

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Trans Bay Cable LLC  
(U934-E) for Authorization to Issue Stock  
or Evidences of Indebtedness Not to  
Exceed \$5,000,000.

Application 13-10-018  
(Filed October 29, 2013)

**DECISION AUTHORIZING TRANS BAY CABLE LLC  
TO ISSUE UP TO \$5 MILLION OF NEW DEBT SECURITIES****1. Summary**

This decision grants TBC Cable LLC (TBC) the authority to issue and sell new secured long-term debt securities not exceeding \$5 million, pursuant to Public Utilities (Pub. Util.) Code §§ 816-830. This decision also authorizes TBC to encumber its assets pursuant to Pub. Util. Code § 851.

**2. Background**

TBC Cable LLC (TBC) is an energy transmission company under the jurisdiction of this Commission and the Federal Energy Regulatory Commission (FERC) that operates in the San Francisco Bay Area. TBC operates as a public utility in the Commission's jurisdiction and is subject to Commission authority. TBC is also a FERC-regulated utility and its rates are subject to FERC's exclusive jurisdiction. TBC's facilities consist of a 53-mile, 400 megawatt High Voltage Direct Current electrical submarine transmission line and associated facilities (the Project). The Project is located beneath the adjoining bays of San Francisco, San

Pablo and Suisun. This line connects Pacific Gas and Electric Company's (PG&E) Pittsburg Substation to PG&E's Potrero Substation in San Francisco.

On October 29, 2013, TBC filed Application 13-10-018 requesting authorization to issue equity and debt securities not exceeding the aggregate amount of \$5,000,000 and other related requests. This request is subject to authorization by the Commission and not FERC.

On November 8, 2013, the assigned Administrative Law Judge (ALJ) issued a ruling requesting information from TBC, to which TBC replied on November 15. On November 15, 2013, the assigned ALJ issued a ruling reducing the protest period pursuant to Rule 2.6(a) of the Commission's Rules of Practice and Procedure. No protests were filed.

All rulings made by the assigned Commissioner and ALJ are affirmed herein.

### **3. Request**

In its application, TBC seeks authorization to issue up to \$5 million of new equity and debt securities, to partially fund the design, construction, or extension of capital improvement to the Project. Specifically, TBC proposes to use the proceeds to construct a North American Electric Reliability Corporation Critical Infrastructure Protection Test and Development Simulator, and to purchase generators for its Auxiliary Power Project. The terms and conditions of each new financing issue will be determined by TBC's Chief Operating Officer and Chief Financial Officer.

TBC posits that the Project is a critical component of the San Francisco area's electricity infrastructure. Since November 23, 2010, the Project has delivered approximately 40% of San Francisco's peak load and up to 60% of its

energy demand. In response to a request for information from the assigned ALJ, TBC revised its request, stating that it was only requesting authority to issue new debt, and is not requesting authority to issue new equity.

TBC proposes to issue its new secured long-term debt securities in the form of a long-term commercial loan secured by selected assets of TBC, which will likely be repaid by June 30, 2017. TBC also believes that it is exempt from the New Financing Rule, as its request is for less than the benchmark \$42 million.<sup>1</sup>

In TBC's most recent FERC rate case, TBC included an assumption that it would utilize a loan (requested in the current application) to partially fund the Project. TBC posits that a mix of financing allowed TBC to request a lower transmission revenue requirement from the FERC. Without the use of this loan, TBC believes it would need to fund the entire Project through equity contributions, which would increase the cost of the Project to ratepayers.

TBC also asks that its request become effective upon payment of fees prescribed by Pub. Util. Code §§ 1904(b) and 1904.1; and that it be granted such other and further relief as the Commission may deem appropriate in this matter.

#### **4. Discussion**

TBC's request is subject to Pub. Util. Code §§ 816 et seq. and 851, which is covered under this Commission's jurisdiction. The Commission has broad discretion under § 816 et seq. to determine if a utility should be authorized to issue debt securities. Where necessary and appropriate, the Commission may attach conditions to the issuance of debt securities and stock to protect and promote the public interest.

<sup>1</sup> See Decision 12-06-015 at Attachment A.

Pursuant to Pub. Util. Code § 817, a public utility may only issue and use financing for selected purposes. Those purposes not listed in Pub. Util. Code § 817 may only be paid for with funds from normal utility operations.

Pub. Util. Code § 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. Pub. Util. Code § 818 also 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 securities authorized is reasonably required for the purposes specified in the order and, unless expressly permitted in an order authorizing debt securities, that those purposes are not, in whole or in part, reasonably chargeable to expenses or to income.

These purposes are authorized by § 817 and, as required by § 818, are not reasonably chargeable to operating expenses or income. TBC has substantiated its need for issuance of new debt securities and that the proceeds would be used for proper purposes, such as the design, construction, or extension of capital improvements.

Since TBC's request for issuance of new debt securities is in compliance with Pub. Util. Code § 816 et seq., we grant it authority to issue new long-term secured debt securities for the aforementioned purposes and terms, and for the amounts determined in the order of this decision. Also, the Commission believes that TBC's request of \$5 million is reasonable, so as to provide a mix of financing in order to lower the cost of the Project to ratepayers.

The Commission also finds that TBC is exempt from the requirements of the New Financing Rule; but reminds TBC that it shall comply with the requirements of General Order 24-C, which requires selected reporting regarding receipts and disbursements of the proceeds from Commission authorized securities.

Granting of financing authority to a utility does not obligate the Commission to approve any capital projects. This financing authority provides TBC with sufficient liquid resources to timely finance its upcoming public utility projects and to reimburse its treasury. Review of the reasonableness of capital projects occurs as needed through the regulatory process applicable to each capital project. Therefore, any approval of this financing request would not prejudice any of TBC's forecasted projects for the period 2012 through the beginning of 2017.

## 5. Fee

Whenever the Commission authorizes a utility to issue new securities, the Commission is required to charge and collect a fee pursuant to Pub. Util. Code §§ 1904(b) and 1904.1. The fee is calculated as follows:

\$5 Million of new debt	\$1,000,000	\$2 per \$1,000	\$2,000
	\$4,000,000	\$1 per \$1,000	\$4,000
Total			\$6,000

## 6. Financial Information

We place TBC on notice that the reasonableness of any resulting interest rate and cost of money arising from the issuance of securities as well as capital structures, is normally subject to review in the appropriate proceeding at FERC. Therefore, we will not make a finding in this decision of the reasonableness of the

projected capital ratios for ratemaking purposes or the appropriate cost of money. We do not make a finding in this decision on the reasonableness of TBC's proposed construction program, which is reviewed in the appropriate FERC proceeding. The authority to issue securities is distinct from the authority to undertake construction or the right to recover the cost of capital in rates.

## **7. California Environmental Quality Act**

The California Environmental Quality Act (CEQA) applies to projects that require discretionary approval from a governmental agency, unless exempted by statute or regulation. 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, restructuring or approval of rates, tolls, fares, or other charges by public agencies" is exempt from CEQA.<sup>2</sup> 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 is not a "project" subject to CEQA.<sup>3</sup>

This decision does not authorize any capital expenditures or construction projects. New construction projects which TBC intends to finance via this application should undergo CEQA review as early as feasible in the planning process, as required by CEQA Guidelines Section 15004(b). To the extent capital expenditures are financed with the proceeds of the long-term debt securities issued pursuant to this decision, ongoing projects have already been subject to any necessary CEQA review undertaken prior to TBC receiving a certificate of public convenience and necessity or permit to construct. CEQA review for future

<sup>2</sup> Public Resources Code Section 21080(b)(8).

<sup>3</sup> CEQA Guidelines Section 15378(b)(4).

projects will occur through the regulatory processes applicable to each capital project when meaningful information necessary for conducting an environmental assessment is available.

#### **8. Categorization and Need for Hearing**

By Resolution ALJ 176-3326, dated November 14, 2013, the Commission preliminarily determined that this was a ratesetting proceeding and that hearings were not necessary. No protests were filed. We affirm that this is a ratesetting proceeding, and that no hearings are necessary.

#### **9. Exemption from Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311 and Rule 14.6 of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

#### **10. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

#### **Findings of Fact**

1. In its application, TBC requested authority for new securities in the amount of \$5 million.
2. No protests were filed in this proceeding. In its responses dated November 15, 2013, TBC stated in part, that it was requesting authority to issue new long-term debt, not debt and equity.
3. The proposed new financing requested by TBC and the associated money, property, or labor to be procured or paid for with the proceeds of this proposed new financing, are, pursuant to Pub. Util. Code §§ 817 and 818, reasonably

required for proper purposes, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, except as detailed in Section 4 of this decision.

4. Granting of financing authority to a utility does not obligate the Commission to approve any capital projects. Review of the reasonableness of capital projects occurs as needed through the regulatory process applicable to each capital project.

5. The necessity or reasonableness of TBC's construction budget, cash requirements forecast, and capital structure, are normally reviewed and authorized in general rate cases or cost of capital proceedings.

6. The New Financing Rule adopted in Decision 12-06-015 provides exemption for issuances of less than \$42 million.

### **Conclusions of Law**

1. TBC should be authorized to issue up to \$5 million of new secured long-term debt securities in the form of commercial loans, all of which are for proper purposes and consistent with the requirement of Pub. Util. Code §§ 817 and 818.

2. TBC should be authorized to encumber its property pursuant to Pub. Util. Code § 851.

3. The order herein should not be a finding of the reasonableness of TBC's proposed construction plan or expenditures, the resulting plant balances in rate base, the capital structure, or the cost of money, nor should it indicate approval of matters subject to review in a general rate case or other proceedings.

4. TBC should remit a check for \$6,000, as required by §§ 1904(b) and 1904.1 of the Pub. Util. Code.

5. The authority granted by this order should not become effective until TBC has paid the fees prescribed by §§ 1904(b) and 1904.1.

6. TBC should not use the proceeds from the new securities authorized by this order to fund its capital projects until TBC has obtained all required approvals for the projects, including any required environmental review under CEQA.

7. The order herein does not involve any commitment to any specific project which may result in a potentially significant impact on the environment; thus it is not a project subject to CEQA.

8. The authority granted TBC herein is in compliance with Pub. Util. Code §§ 816 et seq. and 851.

## **O R D E R**

### **IT IS ORDERED** that:

1. Trans Bay Cable LLC is authorized to issue up to \$5 million of new secured long-term debt securities in the form of commercial loans, all of which are for proper purposes and consistent with the requirement of Public Utilities Code Sections 816 et seq.

2. Trans Bay Cable LLC is authorized to encumber its property pursuant to Public Utilities Code Section 851.

3. The order herein is not a finding of the reasonableness of Trans Bay Cable LLC's proposed construction plan or expenditures, the resulting plant balances in rate base, the capital structure, or the cost of money, nor does it indicate approval of matters subject to review in other proceedings.

4. Trans Bay Cable LLC shall remit a check for \$6,000, as required by Public Utilities Code Sections 1904(b) and 1904.1.

5. The authority granted by this order does not become effective until Trans Bay Cable LLC (TBC) has paid the fees prescribed by Public Utilities Code Sections 1904(b) and 1904.1, by check or money order to the California Public Utilities Commission, and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The number of this Decision must appear on the face of the check. The authority granted by this decision is effective once TBC has paid the fees prescribed by Public Utilities Code Section 1904(b).

6. Trans Bay Cable LLC (TBC) may not use the proceeds from the new debt securities authorized by this order to fund its capital projects until TBC has obtained all required approvals for the projects, including any required environmental review under the California Environmental Quality Act.

7. The order herein does not involve any commitment to any specific project which may result in a potentially significant impact on the environment; thus it is not a project subject to California Environmental Quality Act.

8. Application 13-10-018 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

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