

WATER/RHG

Decision 02-09-036 September 19, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DEL ORO WATER COMPANY U-61-W, for authority to borrow approximately \$250,000 (and to issue evidence of indebtedness in connection therewith) in order to pay the costs of determining compliance with the California Environmental Quality Act of a proposed capital improvement project and for authority to recover all such costs by applying monthly surcharges to customers in its Lime Saddle, Paradise Pines and Magalia Districts in Butte County, California.

Application 02-06-033
(Filed June 12, 2002)

O P I N I O N

Summary

This decision authorizes Del Oro Water Company (Del Oro) to enter into a loan agreement in the amount of \$250,000 for the purpose requested in Application (A.) 02-06-033 (Application).

This decision denies, without prejudice, Del Oro's request for authority to contemporaneously apply monthly surcharges to customers to repay the principal and interest of the loan.

Background

Pursuant to §§ 454, 816 and 817 through 819 inclusive of the Public Utilities (PU) Code and in compliance with Rules 2 through 2.6 inclusive, 4, 15

and 16 of the Commission's Rules of Practice and Procedure, Del Oro requests authority to incur indebtedness up to \$250,000; to issue a promissory note or notes for the purpose of paying necessary and reasonable costs for engineers and consultants for the California Environmental Quality Act (CEQA) review of the project which involves the improvements to Del Oro's water system; and to place in effect a surcharge on existing water rates to repay the loan principal and interest.

Notice of the filing of the Application appeared on the Commission's Daily Calendar of June 25, 2002. No protests have been received.

Del Oro is a Class B water utility subject to the jurisdiction of this Commission. Del Oro provides water to the city of Ferndale in Humboldt County, the community of Johnson Park in Shasta County and a portion of the city of Bakersfield in Kern County. Del Oro also operates two water systems (the Paradise Pines District and the Magalia District) in an unincorporated area known as Magalia in Butte County; provides water service in the unincorporated communities known as Stirling City (north of the Town of Paradise); and in Lime Saddle (located within a portion of and south of the Town of Paradise).

For purposes of this Application, the areas encompassing Del Oro's Paradise Pines District, the Lime Saddle District and the Magalia District are hereafter collectively referred to as the "Upper Ridge".

There are approximately 4,500 connections in the Paradise Pines District, 366 connections in the Magalia District, and 414 connections in the Lime Saddle District.

For a number of years, the Upper Ridge communities and neighboring areas in Northern California have experienced repeated water shortages and

droughts. The wells that Del Oro and its predecessor water purveyors in the Lime Saddle and Magalia system service areas have used as the principal sources of water have grown progressively unreliable. As a consequence, Del Oro is now looking into an alternative supply of water. Del Oro's consulting engineers have recommended extending the utility's facilities to Lake Oroville where an abundant supply of water is available for both present and future needs of the Upper Ridge water customers.

In November 2000, Del Oro surveyed its Upper Ridge customers to determine if they favored a plan for additions to its facilities that would involve the construction, in two phases, of a project connecting its systems to Lake Oroville. The first phase would include construction of a two-mile long pipeline along Pentz Road in the Upper Ridge area that would interconnect the northerly portion of the Lime Saddle District with existing treatment and storage facilities that are currently drawing supply from Lake Oroville. The second phase would involve construction of a 6.6-mile pipeline connecting the Lime Saddle District to Paradise Pines District.

Phase one is expected to solve the on-going water shortage problems and threats of water usage curtailment of customers served by the Lime Saddle District system. It will also make approximately 260 acre feet of surplus water (secured from the Stirling City system to alleviate water shortages in the Lime Saddle District) available each year to customers in both the Paradise Pines and Magalia Districts. Phase two will provide an alternative source of supply in the Paradise Pines and Magalia Districts.

Pursuant to the Application, 73 percent of Del Oro's customers responding to the survey approved phase one. Phase two was approved by a majority of responding customers.

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The projected cost of the entire project is \$7,364,942 (including a 20 percent construction cost contingency, engineering design and contract administration costs). Phase one is expected to take 24 months to complete. Another 24 months is required for completion of phase two.

Application 02-02-001

On February 4, 2002, Del Oro filed A.02-02-001 with the Commission seeking, among other things, a certificate that present and future public convenience and necessity requires Del Oro to install the project described above; for authority to incur indebtedness to pay the costs of such project; and for authority to recover all present and future costs in connection therewith by increases in the water rates.

On March 4, 2002, the presiding Administrative Law Judge ruled that A.02-02-001 was defective in that CEQA compliance must be addressed before the Commission may consider granting its approval to the issuance of a certificate of public convenience and necessity. The ruling declared that there is “ample reason to believe Applicant should submit the Proponent’s Environmental Assessment [for the project] required by Rule 17.1 [of the Commission’s Rules of Practice and Procedure]” and recommended that Del Oro should “consult...with the Commission’s CEQA Staff in the Energy Division to discuss the procedures, project scope and timeline for CEQA implementation”.

The CEQA Staff has advised Del Oro that while the Commission might be regarded as a “responsible agency” for securing CEQA implementation of the project, Butte County should be regarded as the “lead agency”. The cost of preparing an Environmental Impact Report is approximately \$250,000.

Financing the Costs of CEQA Review

Del Oro is now requesting authority to obtain a \$250,000 “environmental clearance loan” from a conventional lender or from the Safe Drinking Water State Revolving Fund (SDWSRF) to finance the costs associated with securing CEQA review of the proposed project and to place in effect a surcharge on existing water rates to repay the loan principal and interest.

Del Oro states in the Application that it seeks authority to secure a loan and collect a surcharge at this time rather than waiting until all the terms and conditions of the loan agreement are known so that it will have the ability to negotiate in an effective and expeditious manner with a lender.

Pursuant to its Income Statement for the fiscal year ended December 31, 2001, shown as Exhibit A-2 to the Application, Del Oro reported total operating revenues of \$2,463,887 and net loss of \$98,353.

Del Oro’s Balance Sheet at December 31, 2001, shown as Exhibit A-1 to the Application is summarized as follows:

<u>Assets and other Debits</u>	<u>Amount</u>
Current Assets	\$ 2,039,837
Fixed Assets	6,351,284
Other Investments	859,652
Other Assets	<u>320,262</u>
Total	<u>\$ 9,571,036</u>
 <u>Liabilities and other Credits</u>	
Current Liabilities	\$ 4,419,320
Long-term Debt	3,140,029
Equity	<u>2,011,687</u>

Total \$ 9,571,036

Capital Ratios

Del Oro's capital ratios as of December 31, 2001 are shown below as recorded and as adjusted to give pro forma effect to the proposed \$250,000 clearance loan:

	<u>Recorded</u>		<u>Pro Forma</u>	
	(\$000)	%	(\$000)	%
Long-Term Debt	2,985	55.2	3,226	57.0
Short-Term Debt	<u>1,541</u>	<u>28.5</u>	<u>1,550</u>	<u>27.4</u>
Sub-Total	4,526	83.7	4,776	84.4
 Common Equity	 <u>886</u>	 <u>16.3</u>	 <u>886</u>	 <u>15.6</u>
 Total Capitalization	 <u>5,412</u>	 <u>100.0</u>	 <u>5,662</u>	 <u>100.0</u>

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 decision of the reasonableness of the projected capital ratios for ratemaking purposes. However, we need to mention that Del Oro's change in capital structure from a 16.3% effective equity position to 84.4% debt and 15.6% equity position would increase the difficulty for Del Oro to finance the estimated debt of \$7.4 million needed for its Upper Ridge project (a substantial plant addition).

The issuance of long-term debt is subject to §§ 817 and 818 of the PU Code which state, in relevant part, as follows:

§ 817: A public utility may issue ... bonds, notes, and other evidence of indebtedness payable at periods of more than 12 months after the date thereof for any of the following purposes and no other:

- (a) Acquisition of property.
- (b) Construction, completion, extension, or improvement of its facilities.
- (c) Improvement or maintenance of its service.
- (d) Discharge or lawful refunding of its obligations.
- (e) Financing the acquisition and installation of electrical and plumbing appliances and agricultural equipment that are sold by other than a public utility, for use within the service area of the public utility.
- (f) Reorganization or readjustment of its indebtedness or capitalization upon a merger, consolidation, or other reorganization.
- (g) Retirement of or in exchange for one or more outstanding stocks or stock certificates or other evidence of interest or ownership of such public utility, or bonds, notes, or other evidence of indebtedness of such public utility, with or without the payment of cash.
- (h) Reimbursement of moneys .. expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates or other evidence of interest or ownership, or bonds, notes, or other evidences of indebtedness of the public utility, for any of the aforesaid purposes except maintenance of service and replacements, in cases where the applicant has kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purposes for which expenditure was made.

§ 818: No public utility may issue stocks ... or other evidences of indebtedness payable at periods of more than 12 months after the

date thereof 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...

We find that Del Oro has demonstrated a reasonable need to issue up to \$250,000 debt to finance its CEQA review. We find that the use of debt to finance this pre-construction cost is consistent with §§ 817 and 816, which allow a utility to issue debt for the purpose of construction, completion, extension or improvement of facilities. Without the CEQA review, Del Oro's Upper Ridge project will remain on the drawing board.

Proposed Surcharge Rate

Del Oro proposes three alternative surcharge schedules as shown in Exhibit D to the Application: 1) a SDWSRF loan with a 20-year repayment schedule with monthly payments of principal and estimated interest rate of 3% per annum, 2) a conventional loan with a 6-year repayment schedule with monthly payments of principal and estimated interest rate of 8% per annum, or 3) a conventional loan with a 6-year repayment schedule with monthly payments of principal and estimated interest rate of 10% per annum.

The annual requirement for the \$250,000 loan through SDWSRF is approximately \$18,885 and through conventional loan is \$52,450 (8%) or \$55,767 (10%). The amount of the surcharge to repay the loan principal and interest will be in direct proportion to the capacity of each customer's meter or service connection.

The issue of ratebasing versus surcharge must balance the interests of both utility ratepayers and shareholders. While the surcharge method ensures that the costs of the loan will be repaid without financial stress to the utility, the

Commission must also guard against unnecessary costs for ratepayers and ascertain that the loan proceeds are used properly.

In order for this Commission to authorize a principal and interest surcharge, the utility must make a showing that the lender requires a dedicated source of payment for the loan and must comply with the notification procedure under Rule 24 of the Commission's Rules of Practice and Procedure.

For the above reasons, we will deny without prejudice Del Oro's request for authority to impose a surcharge to repay the proposed \$250,000 environmental clearance loan. If Del Oro is unable to obtain a loan without authorization for surcharge recovery, it can enter a loan agreement conditioned upon the Commission's authorization of a surcharge. Then, it may file a motion to request such surcharge recovery. At that time Del Oro must make a showing that the lender requires a dedicated source of payment and it must comply with the customer notification procedure for rate increase contained in the Commission's Rules of Practice and Procedure.

This proceeding will remain open for one year from the effective date of this order.

In Resolution (Res.) ALJ 176-3090 dated 6/27/02, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and there is no need to alter the preliminary determinations made in Res. ALJ 176-3090.

This is an uncontested matter in which the decision pertains solely to a water company. Accordingly, pursuant to PU Code § 311(g)(3), the 30-day period for public review and comment under § 311(g)(1) does not apply.

Findings of Fact

1. Del Oro, a California corporation, is a public utility subject to the jurisdiction of this Commission.
2. Del Oro needs external funds for the purposes set forth in the Application.
3. The authorized issue of debt is for proper purposes and is not adverse to the public interest.
4. Del Oro cannot seek authority for a certificate of public convenience and necessity and to incur indebtedness to pay the costs of its Upper Ridge project until Del Oro submits the Proponent's Environmental Assessment required by Rule 17.1 of the Commission's Rules for Practice and Procedure.
5. Notice of the filing of the Application appeared on the Commission's Daily Calendar of June 25, 2002. There is no known opposition to this Application, and the authority requested should be granted, subject to the conditions below.

Conclusions of Law

1. A public hearing is not necessary.
2. The Application should be granted to the extent set forth in the order that follows.
3. Upon securing the loan, Del Oro should pay the fee determined in accordance with PU Code § 1904(b).
4. The following order should be effective on the date of signature.

O R D E R

IT IS ORDERED that:

1. Del Oro Water Co., Inc. (Del Oro), on or after the effective date of this order is authorized to secure a loan in the amount of \$250,000 upon terms and conditions substantially consistent with those set forth in or contemplated in Application (A.) 02-06-033 (Application).

2. Del Oro may transact the above financing with the state Department of Health Services or with a conventional lender. Del Oro shall exercise prudent management practices in selecting the lender and the appropriate interest rate method for the loan.

3. Del Oro may execute and deliver a loan contract or related documents in connection with the loan.

4. Del Oro shall file with the Water Division a copy of the loan agreement, promissory note, and debt service schedule within 15 days after execution.

5. Del Oro may by the application process request for surcharge method of recovery once the environmental impact report is completed and once it has secured a loan provider for the project covering its Paradise Pines District, Lime Saddle District, and Magalia District.

6. Del Oro shall provide the Water Division a copy of the Environmental Impact Report and the Notice of Determination from Butte County.

7. The authority granted by this order shall become effective when Del Oro pays \$500 as required by Public Utilities Code § 1904(b).

8. Application 02-06-033 is granted as set forth above.

9. Application 02-06-033 shall remain open for one year from the effective date of this order.

This order is effective today.

Dated September 19, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners