

**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-4876  
MAY 26, 2011**

**R E S O L U T I O N**

**RESOLUTION W-4876. RESOLUTION GRANTING NORTH GUALALA WATER COMPANY, INC. AUTHORITY TO BORROW \$1,373,868, UNDER THE SAFE DRINKING WATER STATE REVOLVING FUND LOAN PROGRAM; TO ENCUMBER ASSETS IN CONNECTION WITH THE LOAN; AND TO INSTITUTE A SURCHARGE TO PAY OFF THE LOAN.**

**By Advice Letter No. 75 filed on December 7, 2010.**

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**SUMMARY**

This Resolution grants North Gualala Water Company, Inc. (NGWC) the authority requested in its Advice Letter (AL) 75.

NGWC requests authority, pursuant to §§ 816 through 851 of the Public Utilities Code, to:<sup>1</sup>

1. Borrow \$1,373,868, under the Safe Drinking Water State Revolving Fund (SRF) and to enter into a loan contract with the California Department of Public Health (CDPH);
2. Use the loan proceeds to finance the construction of two 219,000 gallon tanks;
3. Establish a surcharge to make payments of principal and interest on the loan and to accumulate a sinking fund reserve equal to one year's debt service; and
4. Encumber utility assets in connection with the loan.

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<sup>1</sup> All statutory references are to the Public Utilities Code unless otherwise indicated.

**BACKGROUND**

NGWC, a California corporation, is a Class C water utility subject to the jurisdiction of this Commission. NGWC provides water service to approximately 1,045 metered customers in Gualala and vicinity, located approximately 15 miles south of Point Arena, Mendocino County.

NGWC's water system consists of, among others things, structures, wells, pumping equipment, reservoir tanks, mains, meters and hydrants.

**A. Financial Information**

In its Income Statement for the year ending December 31, 2009, NGWC reported that it generated total operating revenues of \$959,029 and a net income of \$67,075. NGWC's Balance Sheet, as of December 31, 2009, as reported, is summarized below:

<b>Table 1</b>	
<b>Balance Sheet as of December 31, 2009</b>	
<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$4,369,461
Investments	-
Current Assets	511,247
Deferred Charges	<u>868,669</u>
<b>Total Assets and Deferred Charges</b>	<b><u>\$5,749,377</u></b>
<u>Liabilities &amp; Equity</u>	
Common Stock	\$ 500
Other Paid-in Capital	-
Retained Earnings	845,795
Current Liabilities	117,932
Net Contributions in Aid of Construction	<u>1,026,575</u>
<b>Total Liabilities &amp; Equity</b>	<b><u>\$5,749,377</u></b>

NGWC's last general rate increase became effective October 20, 2008, pursuant to Resolution (Res.) W-4714. The Commission authorized an increase of \$236,147 or 44.3% over revenues at present rates of \$533,153, and a rate of return of 12.5%. On October 1, 2010, NGWC received an interim rate increase of \$20,289 or 2.7% of estimated annual revenues of \$751,453.<sup>2</sup> On October 4, 2010, NGWC filed for a general rate case under AL 72, for an increase of \$151,632 or 20.2% over revenues at present rates of \$751,453. NGWC estimated net earnings of \$151,336 per year. On October 26, 2010, NGWC's AL

<sup>2</sup> According to NGWC, water sales in 2009 were lower than years 2007 and 2008.

72 was supplemented by AL 72-A that revised the requested increase to \$223,819. AL 72, as supplemented is currently pending.

**B. Financing Request**

In its filing, NGWC seeks authorization to borrow \$1,373,868 through the SRF and to enter into a loan agreement with CDPH. The loan will carry an interest rate of approximately 2.28%, with a term of 30 years and semi-annual payments of \$34,931 or annual payments of \$69,862, which includes an amount to establish a 10% reserve for the first 10 years.<sup>3</sup> Thereafter, the semi-annual payment is estimated to be \$31,755 or an annual payment of \$63,510. To secure the payment of the loan, the subject of AL 75, NGWC requests authority to pledge and grant to CDPH a security interest in and to all of its property.

CDPH requires a dedicated source of revenue for repayment of the principal amount of the loan plus interest and a reserve fund to be accumulated during the first ten years of the term. To provide for the principal, interest and reserve requirement, NGWC requests authority to impose surcharge rates on its customers.

NGWC requests authorization to impose a monthly surcharge that will be in direct proportion to the capacity of each customer’s meter, estimated as shown as Schedule L in the filing:

<u>Metered Service</u>	<u>1 to 10 years</u>	<u>11-29 years</u>
5/8 x 3/4 -inch meter	\$5.30	\$4.82
1-inch meter	7.95	7.23
1-inch meter	13.25	12.05
1 1/2-inch meter	26.50	24.10
2-inch meter	42.40	38.56
3-inch meter	79.50	72.30
4-inch meter	132.50	120.50

<sup>3</sup> CDPH requires the 10% reserve to make the last loan payments.

According to NGWC, the estimated monthly bill for a 5/8 x 3/4-inch metered customer at present rates without the new surcharge follows:

<b>Table 3</b>	
<b>Estimated Monthly Bill for a 5/8 x 3/4-Inch Metered Customer Without New Surcharge</b>	
3 Ccf at \$4.48 per Ccf	\$13.44
2 Ccf at \$5.69 per Ccf	11.38
Service Charge	30.02
SDWBA Surcharge	<u>14.70</u>
Total	<u>\$69.54</u>

With the proposed surcharge, NGWC estimates the monthly bill for the first 10 years for a typical 5/8 x 3/4-inch metered customer using an average of five hundred cubic feet or 5 Ccf of water per month would increase \$5.30 or 7.62% from \$69.54 to \$74.84. Thereafter, the increase would be \$4.82 or 6.93% from \$69.54 to \$74.36 for the remainder of the life of the loan.

### **C. Financing Current Financing Authority**

NGWC previously obtained long-term secured borrowings from CDPH and the Department of Water Resources (DWR).

In Res. F-645, dated January 24, 1996, the Commission authorized NGWC to enter into a loan agreement with the DWR to borrow \$3,081,938 under the Safe Drinking Water Bond Act (SDWBA). Surcharge rates were authorized to repay the loan principal and interest and the encumbrance of utility assets to secure the loan. The proceeds of the loan were used for the replacement of existing water mains, construction of water storage facilities including a pump station and emergency generators, and improvements to NGWC's surface water treatment plant.

In Res. W-4108, dated August 6, 1998, the Commission granted NGWC authority to borrow an additional \$1,582,709 (for a total estimated loan principal of \$4,664,647) under the SDWBA, to fund and complete NGWC's project that was originally approved in Res. F-645. Due to higher than expected construction and design costs, a significant portion of NGWC's project was delayed. The combined SDWBA loan carries an interest rate of 2.973%, a term of 35 years, and secured by NGWC's assets. Surcharge rates were adjusted to repay the new loan principal and interest. As of December 31, 2009, the total outstanding balance of the combined SDWBA loan was \$3,559,575.

In Res. W-4678, dated March 13, 2008, the Commission authorized NGWC to borrow \$100,000 under the SRF to finance a planning study to be conducted on NGWC's water system; to place in effect a surcharge to repay the loan; and to encumber utility assets. In Res. W-4778, dated July 30, 2009, NGWC was granted authority to secure an additional \$400,000 under the SRF for various studies and investigations needed for the improvement and maintenance of its water system. In Res. W-4778, the Commission authorized surcharge rates and the encumbrance of utility assets. As of March 24, 2011, NGWC has used \$101,081 of the \$500,000 debt facility authorized in Res. W-4678 and Res. W-4778. Pursuant to the Funding Agreement SRF09PX301, NGWC shall pay interest on all disbursement, which CDPH will invoice semiannually for interest accrued prior to the project approval date of June 1, 2011. Repayment of the principal amount of the loan and interest shall be due January 1 and July 1 of each year, with the first semiannual payment, estimated to be due, June 1, 2012. To date, the authorized surcharge has not yet been imposed.

#### **D. Proposed Construction Plan**

On August 28, 2009, CDPH issued NGWC Citation No. 02-03-09C-037, for its failure to comply in operating its surface water treatment plant to achieve a 1.0 log inactivation of *Giardia lamblia* cysts, as required by the Waterworks Standards in the California Code of Regulations (CCR), Title 22, Sections 64652(a) and 64654(a). NGWC explains that at present, its chlorine contact time (CT) is too short. In order to develop more CT time, NGWC will require larger tanks to permit adequate residence time before the water is shipped to the customers. NGWC's existing storage tanks are inadequate in volume and allow untreated and unchlorinated water to bypass the tank treatment and flow into the distribution system.

NGWC's proposed project includes the construction of two tanks of 212,000 nominal capacity, consisting of a pretreatment and chlorination tank and a finished water tank. The pretreatment tank will accept water from the roughing filter and provide an initial chlorine dose. From the pretreatment tank, the water will flow through the filter plant and into the finished water tank. If there is insufficient chlorine residual after flowing through the filter plant, additional chlorine will be added to bring up the residual to the minimum required.

In order to use its sources of Robinson Gulch and Big Gulch appropriate water rights to their full potential, a larger treatment plant of 200 GPM or gallons per minute will be required. The old filter plant, Water Boy with 100 GPM capacity will be retained as a redundant facility. NGWC intends to use the backwash water to the maximum extent and prevent the waste of water. The backwash water will be sent to a decant tank, where the solids will be allowed to settle and the clarified water extracted and sent

through the filter plant for general use. NGWC will also construct a building to house the filter plant and to provide sanitary facilities for the workers at the site.

NGWC claims that the proposed project will put NGWC in compliance with the surface water treatment filtration requirements of CCR, Title 22, Sections 64652(a) and 64654(a).

Title 22, Section 64652(a) states that each supplier using an approved surface water shall provide a multibarrier treatment that meets the requirements of the chapter and reliably ensures at least: (1) a total of 99.9 percent reduction of *Giardia lamblia* cysts through filtration and disinfection; and (2) a total of 99.99 percent reduction of viruses through filtration and disinfection.

Title 22, Section 64554(a) states that all approved surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to insure that the total treatment process provides inactivation of *Giardia lamblia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Title 22, Section 64652(a).

**E. Construction Budget**

NGWC's projected construction budget, as shown in Schedule C in its AL, is shown in the following table:

<b>Table 4</b>	
<b>Construction Budget</b>	
Mobilization	\$ 15,000
12" Main (including bedding & backfill)	7,470
12" Butterfly Valve (with G-5 box)	6,000
12" Tee	600
12" Bend or Reducer	2,100
8" Main (including bedding & backfill)	9,120
8" Butterfly Valve (with G-5 box)	4,200
8" Tee	720
8" Bend or Reducer	840
6" Main (including bedding & backfill)	11,250
6" Cross	1,260
6" Tee	540
6" Bend or Reducer	620
6" Pressure Reducing Valve (with box)	4,500
4" Main (including bedding & backfill)	2,880
4" Gate Valve (with G-5 box)	1,125
4" Bend or Reducer	465
Instrumentation & Controls; Monitoring Device	30,000
Pumps	15,000
200 GPM Filter Plant	250,000
Decant Tank	60,000
Water Storage Tanks	530,000
Dried Pier Foundations	30,000
16' x 32' Building to house Treatment Plant	51,200
Meters, Flow Restrictors, Monitoring Meters/Recorders, Controls	85,000
Septic Tank, Hookup Fee to Community Services District	25,000
Sub-total	1,144,890
Survey, Mapping, Liaison, Design, Permitting and Contingency	228,978
<b>Total</b>	<b><u>\$1,373,868</u></b>

### F. Cash Requirements Forecast

NGWC's estimated cash requirements forecast, as shown in Schedule J of its AL, is shown in the following table:

Table 5	
Cash Requirements Forecast	
Funds for Construction	\$1,378,868
Bonds, Notes Retirement	0
Short-Term Debt Repayment	<u>0</u>
Total Cash Requirements	\$1,373,868
Less: Estimated Cash Provided from Internal Sources	<u>0</u>
<b>Funds Required from External Sources</b>	<b><u>\$1,373,868</u></b>

As indicated in Schedule G-1 in its AL, NGWC estimates a yearly net income of \$151,336, based on its revised general rate case filed on October 21, 2010. However, NGWC does not intend to finance any of its project costs out of its earnings or resources when it has been granted a low-cost loan under the SRF. According to NGWC, it will not use the SRF funds for purposes chargeable to operating expenses or to income.

### G. Capital Structure

In its AL, NGWC presented its capital structure as recorded, as of December 31, 2009, and adjusted to give pro forma effect to NGWC's proposed debt transaction:

Table 6						
Proforma Capital Structure						
	<u>Recorded</u>		<u>Adjustments</u>		<u>Proforma</u>	
Long-term debt	\$3,758,575	81.6%	\$1,076,856 <sup>(A)</sup>	\$4,835,431	80.8%	
Common Stock	500	00.0%	-	500	00.0%	
Paid In Capital	0	00.0%	-	0	00.0%	
Retained Earnings	<u>845,795</u>	<u>18.4%</u>	<u>302,672<sup>(B)</sup></u>	<u>1,148,467</u>	<u>19.2%</u>	
<b>Total Capitalization</b>	<b><u>\$4,604,870</u></b>	<b><u>100.00%</u></b>	<b><u>\$1,379,528</u></b>	<b><u>\$5,984,398</u></b>	<b><u>100.00%</u></b>	

(A) Issuance of \$1,373,868 requested in this filing less estimated principal payment on long-term debt of \$146,612 in 2010 and \$150,400 in 2011.

(B) Projected net income of \$151,336 in 2010 and \$151,336 in 2011.

## **NOTICE AND PROTESTS**

On December 6, 2010, NGWC served its AL 75 on its adjacent utilities pursuant to General Order (GO) 96-B, Water Industry Rule 4.1.<sup>4</sup> Notice of AL 75 was made by publication in the Commission's Daily Calendar of December 10, 2010.

On February 25, 2011, NGWC notified its customers by mail of the proposed loan and surcharge needed to repay the loan. Twenty days was set in the customer notice to send in protest or response.

On March 4, 2011, NGWC published a public notice containing the proposed loan, the surcharge, and the proposed rate change expressed in both dollar and percentage terms in the Independent Coast Observer, a local newspaper circulated in the County of Mendocino. In its notice in the newspaper, NGWC stated that protests should be received no later than twenty days from publication.

On March 1, 2011, one of NGWC's customers sent a letter objecting to the proposed surcharge, stating that he and his wife are on fixed income. They own a cabin in NGWC's service area, which they use occasionally, but pay the water charges on a monthly basis.

NGWC acknowledged receipt of and responded to the customer on March 23, 2011, stating that although NGWC understands the customer's concerns over a rate increase during today's economic conditions, it must abide with the requirements placed upon its water system and comply with the safe drinking water standards.

No other protests have been received.

## **DISCUSSION**

As a public utility, NGWC has the responsibility to maintain its quality of service, meet water treatment standards, and provide necessary improvements to its present water system. The proposed project will put NGWC in compliance with the surface water treatment filtration requirements of the Waterworks Standards in the California Code of Regulations (CCR), Title 22, Sections 64652(a) and 64654(a).

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 the construction, completion, extension, or improvement of its facilities and the improvement or maintenance of its service. NGWC's proposed water treatment improvements fall within the scope of § 817 and

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<sup>4</sup> No customers, developers or interested parties have requested to be served with NGWC's advice letters.

would be a proper use of funds under § 817. However, we will not make a finding in this Resolution on the reasonableness of NGWC's proposed construction program. Construction expenditures and the resulting plant balances in rate base are issues that are normally addressed in general rate cases.

NGWC's proposed construction totaling \$1,373,868 will be financed through the low-cost SRF loan. NGWC will not disburse funds from its revenues or treasury for this construction project. The requested \$1,373,868 loan, the subject of this filing, appears necessary to help NGWC meet its projected external funds requirements and maintain funds in reserve for emergencies and any other necessary plant acquisitions.

As shown in Table 6, the construction of the planned improvements and the issuance of the proposed debt will significantly increase NGWC's assets and capitalization. The estimated change in the recorded capital structure, given the proposed issuance of debt, is material. However, recorded capital structures may or may not be used for the ratemaking capital structure. Capital structures are normally subject to review in general rate cases or other proceedings. We will not make a finding in this Resolution on 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.

As set forth above, NGWC's proposed loan would be for the purpose of constructing and improving its water treatment facilities and maintaining its service, which falls within the scope of purposes in § 817. Moreover, NGWC'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. NGWC'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. As required by CDPH, NGWC must provide satisfactory documentation showing that the Commission has approved a dedicated source of revenue for repayment of the loan and a reserve fund during the first ten years of the term. The reserve fund is built up by collecting an additional 10% of the amount otherwise necessary to make payments on the loan during the first 10 years of the loan repayment period. This creates a reserve sufficient to make the final two payments on the loan.

To the extent that the source of funds requirement remains a condition in this low-cost funding, NGWC's financing request cannot be processed by CDPH and granted without a surcharge authorization. The ratepayers ultimately pay for all water system requirements and improvements, regardless of the manner in which they are financed. If the utility were able to borrow the money to make the water system improvements entirely from regular commercial sources, it would be far more expensive for the ratepayers than the low-cost state-funded loan. Likewise, if the utility owners invested their own funds to pay for the water system improvements, they would be entitled to similar earnings on such funds.

The surcharge method of recovery ensures that the loan will be repaid without financial stress to the water utility. The surcharge serves only to repay the loan and will not generate any profit to the utility owners.

CDPH assesses the utility's need for water system improvements, its financial needs, and the utility's ability to meet loan obligations. CDPH requires that loan funds may only be used for eligible project costs and CDPH verifies all work performed prior to reimbursing the utility with the loan proceeds. In addition, CDPH requires that a regulated water system accomplish the following:

1. Open a separate two-signature checking account for deposit of loan funds.
2. Have final plans and specifications and an initial budget and expenditure summary.
3. Secure services of a fiscal agent.
4. Secure a preliminary title report on all real property owned by utility, if such property is the loan security.
5. Obtain all necessary permits required by other State, Federal, and/or local agencies.
6. Provide detailed time-line for project construction, completion and related estimated schedule for submission of reimbursement requests.
7. Submit a summary of all bids to CDPH before awarding construction contracts.

Accordingly, we are assured that the payments made on state-funded loans, with ratepayer surcharges, are for proper purposes.

Therefore, we will authorize NGWC to obtain the SRF loan in the amount of \$1,373,868; encumber its assets in connection with the loan; and impose a surcharge on its customers, as set forth herein. Since the final terms of the loan will not be established until NGWC executes the loan with CDPH, the precise surcharge cannot be determined at this time. We will require NGWC to file an advice letter to establish the surcharge and collect enough revenue before it needs to make its first loan payment to CDPH.

Our approval does not authorize any capital expenditures or specific construction projects, but rather the creation of a funding mechanism to finance improvements to the existing utility system. In order to ensure proper treatment of the surcharge and plant financed with the SRF loan, the Commission will impose the following conditions:

- a. The loan repayment surcharge shall be separately identified on customers' bills.
- b. The surcharge to repay the loan shall last until the loan is fully paid.
- c. Surcharge revenues shall not be commingled with other utility revenue.
- d. NGWC shall use a balancing account to be credited with revenues collected through the surcharge and to be charged with payments of principal and interest on the loan, and fiscal agent fees.
- e. NGWC shall deposit all surcharge revenues with a fiscal agent approved by CDPH. Such deposits shall be made within 30 days after the surcharges are collected from customers.
- f. Any surplus accrued in the bank account shall be refunded or applied on behalf of the customers when ordered by the Commission.
- g. No less frequently than once per year, NGWC shall review the balance in the balancing account immediately following a payment to CDPH, and if the balance is less than the required reserve or exceeds the required reserve by more than thirty five percent of the next semi-annual payment, NGWC shall file an advice letter to adjust the surcharge. Changes in surcharge rates shall be accomplished by normal advice letter procedure subject to review and approval.
- h. The cost of the project financed through the surcharge shall be excluded from ratebase for ratemaking purposes.
- i. Eight months prior to the first semi-annual payment, NGWC shall file a Tier 2 Advice Letter to implement the surcharge authorized by this Resolution. The filing shall include a request to establish the balancing account discussed in Condition 4, above.

- j. NGWC should file with the Division of Water and Audits' (DWA) Utility Audit, Finance and Compliance Branch (UAFCB) a copy of the loan documents within 15 days of execution.

### **ENVIRONMENTAL IMPACT**

The California Environmental Quality Act (CEQA) applies to projects that require discretionary approval from a governmental agency, unless exempted by state 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>5</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 are not "projects" subject to CEQA.<sup>6</sup>

This Resolution does not authorize any capital expenditures or construction projects. Construction projects which NGWC 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). 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 NGWC 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.

NGWC should comply with all environmental permitting requirements applicable to the project that it will undertake in conjunction with the proposed loan.

### **COMPETITIVE BIDDING RULE**

Under the provisions of Res. F-616, NGWC's proposed issuance of debt is exempt from the Commission's Competitive Bidding Rule because the principal amount does not exceed \$20,000,000.

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<sup>5</sup> Public Resources Code Section 21090(b) (8).

<sup>6</sup> CEQA Guidelines Section 15378(b) (4).

## **REPORTING REQUIREMENT**

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

On or before the 25<sup>th</sup> day of each month, NGWC should file with the DWA's Utility Audit, Finance and Compliance Branch (UAFCB) the reports required by GO 24-B.

## **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 \$2,374.<sup>7</sup>

## **COMMENTS**

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

## **FINDINGS**

1. NGWC, a California corporation, is a Class C water utility subject to the jurisdiction of this Commission.
2. NGWC is responsible for maintaining its quality of service and providing necessary improvements to its water system.
3. On August 28, 2009, CDPH issued NGWC Citation No. 02-03-09C-037 for NGWC's failure to properly operate its surface water treatment plant and comply with CCR, Title 22, Sections 64652(a) and 64654(a).

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<sup>7</sup> The fee is assessed on \$1,373,868 of authorized borrowing as follows: \$2 times (\$1,000,000/\$1,000) + \$1 times (373,868/1,000) equals \$2,374.

4. CCR, Title 22, Section 64652(a) requires that each supplier using an approved surface water shall provide multibarrier treatment that meets the prescribed reduction of *Giardia Lamblia* cysts and viruses through filtration and disinfection.
5. NGWC's current water treatment does not provide sufficient chlorine contact time to permit adequate residence time before the water is shipped to the customers. The existing storage tanks are inadequate in volume and allow the treated and chlorinated water to short circuit to the distribution system.
6. NGWC's proposed project that includes the construction of two new tanks will address and correct the deficient chlorine contact time.
7. NGWC's proposed construction is listed in Table 4 of this Resolution.
8. On December 6, 2010, NGWC served its AL 75 on its adjacent utilities pursuant to the requirements of GO 96-B.
9. The proposed borrowing is for proper purposes.
10. NGWC needs the low-cost funding to meet the projected cash requirements for its construction project.
11. NGWC wants to preserve its internal resources for emergencies and other plant requirements.
12. CDPH requires NGWC to secure this Commission's approval of the SRF loan, a customer surcharge to repay the loan and a security interest on the utility's properties.
13. The surcharge will generate approximately \$69,862 for the first 10 years and \$63,510 thereafter.
14. NGWC estimates the monthly bill for a typical 5/8 x 3/4-inch metered customer using approximately five hundred cubic feet of water per month, would increase by \$5.30 or 7.62% from \$69.54 to \$74.84 during the reserve accumulation period.
15. With a surcharge type of recovery, the utility or its owners do not personally benefit from the loan.
16. NGWC received a letter from one customer expressing concerns regarding the surcharge.
17. NGWC acknowledged receipt of and responded to the customer on March 23, 2011.

18. NGWC must comply with all environmental permitting requirements applicable to the construction and improvements that it will undertake in conjunction with this filing.

19. In Res. F-616, the Commission specifically exempts debt issues of \$20 million or less from its Competitive Bidding Rule.

20. GO 24-B requires utilities to submit a monthly report to the Commission that contains, among other things: (i) the amount of debt and preferred stock issued by the utility during the prior month; (ii) the total amount of debt and equity securities outstanding at the end of the prior month; (iii) the purposes for which the utility expended the proceeds realized from the issuance of debt and equity securities during the prior month; and (iv) 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 and equity securities.

21. 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.

22. Notice of the filing appeared on the Commission's Daily Calendar on December 10, 2010. No protests have been received except for the one discussed above.

23. The fee for this financing authority as required by § 1904(b) is \$2,374.

### **CONCLUSIONS OF LAW**

1. NGWC's proposed plant construction costs are not reasonably chargeable to expenses or income.

2. NGWC's proposed SRF loan to finance the construction of two 210,000 gallon tanks is for proper purposes.

3. It is not adverse to the public interest to authorize NGWC to enter into a loan agreement with CDPH for \$1,373,868 to finance the construction discussed herein.

4. It is reasonable to authorize NGWC to implement a surcharge to recover the SRF principal and interest payments and any fiscal agent fees.

5. It is not adverse to the public interest to allow NGWC to encumber its assets to secure the proposed loan.

6. NGWC should be authorized to execute loan agreements 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 2 of this Resolution.
7. To ensure proper treatment of the surcharge and plant under the SRF funding, NGWC should be subject to the conditions specified in this Resolution.
8. The loan authorization herein is not a finding of the reasonableness of NGWC's proposed construction or expenditures, the resulting capital structure, or the cost of money, nor does it indicate approval of matters subject to review in general rate case or other proceedings.
9. Although one customer provided concerns regarding the surcharge, he did not raise any material disputed issues of fact.
10. NGWC should establish a balancing account to be credited with revenue collected through the surcharge and any interest earned on the account, and reduced by loan payments and fiscal agent fees.
11. The cost of the plant financed by the SRF loan must not be included in ratebase.
12. Eight months prior to the first semi-annual loan amortization payment, NGWC should file, in accordance with GO 96-B, a Tier 2 advice letter to establish the monthly surcharge on customer bills, as shown on Table 5 of this Resolution.
13. NGWC's proposed loan is exempt from the Commission's Competitive Bidding Rule.
14. It is NGWC's responsibility to abide by and comply with any applicable environmental regulations for any capital improvement undertaken using the debt authorized herein.
15. Consistent with § 824, NGWC 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.
16. NGWC should provide the Commission with the monthly reports required by GO 24-B.

**THEREFORE, IT IS ORDERED** that:

1. North Gualala Water Company, Inc is authorized to borrow \$1,373,868 under the Safe Drinking Water State Revolving Fund; enter into a loan agreement with the California Department of Public Health; encumber utility assets to secure the loan; and use the loan proceeds to finance the construction of two 219,000 gallon tanks.
2. North Gualala Water Company, Inc. shall file in accordance with General Order No. 96-B, no later than eight months prior to the first semi-annual loan amortization, an advice letter, which establishes a monthly surcharge on customer bills. The surcharges shall be calculated using the same methodology used in calculating the proposed surcharges shown in page 3 of this Resolution, and shall be adjusted to reflect the actual interest rate and any other changes to the assumptions underlying the proposed surcharges shown in page 3 of this Resolution. The advice letter shall also include a request to establish a balancing account discussed in this Resolution and shall be filed as a Tier 2 Advice Letter, subject to review and approval.
3. The authority granted herein shall be subject to the following conditions:
  - a. North Gualala Water Company, Inc. shall separately identify the loan repayment surcharge on its customers' bills.
  - b. The surcharge to repay the loan shall last until the loan is fully paid.
  - c. North Gualala Water Company, Inc. shall not commingle surcharge revenues with other utility revenue.
  - d. North Gualala Water Company shall use a balancing account to be credited with revenues collected through the surcharge and to be charged with payments of principal and interest on the loan, and fiscal agent fees.
  - e. North Gualala Water Company, Inc. shall deposit all surcharge revenues with a fiscal agent approved by the California Department of Public Health. Such deposits shall be made within 30 days after the surcharges are collected from customers.
  - f. Any surplus accrued in the bank account shall be refunded or applied on behalf of the customers when ordered by the Commission.
  - g. No less frequently than once per year, North Gualala Water Company, Inc. shall review the balance in the balancing account immediately following a payment to CDPH, and if the balance is less than the required reserve or exceeds the required reserve by more than thirty five percent of the next semi-annual payment, North Gualala Water Company, Inc. shall file an advice letter to adjust the

- surcharge. Changes in surcharge rates shall be accomplished by normal advice letter procedures subject to review and approval.
- h. The cost of the project financed through the surcharge shall be excluded from ratebase for ratemaking purposes.
4. North Gualala Water Company, Inc. shall not use the proceeds authorized by this Resolution to begin construction of capital projects until North Gualala Water Company, Inc. has obtained any required environmental review under the California Environmental Quality Act.
5. North Gualala Water Company, Inc. is exempt from the Commission's Competitive Bidding Rule for the debt authorized herein.
6. North Gualala Water Company, Inc. 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.
7. North Gualala Water Company, Inc. shall file with the Division of Water and Audits' Utility Audit, Finance and Compliance Branch a copy of the loan documents within 15 days of execution.
8. On or before the 25<sup>th</sup> day of each month, North Gualala Water Company, Inc. shall file with the Division of Water and Audits' Utility Audit, Finance and Compliance Branch the reports required by General Order 24-B. 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-B reporting shall terminate and will no longer be required.
9. The authority granted by this Resolution shall become effective when North Gualala Water Company, Inc. pays \$2,374 as required by Public Utilities Code § 1904(b).
10. 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 26, 2011. The following Commissioners approved it.

/s/ PAUL CLANON

Paul Clanon  
Executive Director

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners