest of the utility and ratepayers. Pursuant to § 818, we will approve the financing authority requested in the Application. Pursuant to § 851, we will allow PTC to execute a Restated Mortgage, Security Agreement and Financing Statement to secure the loan, similar in form, terms and conditions, as set forth in Exhibit D to the Application. We caution PTC that loan proceeds can not be used for purposes chargeable to operating expenses or income.

10. Environmental Impact

The California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*, hereafter “CEQA”) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.⁵

⁴ The purposes for which debt may be issued are listed in § 817.

⁵ CEQA Guideline Section 15002.

According to PTC, the requested authority to enter into a loan agreement and to execute the loan documents does not have any significant adverse effect on the environment. PTC is an incumbent local exchange carrier with a statutorily granted facilities-based provider authority.

The Commission must act on §§ 818 and 851 applications and must act as either a Lead or Responsible Agency under CEQA. Generally, the Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guideline Section 15051(b)). CEQA requires that a Responsible Agency consider the Lead Agency's Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration prior to acting upon or approving a project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a Responsible Agency are contained in CEQA Guideline Section 15096.

According to PTC, it is unknown at this time what the specific project activities and new construction associated with the authority to issue debt will be. The Application specifies that the purpose of the Application is to secure approval for a loan, to be used for prospective plant improvements and new electronic equipment. PTC has general plans for the use of the loan proceeds, but it does not have the basic details regarding those contemplated projects. PTC simply possesses inadequate basic information regarding future projects that might be financed through the contemplated RUS loan. However, securing the financing authority now will put PTC in a better position to undertake plant improvements without delay when construction plans are finalized.

PTC is aware and states in the Application that the utility will comply with all environmental permitting requirements applicable to the construction and improvements that it will undertake in conjunction with the proposed debt issue.

Since the details of the proposed improvements are unknown at this time, we will approve the debt financing pursuant to § 818 and § 851 and place PTC on notice that the approval of the loan request does not constitute an implied or expressed waiver of applicable environmental regulations.

This decision will not authorize any capital expenditures or construction projects. PTC will not use the proceeds authorized by this decision to begin construction of capital projects until PTC has obtained the required approvals from the Commission, if any, including any required environmental review under CEQA.

11. Fees

Whenever the Commission authorizes a utility to issue debt, the Commission is required to charge and collect a fee in accordance with § 1904(b).

Pursuant to § 1904(b), PTC should pay the fee of \$19,644.⁶

12. Categorization and Need for Hearings

In Res. ALJ 176-3212, dated April 24, 2008, 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,

⁶ The amount subject to the fee is \$27,288,000. The fee is determined as follows: $(\$2 \times (1,000,000/1,000)) + (\$1 \times (9,000,000/1,000)) + (\$0.50 \times (17,288,000/1,000)) = \$19,644$.

and there is no need to alter the preliminary determinations made in Res. ALJ 176-3212.

13. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

14. Assignment of Proceeding

Rami S. Kahlon is the assigned Examiner in this proceeding.

Findings of Fact

1. PTC, a California corporation, is a public utility subject to the jurisdiction of this Commission.
2. PTC appears to need external funds for the purposes set forth in the Application.
3. The Commission does not by this decision determine that the construction budget and cash requirements forecast presented herein are necessary or reasonable for purposes of setting rates.
4. Notice of the filing of the Application appeared on the Commission's Daily Calendar of April 18, 2008.
5. There is no known opposition to this Application.
6. A public hearing is not necessary.

Conclusions of Law

1. The Application should be granted to the extent set forth in the order that follows.
2. The financing authority sought in this Application is reasonably required for the purposes specified.

3. Authorizing PTC to encumber utility assets to secure the loan is for proper purposes and not adverse to the public interest.

4. The financial assistance by RUS provides needed capital for system improvements and is a prudent means of acquiring \$27,288,000 at below market rates.

5. PTC should not use the proceeds from the debt authorized by this decision to fund capital projects until PTC has obtained any required Commission approvals for the projects, including any required environmental review under CEQA.

6. It is PTC's responsibility to abide by and comply with any applicable environmental regulations for any capital improvement undertaken using the debt authorized herein.

7. PTC should pay the fee determined in accordance with § 1904(b).

8. The following order should be effective on the date of approval.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, The Ponderosa Telephone Company (PTC), upon terms and conditions substantially consistent with those set forth or contemplated in Application (A.) 08-04-025 (Application), is authorized to enter into a Telephone Loan Contract Amendment with The United States of America, acting through the Rural Utilities Service (RUS), for a total sum not exceeding \$27,288,000, for purposes specified in the Application.

2. PTC may execute and deliver the Mortgage Note and supplemental mortgages of the utility's properties on substantially the same terms and conditions as set forth in Exhibit D to the Application.

3. PTC shall keep and maintain copies of the Telephone Loan Contract Amendment, the Mortgage Notes, and Supplemental Mortgages, and provide copies to the Commission's Utility Audit, Finance and Compliance Branch (UAFCB), within thirty days from the date of a request for these documents.

4. This financing order does not authorize any capital expenditures or construction projects. PTC shall not use the proceeds authorized by this order to begin construction of capital projects until PTC has obtained the required approvals from the Commission, if any, including any required environmental review under the California Environmental Quality Act.

5. On or before the 25th day of each month, and up to the date the entire loan proceeds have been expended, PTC shall file with the UAFCB the reports required by General Order No. 24-B.

6. The authority granted by this order shall become effective when PTC pays \$19,644 as required by the Public Utilities Code § 1904(b).

7. The Application is granted as set forth above.

8. A.08-04-025 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

