

May 9, 2013

WATER/RSK/KOK/DLW/RHG**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA****DIVISION OF WATER AND AUDITS
UTILITY AUDIT, FINANCE AND
COMPLIANCE BRANCH****RESOLUTION W-4948
May 9, 2013****R E S O L U T I O N****RESOLUTION W-4948. RESOLUTION GRANTING LITTLE BEAR
WATER COMPANY, INC., SEWER DIVISION TO BORROW \$120,000
FROM FINANCIAL INSTITUTIONS AND TO ENCUMBER ITS
ASSETS IN CONNECTION WITH THE LOAN.****By Advice Letter No. 28-S filed on January 7, 2013.**

SUMMARY

This Resolution grants Little Bear Water Company, Inc., Sewer Division (LBWC-SD) the authority requested in its Advice Letter (AL) 28-S.

LBWC-SD requests authority, pursuant to §§ 816 through 851 of the Public Utilities Code,¹ to:

1. Borrow \$120,000 from financial institutions;
2. Use the loan proceeds to finance sewer plant additions;
3. Be exempt from the Commission's Competitive Bidding Rule;²
4. Refinance short-term debt used to finance water plant additions; and
5. Encumber utility assets in connection with the loan.

BACKGROUND

LBWC-SD, a California corporation, is a sewer company subject to the jurisdiction of this Commission. LBWC-SD provides sewer service to 393 flat-rate customers in King City, Monterey County.

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

² In Decision (D.) 12-06-015, the Commission issued its Financing Rule which replaces its former Competitive Bidding Rule. The Commission no longer requires competitive bidding.

LBWC-SD's sewer system consists of wells, pumps, treatment plant, mains, reservoirs, aerators, transportation and other equipment.

On November 9, 2012, by AL 27-S, LBWC-SD filed a general rate case (GRC) requesting a rate increase for test year 2013, of \$87,162 or 24.08% over revenues at present rates of \$361,953. AL 27-S is currently being reviewed and evaluated.

A. Financing Request

LBWC-SD seeks authorization to borrow \$120,000 from financial institutions to fund certain plant additions. LBWC-SD is in the process of contacting financial institutions to request a long-term loan of \$120,000. LBWC-SD will choose the financial institution that will provide the best terms to obtain the loan. LBWC-SD believes it can get a long-term loan for a period of five years at an interest rate between 5% and 6% per year. LBWC-SD will execute and issue a promissory note and deed of trust to the financial institution that will best serve its financing requirements.

Additionally, LBWC-SD may preliminarily finance part of its construction work with short-term debt and use some of the proceeds of the long-term debt requested herein to refinance the bridge short-term funding. The amount of short-term debt that may be used in the interim and refinanced by the loan will not exceed \$120,000.

Since the proposed loan may require to be secured by LBWC-SD's assets, LBWC-SD requests authority to encumber utility assets in connection with the loan.

B. Current Financing

LBWC-SD does not have any previous or existing long-term authorization from this Commission.

C. Construction Budget

LBWC-SD's proposed sewer plant construction, as shown in Schedule A to the filing, is summarized in the following table.

Table 1
2013 Sewer Plant Additions

<u>Item</u>	<u>Estimated Cost</u>
a) Design and construction of a sludge drying bed	\$ 24,000
b) Wastewater treatment facility security system	5,000
c) 100 HP auxiliary power source (generator)	65,000
d) Construction of bridge for monitoring dock	<u>10,000</u>
e) Sub-total of Estimated Plant Additions	\$104,000
f) Contingency	<u>16,000</u>
Total	<u>\$120,000</u>

According to LBWC-SD, the construction of a sludge drying bed, installation of security system, generator, and other improvements will improve the a) utility's ability to provide service, b) overall system capacity, and c) provision of service in the event of a power failure.

In its pending GRC, LBWC-SD requests inclusion of the new sewer plant additions in ratebase in year 2013. According to LBWC-SD, of the estimated \$104,000 of plant additions, it only included 50% or \$52,000 in rate base since additions are calculated on an average basis. LBWC-SD intends to recover the other \$52,000 through a rate base offset in year 2014.

D. Financial Information

In its Income Statement for the year ending December 31, 2011, LBWC-SD reported that it generated total operating revenues of \$346,434, with a net income of \$18,962. LBWC-SD's Balance sheet, as of December 31, 2011, as reported, is summarized in the following table.

Table 2
Balance Sheet as of December 31, 2011

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$ 534,447
Investments	0
Current Assets	29,099
Deferred Charges	<u>0</u>
Total Assets and Deferred Charges	\$ <u>563,546</u>
<u>Liabilities & Equity</u>	
Common Stock	\$ 0
Excess Sewer Assets over Liabilities	293,390
Retained Earnings	352,313
Long-Term Debt	0
Current Liabilities	2,127
Deferred Credits	(121,767)
Net Contributions in Aid of Construction	<u>37,483</u>
Total Liabilities & Equity	\$ <u>563,546</u>

LBWC-SD's last GRC became effective October 1, 2008, pursuant to Res. W-4708. The Commission authorized an increase of \$123,416 or 55.4% over revenues at the then present rates of \$222,784. The increase was estimated to provide a return on rate base of 13.35%. Subsequent to its GRC, LBWC-SD received additional increases summarized in the following table.

Table 3
Additional Rate Increases

<u>Type</u>	<u>% Increase</u>	<u>Particulars</u>
2010 Consumer Price Index (CPI)	1.5%	\$5,193, effective 5/25/11
2011 CPI	3.0%	\$10,542, effective 4/17/12
Interim Rate Increase, subject to refund	3.0%	\$10,859, effective 1/1/13

E. Cash Requirements Forecast

LBWC-SD's estimate of cash requirements for 2013 through 2015, shown as Exhibit H to the filing, is summarized in the following table.

Table 4
Cash Requirements Forecast for Years 2012 through 2015

<u>Components</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>Total</u>
Funds for Construction	0	\$104,000	\$ 0	\$ 0	\$104,000
Long Term Debt Repayment	0	13,753	27,505	27,505	68,763
Contingency Costs	<u>0</u>	<u>16,000</u>	<u>0</u>	<u>0</u>	<u>16,000</u>
Total Cash Requirements	0	\$133,753	\$ 27,505	\$ 27,505	\$188,763
Less: Internal Cash Sources	<u>0</u>	<u>\$ 13,753</u>	<u>\$ 27,505</u>	<u>\$ 27,505</u>	<u>\$ 68,763</u>
Funds from Outside Sources	<u>0</u>	<u>\$120,000</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$120,000</u>

F. Capital Structure

LBWC-SD's capital ratios as of December 31, 2011, are presented below as recorded and adjusted to give pro forma effect to LBWC-WD's proposed transactions:

Table 5
Capital Structure

	<u>Recorded</u>		<u>Adjustments</u>	<u>Proforma 2015</u>	
Long-term debt	\$ 0	0.00%	\$ 64,110 ^(A)	\$ 64,110	6.66%
Common Stock	0	0.00%	-	0	0.00%
Paid In Capital	0	0.00%	-	0	0.00%
Excess Sewer Assets					
Over Liabilities	293,390	45.44%	-	293,390	30.48%
Retained Earnings	<u>352,312</u>	<u>54.56%</u>	<u>252,810^(B)</u>	<u>605,122</u>	<u>62.86%</u>
Total Capitalization	<u>\$645,702</u>	<u>100.00%</u>	<u>\$316,920</u>	<u>\$962,622</u>	<u>100.00%</u>

1. The issuance of the \$120,000 debt requested in this filing; projected long-term debt payment of \$10,573 in 2013, \$22,037 in 2014, and \$23,280 in 2015.
2. Projected net earnings after interest expense of \$35,000 in 2012, \$73,715 in 2013, \$71,426 in 2014, and \$72,669 in 2015.³

³ LBWC-SD made the assumption in preparing the 2012 to 2015 Income Statement, Schedule E attached to AL 28-S, that the revenue and expenses requested in its pending GRC will be approved in full and the Commission will allow a rate base offset in 2014.

NOTICE AND PROTESTS

AL 28-S was served on LBWCSD's adjacent utilities pursuant to GO 96-B, Water Industry Rule 4.1. Notice of AL 28-S was made by publication in the Commission's Daily Calendar of January 9, 2013. No protests have been received.

DISCUSSION

As a public sewer utility, LBWC-SD has the responsibility to maintain its quality of service and provide necessary improvements to its present sewer system. According to LBWC-SD, the installation of a security system and auxiliary power source for its wastewater treatment plant and the construction of a bridge would enhance its ability to secure and monitor the sewer system facilities.

Based on LBWC-SD's 4-year cash requirements forecast, it appears that outside funding will be needed to fund the sewer plant additions since LBWC-SD intends to use the funds from its treasury or income to pay off the current portion of long-term debt and to fund operations and any other capital projects that may become necessary.

LBWC-SD indicated in its filing that it may use short-term debt to finance some of its construction work that it intends to pay later with the proceeds of the \$120,000 long-term debt requested herein.

Section 817 provides that a public utility may issue stocks and bonds, notes, and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, for certain purposes, including, but not limited to, the construction, completion, extension, or improvement of its facilities and the improvement or maintenance of its services and the discharge or lawful refunding of its obligations.

In D.12-06-015, the Commission issued its Financing Rule which replaces the Competitive bidding Rule authorized in Resolution (Res.) F-616. The Commission no longer requires competitive bidding and instead, among other things, requires utilities to procure their long-term debt to achieve the lowest long-term cost of capital for ratepayers. LBWC-SD indicates that it will choose the financial institution that will provide the best terms and that will best serve its financing requirements.

LBWC-SD's proposed plant additions and the refunding of any short-term debt used to facilitate those improvements fall within the scope of § 817 and would be a proper use of funds under § 817. While using the proceeds from the loan to fund the above plant additions and to refund any short-term debt used to temporarily finance them are proper purposes pursuant to § 817, we will not make a finding in this Resolution on the reasonableness of the construction budget, the resulting cost of debt nor the short-term

debt costs if any is used to finance the construction for ratemaking purposes. Those issues are normally addressed in a cost of capital assessment or rate case proceeding.

While LBWC-SD's proposed transactions do not appear to materially change LBWC-SD's capital structure to the detriment of ratepayers, 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 Resolution of the reasonableness of the projected capital ratios for ratemaking purposes.

Section 818 states that no public utility may issue 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 818 requires the Commission, in issuing such an order, to find that the money, property, or labor to be procured or paid for with the proceeds of the debt authorized is reasonably required for the purposes specified in the order and, unless expressly permitted in an order authorizing debt, that those purposes are not, in whole or in part, reasonably chargeable to expenses or to income.

Section 823(d) states that a utility may not refund a note payable, at a period of not more than 12 months after the date of issuance of such note, in whole or in part, by any issue of stocks or stock certificates or other evidence of interest or ownership, or bonds, notes of any term or character, or any other evidence of indebtedness, without the consent of the Commission.

As set forth herein, LBWC-SD's proposed loan would be for the purpose of constructing and improving its sewer system and refunding any short-term debt use for the construction, which fall within the scope of purposes in § 817. Moreover, LBWC-SD's proposed borrowing and the money, property, or labor to be procured or paid for with the proceeds of the debt authorized by this Resolution is reasonably required for the purposes specified in this Resolution, since these improvements will benefit ratepayers over many years. LBWC-SD's proposed project is not reasonably chargeable to expenses or income.

Section 851 requires Commission authorization before a utility may "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..." Section 851 permits the encumbrance of utility assets when such encumbrance serves to secure authorized debt and the Commission frequently authorizes such encumbrance where, as here, it is not adverse to the public interest.

Therefore, we will authorize LBWC-SD to obtain a loan in the amount of \$120,000 to fund the system improvements and additions discussed herein, to refund short-term debt used for those system improvements and additions, and to encumber its assets in connection with the loan.

Consistent with § 824, LBWC-SD should maintain records to (i) identify the specific long-term debt issued pursuant to this Resolution, and (ii) demonstrate that the proceeds from such debt were only used for the purposes specified herein. LBWC-SD must keep and maintain copies of the loan agreement and related loan documents and must file with the Division of Water and Audits' (DWA) Utility Audit, Finance and Compliance Branch (UAFCB) a copy of the documents within 15 days of execution.

In D.12-06-015, the Commission, among other things, also requires utilities with \$25 million or more of annual California operating revenue to use their best efforts to encourage, assist and recruit women-, minority-, and Disabled Veteran-Owned Business Enterprises as lead underwriter, book runner, co-manager, or in other roles in the issuance of their debt securities. LBWC-SD has less than \$25 million of operating revenue and therefore is exempt from this requirement. While LBWC-SD is exempt from that requirement, the Commission encourages all investor-owned utilities to actively participate in the Commission's Supplier Diversity Program as set forth in General Order (G.O.) 156, whether mandated or otherwise, and provide financial opportunities to Women, Minority, Disabled Veteran-Owned Business Enterprises, as this is vital to the economic recovery and stability of our communities and our State.

ENVIRONMENTAL IMPACT

The California Environmental Quality Act (CEQA) applies to projects that require discretionary approval from a governmental agency, unless exempted by statute or other regulations. It is long established that the act of ratemaking by the Commission is exempt from CEQA review. As stated in the California Public Resources Code, the "establishment, modification, structuring or approval of rates, tolls, fares, or other charges by public agencies" is exempt from CEQA.⁴ Likewise, the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant impact on the environment are not "projects" subject to CEQA.⁵

This Resolution does not authorize any capital expenditures or construction projects. Construction projects which LBWC-SD intends to finance via this filing should undergo CEQA review as early as feasible in the planning process, as required by CEQA

⁴ Public Resources Code Section 21090(b) (8).

⁵ CEQA Guidelines Section 15378(b) (4).

Guidelines Section 15004(b). To the extent capital expenditures are financed with the proceeds of the loan issued pursuant to this Resolution, ongoing projects have already been subject to any necessary CEQA review undertaken prior to LBWC-SD receiving a certificate of public convenience and necessity or permit to construct. CEQA review for future projects will occur through the regulatory processes applicable to each capital project when meaningful information necessary for conducting an environmental assessment is available.

GENERAL ORDER 24-C

In D.12-06-015, the Commission revised G.O. 24-B by replacing it with G.O. 24-C. Revisions to G.O. 24-B include: 1) the filing of a G.O. 24-C report on a quarterly then semi-annual instead of a monthly basis; 2) revisions to the type of information provided in such reports; and 3) the elimination of the requirement that a utility maintain a separate bank account to record securities proceeds except as required by the Commission.⁶

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). The fee for this financing authority as required by § 1904(b) is \$240.⁷ LBWC-SD must issue a check payable to the California Public Utilities Commission and remit the payment to the Commission's Fiscal Office before it can enter into the loan discussed in this Resolution.

COMMENTS

This is an uncontested matter in which the Resolution grants the relief requested. Accordingly, pursuant to § 311(g) (2) and the Commission's Rules of Practice and Procedure, Rule 14.6(c), the otherwise applicable 30-day period for public review and comment is waived.

FINDINGS

1. LBWC-SD, a California corporation, is a sewer utility subject to the jurisdiction of this Commission.

⁶ See D.12-06-015, Attachment B. For the first year after authorization of the new G.O., the G.O. 24-C report will be filed quarterly. For the second year after authorization of the new G.O. and for every year thereafter, the G.O. 24-C report will be filed semi-annually.

⁷ The fee is assessed on \$120,000 of authorized borrowing as follows: \$2 times (\$120,000/\$1,000) equals \$240.

2. LBWC-SD is responsible for maintaining its quality of service and providing necessary improvements to its sewer system.
3. As shown in its cash requirements forecast, LBWC-SD needs approximately \$120,000 in funding for its sewer plant additions construction project as described more fully above.
4. The proposed borrowing is for proper purposes.
5. LBWC-SD must comply with all environmental permitting requirements applicable to the construction and improvements that it will undertake in conjunction with this filing.
6. Given the amount of the loan that will be procured from financial institutions, LBWC-SC may be granted an exemption from the New Financing Rule.
7. The Commission has routinely required utilities to maintain records to (i) identify the specific long-term debt issued, and (ii) demonstrate that the proceeds from such debt have been used only for authorized purposes and reaffirms that requirement here.
8. Notice of the filing appeared on the Commission's Daily Calendar on January 9, 2013. No protests have been received.
9. The fee for this financing authority as required by § 1904(b) is \$240.

CONCLUSIONS OF LAW

1. LBWC-SD's proposed plant construction costs are not reasonably chargeable to expenses or income.
2. LBWC-SD's proposed loan to finance its system improvements and additions is for proper purposes.
3. It is not adverse to the public interest to authorize LBWC-SD to enter into a loan agreement with financial institutions for \$120,000 to finance the construction and refund short-term debt used for construction as discussed herein.
4. It is not adverse to the public interest to allow LBWC-SD to encumber its assets to secure the proposed loan.

5. LBWC-SD should be authorized to execute a loan agreement and encumber its property to secure the debt authorized herein so long as the debt is to be used solely for the purposes specified in Table 1 of this Resolution.
6. The loan authorization herein is not a finding of the reasonableness of LBWC-SD's proposed construction or expenditures, the resulting capital structure, or the cost of money, neither does it approve of matters subject to review in a general rate case or other proceedings.
7. This Resolution does not authorize any capital expenditures or construction projects. Construction projects which LBWC-SD intends to finance via this filing should undergo CEQA review as early as feasible in the planning process, as required by CEQA Guidelines Section 15004(b).
8. LBWC-SD's proposed loan is exempt from the Commission's Financing Rule.
9. It is LBWC-SD's responsibility to abide by and comply with any applicable environmental regulations for any capital improvement undertaken using the debt authorized herein.
10. Consistent with § 824, LBWC-SD should maintain records to (i) identify the specific long-term debt issued pursuant to this Resolution, and (ii) demonstrate that the proceeds from such debt have been used only for the purposes authorized herein.

THEREFORE, IT IS ORDERED that:

1. Little Bear Water Company, Inc.-Sewer Division is authorized to borrow \$120,000 from financial institutions upon terms and conditions substantially consistent with those set forth or contemplated in Advice Letter 28-S and schedules attached thereto; to encumber utility assets to secure the loan; and to use the loan proceeds for the capital improvements described in the body of this order.
2. Little Bear Water Company, Inc.-Sewer Division shall file with the Division of Water and Audits' Utility Audit, Finance and Compliance Branch copies of the loan agreement and loan related documents within 15 days of execution.
3. Little Bear Water Company, Inc.-Sewer Division shall not use the proceeds authorized by this Resolution to begin the construction of capital projects until Little Bear Water Company, Inc.-Sewer Division has obtained construction permits and any required environmental review under the California Environmental Quality Act.
4. Little Bear Water Company, Inc.-Sewer Division is exempt from the Commission's New Financing Rule for the debt authorized herein.

5. Little Bear Water Company, Inc.-Sewer Division shall maintain records to (i) identify the specific long-term debt issued pursuant to this Resolution, and (ii) demonstrate that the proceeds from such debt have been used only for the purposes authorized by this Resolution.

6. Little Bear Water Company, Inc.-Sewer Division shall file with the Division of Water and Audits' Utility Audit, Finance and Compliance Branch the reports required by General Order 24-C. When the full amount of the debt has been received and reported, and the system improvements completed and all the capital expenditures reported, the General Order 24-C reporting requirement shall terminate.

7. The authority granted by this Resolution shall become effective when Little Bear Water Company-Sewer Division pays \$240 as required by Public Utilities Code § 1904(b). Little Bear Water Company, Inc.-Sewer Division must issue the check payable to the California Public Utilities Commission and remit the payment to the Commission's Fiscal Office.

8. This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 9, 2013. The following Commissioners approved it.

PAUL CLANON
Executive Director