

Decision 11-01-034 January 27, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Jose Water Company (U168W),
a California corporation, for an order to issue and
sell additional debt and equity securities not
exceeding the aggregate amount of \$150,000,000
and other related requests.

Application 10-07-022
(Filed July 23, 2010)

**DECISION AUTHORIZING SAN JOSE WATER COMPANY
TO ISSUE UP TO \$100 MILLION OF NEW DEBT AND \$50 MILLION OF NEW
COMMON EQUITY SECURITIES**

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**DECISION AUTHORIZING SAN JOSE WATER COMPANY
TO ISSUE UP TO \$100 MILLION OF NEW DEBT AND \$50 MILLION OF NEW
COMMON EQUITY SECURITIES**

1. Summary

This decision grants San Jose Water Company (SJWC) the authority to issue up to \$100 million of new Debt Securities and \$50 million of new Common Equity Securities under the terms authorized herein. This decision also authorizes SJWC to: 1) encumber utility property; 2) guarantee the securities or other obligations of governments or agencies that issue securities on behalf of SJWC; 3) issue short-term debt for as much as 24 months; 4) receive an exemption from the Commission's Competitive Bidding Rule; and requires SJWC to report all Debt Securities information, on a quarterly basis as required by General Order 24-B.

2. Background

On July 23, 2010, San Jose Water Company (SJWC) filed Application (A.) 10-07-022 requesting authorization to: issue up to \$100 million of new Debt Securities (Debt) and \$50 million of Common Equity Securities (Common Equity); encumber utility property to secure debt; extend short-term financing to terms of 24 months; record the cost of issuing Common Equity through its parent in Account 414 - Miscellaneous Debt to Surplus; and be exempted from the Competitive Bidding Rule.

Notice of the application appeared in the Commission's Daily Calendar of July 29, 2010. On July 29, 2010, Resolution ALJ 176-3258 was issued, preliminarily categorizing this application as ratesetting, and finding that no hearings were needed. No protests were filed.

3. Request

In its application, SJWC seeks authorization to issue up to \$100 million of new Debt and up to \$50 million of Common Equity, in addition to previously-authorized amounts, to meet its future financing needs based on a long-term forecast covering the period 2010 through 2014. The terms and conditions of each new financing issue will be determined by SJWC's management or Board of Directors according to market conditions at the time of sale or issuance. Each series of Debt is expected to have a maturity of fifteen or more years.

SJWC indicated that it intends to issue Debt as: senior notes with or without insurance; First Mortgage Bonds; medium-term notes; project specific financing; secured notes; unsecured senior notes; variable interest rate debt; privately placed debt; and debt securities relating to participation in government or agency taxable or tax exempt debt financing (government Debt). SJWC also proposes that it issue new Debt with the assistance of an equity/financing agent, and may or may not secure the Debt described above by its plant, property and equipment.

SJWC also proposes that its new Debt may be redeemable, prior to maturity, at a price based upon the principal amount then outstanding plus accrued interest and a premium. The premium would be based on a percentage of the principal amount decreasing every 12 months from the date the Debt was first sold, or some later date, and would decline in total to zero by the year of

maturity, or under some other type of “make-whole” method, or a combination of methods.¹

In order to make the Debt marketable, SJWC asserts that some or all of the following provisions may be required:

- The Debt may have to be issued with terms that include a non-redemption provision for some period following the issuance date, but such period would be less than the term of the Debt.
- The terms of the Debt may prohibit redemptions for a specified period of time if the redemption is in anticipation of refunding the Debt by the use, directly or indirectly, of funds borrowed by SJWC at an annual cost less than the annual cost of the Debt being redeemed.
- The Debt may be issued with terms that include provision for sinking funds designed to amortize the outstanding amount of Debt to not less than face value at maturity.

SJWC represents that all of the above redemption provisions have been required in some or all of its previous debt issues in order to make them marketable.²

SJWC proposes to issue new Common Equity solely to its parent SJW Corp. (Parent).³ Parent will then issue the Common Equity in the form of a

¹ The make-whole method is related to the lump-sum payments made when a loan or bond is called. The amount of the payment is equal to the net present value of future loan or coupon payments not paid because of the call. The payment can be significant and negate the attractiveness of the call.

² See Decision (D.) 09-05-008.

³ SJW Corp. is the only shareholder of SJWC and owns all of its outstanding common stock.

direct public offering, private negotiated sale, and individual dividend reinvestment and stock purchase plan.

SJWC proposes to use its new financing authority to: retire/refund/repay/discharge outstanding debt; reimburse its treasury for monies expended for capital improvements; finance capital expenditures; acquire property and/or water systems; water utility plant construction, completion, replacement, extension, or improvement of existing facilities; and any proper purposes pursuant to Public Utilities Code (Pub. Util.) Code § 817.

SJWC requests authorization to record the pro-rata cost of issuance of common equity through its Parent in Account 414, in total or installments, as capital stock expense incurred in connection with the issuance and sale of capital stock.

SJWC requests authorization to amend the terms of its unsecured line of credit (Credit Agreement), which currently has a term of up to 12 months, to allow the use of short-term debt instruments for terms up to 24 months. SJWC states that the cost of the 24 month debt is less than that of 12 month debt, and that use of the longer term short-term debt would give it the opportunity to avoid periods of market uncertainty when issuing long-term debt instruments or equity securities and improve financial flexibility by deferring the issuance of longer term securities. SJWC also states that it will continue to account for this 24-month term debt as short-term.

SJWC also proposes that it may encumber utility property to secure new Debt authorized herein. Additionally, SJWC seeks an exemption from the Commission's Competitive Bidding Rule.

4. Discussion

4.1. Public Utilities Code Requirements for Issuance of Securities

SJWC's request is subject to Pub. Util. Code §§ 816, 817, and 818. The Commission has broad discretion under § 816 et seq. to determine if a utility should be authorized to issue debt. Where necessary and appropriate, the Commission may attach conditions to the issuance of debt and stock to protect and promote the public interest.

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 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. These purposes are authorized by § 817 and, as required by § 818, are not reasonably chargeable to operating expenses or income. SJWC has substantiated its need for issuance of new Debt and Common Equity and that the proceeds would be used for proper purposes, as discussed in Section 4.2

below. SJWC's request to extend the term of its short-term debt is addressed separately in Section 4.6 below.

Since SJWC's request for issuance of new Debt and Common Equity is in compliance with Pub. Util. Code § 816 et seq., we will grant it authority to issue new Debt and Common Equity for the aforementioned purposes and terms, and for the amounts determined in the order of this decision.

4.2. Forecast of Sources and Uses

Utility applications seeking authority to issue debt or other securities are based, in part, on forecasted sources and uses of funds that illustrate a need for the requested funding. SJWC used a long-term forecast covering the period of 2010-2014 to determine its future financings needs. SJWC's forecast includes uses of funds for construction, payment of short-term debt, and change in cash reserve; and sources of funds such as cash from internal sources and a line of credit. We rely on SJWC's forecast to determine the forecast of Sources and Uses set forth below in Table 1.

Table 1
Sources and Uses Statement for 2010-2014
(\$000)

Description	2010	2011	2012	2013	2014	Total
Uses						
Construction	(92,493)	(73,876)	(93,482)	(124,508)	(105,503)	(489,862)
Short-Term Debt	(5,800)	0	0	0	0	(5,800)
Increase/Decrease in Cash Reserve⁴	(1,542)	(2,070)	(10,518)	15,368	(933)	305
Subtotal	(99,835)	(75,946)	(104,000)	(109,140)	(106,436)	(495,357)

⁴ Net change in cash each year from the Statement of Cash Flows.

Sources						
Cash from Internal Sources	36,535	40,376	45,104	52,017	58,936	232,968
Line of Credit	0	3,070	11,396	14,623	40,000	69,089
Subtotal	36,535	43,446	56,500	66,640	98,936	302,057
Net Need	(63,300)	(32,500)	(47,500)	(42,500)	(7,500)	(193,300)

SJWC has total estimated existing financing authority of \$25 million of Debt.⁵ After deduction of SJWC's existing financing authority from the need of \$193.3 million shown in Table 1, a need for funds of \$168.3 million remains. SJWC proposes to use \$100 million of Debt and \$50 million of Common Equity to offset this net need over the period 2010-2014.

Given that the net need for funds exceeds the request, it is reasonable to authorize SJWC to issue \$100 million of new Debt and \$50 million of new Common Equity. This new financing will allow SJWC to fund its future net financing needs for the period 2010-2014, to the extent authorized by Pub. Util. Code § 817(a), (b), (c), (d), and (h). We find SJWC's request to be reasonable and supported by the record.

Granting of financing authority to a utility does not obligate the Commission to approve any capital projects. This financing authority provides SJWC 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

⁵ Response to Inquiries of Assigned Administrative Law Judge (ALJ) at Response to Question 7a, filed September 7, 2010.

each capital project. Therefore, any approval of this financing request would not prejudice any of SJWC's forecasted projects for the period 2010 through 2014.

4.3. Types of Securities to be Issued

SJWC requested authority to issue new Debt Securities, described in Section 3 of this decision, are similar to those types of Debt Securities authorized in D.09-05-008. Therefore, we will authorize SJWC to issue the types of Debt Securities detailed in Section 3 of this decision and enumerated in the order herein.

SJWC also requested authority to issue new Common Equity, described in Section 3 of this decision. We last authorized SJWC to issue new Common Equity in D.93795.⁶ We will authorize SJWC to issue Common Equity, as detailed in Section 3 of this decision and enumerated in the order herein.

Consistent with § 824, SJWC must maintain records to identify the specific securities issued pursuant to this decision, and demonstrate that proceeds from such securities have been used only for public utility purposes.

4.4. Encumbrance of Utility Property

SJWC also seeks authority to encumber its utility property, as part of the issuance of secured Debt and government Debt. This request to encumber utility property is subject to § 851 which states, in relevant part, that no utility shall encumber any part of its plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or right thereunder without first having secured from the Commission an order authorizing it to do so. Consistent with D.09-05-008, we will authorize SJWC to

⁶ At the time of that decision, SJWC was known as San Jose Water Works.

encumber its utility property as part of the issuance of both secured Debt and government Debt. In structured financing such as government Debt, whenever SJWC's facilities qualify for such financing under federal or state law, SJWC is authorized to unconditionally guarantee or otherwise secure the issuer's obligations to its debt holders. As a means of securing the issuer's obligations, SJWC may issue and pledge or deliver bonds in an equal principal amount to the issuer.

4.5. Redemption Provisions

As described in Section 3 of this decision, SJWC proposes that its new Debt may be redeemable, prior to maturity, at a price based upon the principal amount then outstanding plus accrued interest and a premium. We have authorized SJWC a similar redemption process in the past,⁷ and do so again here.

4.6. Short-Term Debt

SJWC requests authorization to amend the terms of its Credit Agreement, which currently has a term of up to 12 months, to allow the use of short-term debt for terms of up to 24 months, in the form of short-term borrowings, loans, credit extensions, and letters of credit. SJWC states that this short-term debt would still be used for short-term purposes including payment of expenses and working cash; and would continue to be accounted for as short-term, and so would not be included in the determination of SJWC's long-term debt or capital structure.

As discussed in Section 4.1 above, Pub. Util. Code § 818 requires that long-term debt (term of greater than 12 months) be used for proper purposes,

⁷ See D.09-05-008.

unless expressly permitted in an order authorizing debt. We have authorized such exceptions in the past for other utilities, when good cause is shown and the purposes of the debt specifically identified.⁸

SJWC's comparison of interest rates and fees for 12-month versus 24-month terms of short-term debt illustrates that both the interest rate and fees for the 24-month term are materially less than for the 12-month term. For instance, the 24-month interest rate is equal to the London Interbank Offered Rate (LIBOR) plus 1.375%, while the 12-month is the LIBOR plus 1.75%; the Unused Commitment Fee is 0.25% for the 24-month and 0.375% for the 12-month; and the Annual Standby line of credit Fee is 1.375% for the 24-month and 1.75% for the 12-month. SJWC also stated that, given the cost of issuance for long-term debt, it is more cost effective to accumulate shorter-term debt in order to eventually issue a larger amount of long-term debt in a given issue.

Pursuant to Pub. Util. Code § 818, and given the materially lower cost of the 24-month term, SJWC's plan to use this 24-month short-term debt for short-term purposes, and SJWC's plan to account for this 24-month debt as short-term is appropriate and therefore, we authorize SJWC to amend the terms of its Credit Agreement and issue short-term debt for short-term purposes for a term of up to 24 months as ordered herein.

4.7. Account 414

SJWC requests authorization to record the pro-rata cost of issuance of common equity through its Parent in Account 414, in total or installments, as capital stock expense incurred in connection with the issuance and sale of capital

⁸ See D.10-09-006 and D.01-06-016 at 7-8.

stock. Pursuant to the Uniform System of Accounts (USOA) for Class A water utilities adopted by this Commission,⁹ the cost of issuing and selling Common Equity is not included in Account 414.¹⁰ Also, SJWC was unable to cite a Commission decision in which a utility was previously authorized to record this cost in Account 414. Therefore, we deny SJWC's request to record the pro-rata cost of issuance of Common Equity through its Parent in Account 414.

4.8. Competitive Bidding Rule

The Competitive Bidding Rule set forth in Resolution F-616, dated October 1, 1986, requires public utilities to publicly invite written sealed bids for the purchase of their securities (with certain exceptions), and to sell their securities at the highest price obtainable. It exempts debt issues of \$20 million or less from the competitive bidding requirement. In addition, it exempts all debt issues for which competitive bidding is not viable or available. Also, the Competitive Bidding Rule does not apply to issuances of equity securities.¹¹

SJWC requests an exemption from the competitive bidding requirement for both new Debt and Common Equity offerings. In particular, SJWC requests exemption from the Competitive Bidding Rule for Debt issuances of \$20 million or less, and an exemption for those issuances for which competitive bidding is not viable or available.

⁹ See D.50185 (June 29, 1954) and modified by D.57578 (November 10, 1958).

¹⁰ See D.50185 (June 29, 1954) and modified by D.57578 (November 10, 1958): Account 414. Miscellaneous Debits to Surplus
<http://www.cpuc.ca.gov/PUC/Water/Available+Documents/StdPractices/spu38w.htm>.

¹¹ See D.75556.

SJWC states that, since it is a relatively small and infrequent participant in the capital and debt markets, its debt offerings require substantial marketing efforts to potential investors. SJWC states that bidding underwriters would have difficulty obtaining market intelligence on SJWC if a competitive bidding process is used. As a result, underwriters would be forced to bid up their price for debt securities over what would be available through a negotiated offering. SJWC also references a past Southern California Edison Company decision¹² that exempted certain types of debt which do not lend themselves to competitive bidding, such as variable interest rate debt, medium-term notes, and tax-exempt securities. Thus, SJWC also requests an exemption from the Competitive Bidding Rule for its remaining new debt securities including bonds, debentures, privately placed debt, direct loans, variable interest rate debt, medium-term notes, and tax-exempt securities, because competitive bidding is not viable or available for these types of issuances.

SJWC indicates in the Application that it will limit its debt offering of debt securities to \$20,000,000 or less per issuance. Since the Competitive Bidding Rule does not apply to issuances of new equity securities, there is no need to grant SJWC its requested exemption in this regard. Since the Competitive Bidding Rule provides for exemption from the competitive bidding requirement for debt issues of \$20 million or less, issuances of new Debt by SJWC of \$20 million or less are exempt. Under the provisions of Res. F-616, SJWC's proposed debt securities may be exempted from the Commission's Competitive Bidding Rule because no one series will exceed \$20,000,000. Nevertheless, in the event that SJWC finds it

¹² See D.03-06-011.

necessary to go beyond the \$20,000,000 threshold, such public offerings of notes or bonds in the principal amount over \$20 million must comply with Res. F-616. The Commission has granted SJWC exemptions in the past for issues of debt for which competitive bidding is not viable or available,¹³ and we do so again here.

4.9. Diverse Business Enterprises

In compliance with General Order (GO) 156 and Pub. Util. Code §§ 8281-8286, SJWC has, since 2004, had a Utility Supplier Diversity Program in place, which encourages businesses owned by women, minorities, and disabled veterans to supply SJWC with needed products and services. As reported in its 2009 Annual Report to the Commission, SJWC awarded 13.4% of its procurement expenditures to women-, minority-, and disabled veteran-owned business enterprises.

SJWC commits to use its best efforts to encourage the participation of diverse suppliers in any transaction conducted under the requested authorizations. Where diverse suppliers may be unavailable or unqualified to provide the product or service, SJWC will use its best efforts to encourage the secondary use of diverse suppliers by its chosen suppliers.

5. Reporting Requirement

GO 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (a) the amount of debt issued by the utility during the previous month; (b) the total amount of debt outstanding at the end of the prior month; (c) the purposes for which the utility expended the proceeds realized from the issuance of debt during the prior month; and (d) a monthly

¹³ See D.09-05-008.

statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt.

6. Fee

Whenever the Commission authorizes a utility to issue debt and preferred stock, 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:

Table 2
Calculation of Fee

Securities	Amount of Securities	Rate per \$1,000 of Proposed Securities	Total Fee
\$100 Million of Debt Securities	\$1,000,000	\$2	\$2,000
	\$9,000,000	\$1	\$9,000
	\$90,000,000	\$0.50	\$45,000
Subtotal			\$56,000
\$50 Million of Common Equity	\$1,000,000	\$2	\$2,000
	\$9,000,000	\$1	\$9,000
	\$40,000,000	\$0.50	\$20,000
Subtotal			\$31,000
Total Fee			\$87,000

7. Financial Information

We place SJWC on notice that the reasonableness of any resulting interest rate and cost of money arising from the issuance of Debt Securities and Preferred Equity as well as capital structures, is normally subject to review in the appropriate cost of capital or general rate case proceeding. 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 SJWC' proposed construction program. Construction expenditures and the resulting plant balances in rate base are issues that are normally addressed in a general rate case or specific application. The authority to issue securities is distinct from the

authority to undertake construction or the right to recover the cost of capital in rates.

8. 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.¹⁴ 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.¹⁵

This decision does not authorize any capital expenditures or construction projects. New construction projects which SJWC 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 issued pursuant to this decision, ongoing projects have already been subject to any necessary CEQA review undertaken prior to SJWC 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

¹⁴ Public Resource Code Section 21080(b)(8).

¹⁵ CEQA Guidelines Section 15378(b)(4).

capital project when meaningful information necessary for conducting an environmental assessment is available.

9. Category and Need for Hearings

By Resolution ALJ 176-3258, dated July 29, 2010, the Commission preliminarily determined that this was a ratesetting proceeding and that a hearing would not be necessary. Based on the record, we affirm that this is a ratesetting proceeding, and that a hearing is not necessary.

10. Comments on Proposed Decision

As provided by Rule 14.3 of our Rules of Practice and Procedure and Pub. Util. Code § 311(g) (1), the draft decision of the ALJ in this matter was mailed to the parties on December 9, 2010. No comments were filed.

11. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. Based on SJWC's forecast of uses, the forecast of funds needed by SJWC over the period 2010-2014 is \$495.4 million. Of this need:
 - a. \$25 million will be provided from current financing authority;
 - b. \$233 million will be provided from cash from internal sources;
 - c. \$69.1 million will be provided from a line of credit;
 - d. \$100 million will be provided from new Debt; and
 - e. \$50 million will be provided from new Common Equity.
2. The proper term for securities issued pursuant to Pub Util. Code § 817 is greater than 12 months.

3. The requested financing authority of \$100 million of new Debt and \$50 million of new Common Equity appears necessary to provide the external funding required to meet SJWC's projected cash requirements through 2014.

4. The proposed new financing requested by SJWC 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.

5. Pub. Util. Code § 818 allows for exceptions to the requirements of Pub. Util. Code § 817.

6. The Commission has authorized exceptions allowed by Pub. Util. Code § 818 in, for example, D.10-09-006 and D.01-06-016.

7. Pursuant to the USOA for Class A water utilities adopted by the Commission in D.50185 and modified in D.57578, Account 414 does not include the cost of issuing and selling common stock.

8. Resolution F-616 requires utilities to issue debt using competitive bids.

9. Resolution F-616 also provides for exemptions from the Competitive Bidding Rule for debt issues of \$20 million or less and debt for which competitive bidding is not viable or available.

10. The necessity or reasonableness for ratemaking purposes of SJWC's construction budget, cash requirements forecast, and capital structure, are normally reviewed and authorized in general rate cases or cost of capital proceedings.

11. GO 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (a) the amount of debt issued by the utility during the previous month; (b) the total amount of debt outstanding at the end

of the prior month; (c) the purposes for which the utility expended the proceeds realized from the issuance of debt during the prior month; and (d) a monthly statement of the separate bank account that the utility is required to maintain for all receipts and disbursements of money obtained from the issuance of debt.

12. Notice of A.10-07-022 appeared in the Commission's Daily Calendar on July 29, 2010 and no protests were filed.

13. Resolution ALJ 176-3258 preliminarily categorized A.10-07-022 as ratesetting and determined that a hearing would not be necessary.

Conclusions of Law

1. SJWC should be authorized to issue new Debt of up to \$100 million and new Common Equity of up to \$50 million, all of which are for proper purposes and consistent with the requirement of Pub. Util. Code §§ 817 and 818.

2. SJWC should be authorized to issue new Debt including: senior notes with or without insurance; First Mortgage Bonds; medium-term notes; project specific financing; secured notes; unsecured senior notes; variable interest rate debt; privately placed debt; and debt securities relating to participation in government or agency taxable or tax exempt debt financing.

3. Pursuant to Pub. Util. Code § 851, SJWC should be authorized to encumber its utility property to secure Debt authorized herein.

4. SJWC should be authorized to issue Debt through government or agency taxable or tax exempt debt financing, authorized herein, whenever SJWC's facilities qualify for such financing under federal or state law. In this structured financing, SJWC should be authorized to unconditionally guarantee or otherwise secure the obligations of the issuer. As a means of securing the issuer's obligations, SJWC should be authorized to issue and pledge or deliver bonds in an equal principal amount to the issuer or a trustee.

5. SJWC should be authorized to issue new Debt that may be redeemable, prior to maturity, at a price based upon the principal amount then outstanding plus accrued interest and a premium. The premium should be based on a percentage of the principal amount decreasing every 12 months from the date the Debt was first sold, or some later date, and should decline in total to zero by the year of maturity, or under some other type of “make-whole” method, or a combination of methods.

6. SJWC should be authorized to include some or all of the following redemption provisions in its new Debt issuances:

- The Debt may be issued with terms that include a non-redemption provision for some period following the issuance date, but such period would be less than the term of the Debt.
- The terms of the Debt may prohibit redemptions for a specified period of time if the redemption is in anticipation of refunding the Debt by the use, directly or indirectly, of funds borrowed by SJWC at an annual cost less than the annual cost of the Debt being redeemed.
- The Debt may be issued with terms that include provision for sinking funds designed to amortize the outstanding amount of Debt to not less than face value at maturity.

7. Pursuant to Pub. Util. Code §818, SJWC should be authorized to amend the terms of its Credit Agreement, and issue short-term debt for a period of up to 24 months.

8. SJWC should record its 24 month short-term debt as short-term debt, and should use it for short-term purposes such as expenses and working cash.

9. SJWC should be granted an exemption from the Competitive Bidding Rule for all issuances of \$20 million or less and all debt issuances for which competitive bidding is not viable or available, including bonds, debentures,

privately placed debt, direct loans, variable interest rate debt, medium-term notes, and tax-exempt securities.

10. SJWC should file with the Commission, on or before the 25th day of each month, a report under GO 24-B.

11. The order herein is not a finding of the reasonableness of SJWC'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 a general rate case or other proceedings.

12. SJWC should remit a check for \$87,000, as required by §§ 1904(b) and 1904.1 of the Pub. Util. Code.

13. The authority granted by this Decision should not become effective until SJWC has paid the fees prescribed by §§ 1904(b) and 1904.1.

14. SJWC should not use the proceeds from the Debt or Common Equity authorized by this decision to fund its capital projects until SJWC has obtained all required Commission approvals for the projects, including any required environmental review under CEQA.

15. 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.

16. The authority granted SJWC herein is in compliance with Pub. Util. Code §§ 816, 817, 818, 824, and 851.

O R D E R

IT IS ORDERED that:

1. San Jose Water Company is authorized to issue new Debt Securities of up to \$100 million for terms of greater than 12 months.

2. San Jose Water Company is authorized to issue new Common Equity Securities of up to \$50 million.

3. San Jose Water Company is authorized to issue new Debt Securities and new Common Equity Securities in compliance with Pub. Util. Code §§ 816, 817, 818, 824, and 851.

4. San Jose Water Company is authorized to issue new Debt Securities in the form of: senior notes with or without insurance; First Mortgage Bonds; medium-term notes; project specific financing; secured notes; unsecured senior notes; variable interest rate debt; privately placed debt; and debt securities relating to participation in government or agency taxable or tax exempt debt financing.

5. Pursuant to Public Utilities Code Section 851, San Jose Water Company is authorized to encumber its utility property to secure the Debt Securities authorized herein.

6. San Jose Water Company is authorized to issue Debt Securities through a government or agency to obtain taxable or tax exempt debt financing authorized herein, whenever San Jose Water Company's facilities qualify for such financing under federal or state law. In this structured financing, San Jose Water Company may unconditionally guarantee or otherwise secure the issuer's obligations to its debt holders. As a means of securing the issuer's obligations, San Jose Water Company may issue and pledge or deliver bonds in an equal principal amount to the issuer or a trustee.

7. San Jose Water Company is authorized to issue new Debt Securities that may be redeemable, prior to maturity, at a price based upon the principal amount then outstanding plus accrued interest and a premium. The premium may be based on a percentage of the principal amount decreasing every 12

months from the date the Debt Securities were first sold, or some later date, and declining in total to zero by the year of maturity, or under some other type of “make-whole” method, or a combination of methods.

8. San Jose Water Company is authorized to include some or all of the following redemption provisions in its issuance of new Debt Securities:

- The Debt Securities may be issued with terms that include a non-redemption provision for some period following the issuance date, but such period must be less than the term of the Debt Securities.
- The terms of the Debt Securities may prohibit redemptions for a specified period of time if the redemption is in anticipation of refunding the Debt by the use, directly or indirectly, of funds borrowed by San Jose Water Company at an annual cost less than the annual cost of the Debt Securities being redeemed.
- The Debt Securities may be issued with terms that include provision for sinking funds designed to amortize the outstanding amount of Debt Securities to not less than face value at maturity.

9. Pursuant to Public Utilities Code Section 818, San Jose Water Company is authorized to modify its Credit Agreement, and issue short-term debt for a period of up to 24 months.

10. San Jose Water Company must record its 24-month short-term debt as short-term debt, and must use it for short term purposes such as expenses and working cash.

11. San Jose Water Company is granted an exemption from the Competitive Bidding Rule for issuance of all Debt Securities of \$20 million or less and issuance of all Debt Securities for which competitive bidding is not viable or available, including bonds, debentures, privately placed debt, direct loans, variable interest rate debt, medium-term notes, and tax-exempt securities.

12. San Jose Water Company must report on a monthly basis all the information required by General Order 24-B with respect to securities issued pursuant to this Order.

13. San Jose Water Company may not use the proceeds from the Debt Securities and Common Equity Securities authorized by this decision to fund its capital projects until it has obtained all required Commission approvals for the projects, and has complied with all environmental laws and regulations applicable to the projects.

14. San Jose Water Company must remit a check for \$87,000, as required by §§ 1904(b) and 1904.1 of the Public Utilities Code, 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 San Jose Water Company has paid the fees prescribed by § 1904(b).

15. Application 10-07-022 is closed.

This order is effective today.

Dated January 27, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

Commissioners

Commissioner Timothy Alan Simon,
being necessarily absent, did not
participate.