

**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-4902  
January 12, 2012**

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

**RESOLUTION W-4902. RESOLUTION GRANTING POINT ARENA WATER WORKS, INC. AUTHORITY TO BORROW \$120,000, FROM FINANCIAL INSTITUTIONS AND TO ENCUMBER ITS ASSETS IN CONNECTION WITH THE LOAN.**

**By Advice Letter No. 65 filed on November 29, 2011.**

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**SUMMARY**

This Resolution grants Point Arena Water Works, Inc. (PAWW) the authority requested in its Advice Letter (AL) 65.

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

1. Borrow \$120,000 from financial institutions;
2. Use the loan proceeds for water system improvements and additions; and
3. Encumber utility assets in connection with the loan.

**BACKGROUND**

PAWW, a California corporation, is a Class D water utility subject to the jurisdiction of this Commission. PAWW provides water service to approximately 190 metered customers in the City of Point Arena and vicinity and the Whiskey Shoals Subdivisions 1, 2, and 3 in Mendocino County.

PAWW's water system consists of wells, pumps, storage tanks, distribution mains, services, meters, fire hydrants, and water treatment equipment. The distribution mains

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

are made of transite, PVC or steel ranging in size from 2" to 12". PAWW's system operates in two service areas:

System No. 1 serves the entire City of Point Arena. Water is pumped from three wells. Well No. 1 is approximately 350 feet south of the Garcia River. Well No. 2 is about 250 feet from Well No. 1, and Well No. 3 is located on Riverside Drive, east of the main storage tanks. A 15 horsepower submersible pump draws water from Well No. 2. The water travels through an 8" PVC line and then through a 6" PVC line to a 125,000-gallon storage tank, where chlorine is added for disinfection. The water then enters into a 285,000-gallon main storage tank and then is distributed to a 125,000-gallon tank for zone 1, which includes all the downtown area and the Arena Cove.

System No. 2 is at Whiskey Shoals, located two miles south of Point Arena on the west side of Highway 1. It serves several small subdivisions using three wells and one 22,000-gallon storage tank.

#### **A. Financing Authorization**

PAWW has previously issued long-term borrowings authorized by this Commission.

In Resolution (Res.) W-4659, dated September 6, 2007, the Commission authorized PAWW to procure a loan in the amount of \$190,000, to be used to (1) install approximately 540 feet of 12" main line to replace a deteriorated section of 6" main line, which is over 60 years old, (2) replace a 15 horsepower submersible pump at the Garcia River well, (3) install a security fence around tanks and well to protect the property against vandalism and terrorist threats, and (4) put new staves on two 125,000-gallon tanks to stop the loss of water.

PAWW states in AL 65 that it completed all of the above projects, the intended use of the proceeds of the \$190,000 loan, except for the security gate and fences, estimated at the time of the filing to cost \$41,300. PAWW claims that this project was not completed because the actual cost of the water mains project was substantially higher than the estimated amount due to requirements to conduct studies and do additional planning and other costs associated with the replacement of water mains such as labor, asphalt, erosion control, and easement. In particular, the City of Point Arena (City) imposed additional requirements that included a mountain beaver study, butterfly study, grading plan, property survey and engineering plans. The additional cost due to the City requirements and other cost increases is summarized in the following table.

**Table 1**  
**Cost Overrun of the Water Mains Project**  
**(Authorized in Res. W-4659)**

Labor	\$ 2,575.79
Vehicle Cost	2,025.50
Environmental Studies	3,087.70
Erosion Control	7,726.31
Asphalt	2,207.76
Engineering	8,240.00
Professional Fess	4,942.50
Permits	300.00
Materials & Supplies	1,002.00
Easement	<u>6,100.00</u>
Total	<u>\$38,207.56</u>

**B. Financial Information**

In its Income Statement for the year ending December 31, 2010, PAWW reported that it generated total operating revenues of \$237,230, with a net income of \$36,260. PAWW's Balance Sheet, as of December 31, 2010, as reported, is summarized in the following table.

**Table 2**  
**Balance Sheet as of December 31, 2010**

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$1,019,007
Investments	0
Current Assets & Other Current Assets	29,832
Deferred Charges	<u>64,694</u>
<b>Total Assets and Deferred Charges</b>	<b><u>\$1,113,533</u></b>
<u>Liabilities &amp; Equity</u>	
Common Stock	\$ 120,000
Other Paid-in Capital	48,865
Retained Earnings	(60,009)
Long-Term Debt	103,737
Current & Accrued Liabilities	336,650
Advances for Construction	31,187
Deferred Credits	913
Net Contributions in Aid of Construction	<u>532,190</u>
<b>Total Liabilities &amp; Equity</b>	<b><u>\$1,113,533</u></b>

PAWW's last general rate increase (GRC) became effective March 11, 2008, pursuant to Res. W-4676, dated February 28, 2008. The Commission authorized an increase of \$30,974 or 15.23% over revenues at the then present rates of \$203,340. The increase was estimated to provide a rate of return of 13.25%. Subsequent to its GRC, PAWW received additional increases summarized in the following table.

**Table 3**  
**Additional Rate Increases**

<u>Type</u>	<u>% Increase</u>	<u>Particulars</u>
Consumer Price Index (CPI)	2.7%	\$ 6,689, effective 5/11/10
Interim Rate Increase	1.5%	\$ 3,527, effective 9/19/11
Total		<u>\$10,216</u>

Currently, the Division of Water and Audits (DWA) is processing PAWW's GRC filing AL 64, filed September 19, 2011, for an increase of \$69,980 or 29.77% over revenues at current rates of \$235,108. If its GRC is approved as filed, PAWW estimates a net income of \$58,905, shown on page 2 of the workpapers attached to its GRC.

### **C. Financing Request**

PAWW seeks authorization to borrow \$120,000 from financial institutions to fund the installation of a security gate and fence around its tanks and wells; replacement of 340 feet of 2" main with 6" main; installation of two fire hydrants; completion of the Whiskey Shoals well, and other miscellaneous water plant additions.<sup>2</sup> According to PAWW, the security gate and fence is necessary to comply with the requirements of the California Department of Public Health due to the easy access of the water system to the downtown area of the City of Point Arena. The replacement of 340 feet of 2" for 6" main line and fire hydrants are necessary to ensure adequate fire flows while maintaining minimum pressures required by the California Waterworks Standards. The Whiskey Shoals well requires the construction of a pump house and other pumping equipment replacements.

PAWW is in the process of contacting financial institutions to request a long-term loan of \$120,000. PAWW will choose the financial institution that will provide the best terms to obtain the loan. PAWW believes it can get a long-term loan for a period of five years at an interest rate between 6% and 7% per year. PAWW will execute and issue a promissory note and deed of trust to the financial institution that will best serve its financing requirements.

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<sup>2</sup> The security gate and fences were originally to be funded by the proceeds of the loan authorized in Res. W-4659, but were not constructed due to the cost overrun of the water mains project.

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

#### D. Construction Budget

PAWW's projected construction budget, as shown in Schedule A in its AL, is shown in the following table.

Security Gate and Fence	\$ 47,000
Replace 340 Feet of 2" Main with 6" Main	42,000
Two Fire Hydrants	5,000
Whiskey Shoals Well Improvements	9,000
Miscellaneous Equipment	<u>5,000</u>
Total Estimated Construction Costs	\$108,000
Contingency and Loan Fees	<u>12,000</u>
<b>Total</b>	<b><u>\$120,000</u></b>

#### E. Cash Requirements Forecast

PAWW's estimated cash requirements forecast, as shown in Schedule H of its AL, is shown in the following table.

Funds for Construction	\$120,000
Bonds, Notes Retirement	0
Existing Long-Term Debt Repayment	<u>46,080</u>
Total Cash Requirements	\$166,080
Less: Estimated Cash Provided from Internal Sources	<u>46,080</u>
<b>Funds Required from External Sources</b>	<b><u>\$120,000</u></b>

## F. Capital Structure

PAWW's recorded capital structure as of December 31, 2010 and the proforma capital structure, as shown in Schedule G of its AL, is shown in the following table.

**Table 6**  
**Capital Structure**

	<u>Recorded</u>		<u>Adjustments</u>		<u>Proforma</u>	
Long-term debt	\$103,737	37.85%	\$ 80,677 <sup>(A)</sup>	\$184,414	45.32%	
Total Equity	<u>170,315<sup>(B)</sup></u>	<u>62.15%</u>	<u>52,148<sup>(C)</sup></u>	<u>222,463</u>	<u>54.68%</u>	
<b>Total Capitalization</b>	<b><u>\$274,052</u></b>	<b><u>100.00%</u></b>	<b><u>\$132,825</u></b>	<b><u>\$406,877</u></b>	<b><u>100.00%</u></b>	

- (A) Issuance of \$120,000 requested in this filing less the amount of \$39,323 of existing long-term debt to be retired.
- (B) Recorded Total Equity is composed of \$120,000 Common Stock, \$48,865 Other Paid-in Capital, (\$60,009) Retained Earnings, and \$61,459 Advances from Shareholders.
- (C) Estimated net revenues for 2011 of \$58,905 based on PAWW's current GRC filing less 2011 interest expense on existing long-term debt of \$6,757.

## **NOTICE AND PROTESTS**

PAWW served AL 65 on November 29, 2011 in accordance with General Order 96-B to adjacent utilities and persons on the general service list. No protests were received by the Division or by PAWW. Notice of AL 65 was made by publication in the Commission's Daily Calendar of December 2, 2011.

## **DISCUSSION**

As a public utility, PAWW must maintain its quality of service, provide adequate water flow for fire protection, and provide necessary improvements to its present water system.

Consequently, PAWW proposes to secure its \$120,000 funds requirement from a lender or financial institutions. 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.

PAWW's proposed plant additions fall within the scope of § 817 and would be a proper use of funds under § 817. We repeat herein, that according to PAWW, the security gate

and fences project, which was included in the funding authorized in Res. W-4659, were not completed due to the cost overrun for the water main project and for additional studies and plans required by the City. We will not make a finding in this Resolution on the reasonableness of PAWW's proposed construction program. Construction plans, expenditures and the resulting plant balances in rate base are issues that are normally addressed in general rate cases.

The construction of the planned improvements and the issuance of the proposed debt will increase PAWW's assets and capitalization. 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 herein, PAWW's proposed loan would be for the purpose of constructing and improving its water system, which falls within the scope of purposes in § 817. Moreover, PAWW'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. PAWW'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 set forth herein, we will authorize PAWW to obtain a loan in the amount of \$120,000 to fund its system improvements and additions and to encumber its assets in connection with the loan.

Before it includes the capital costs discussed in this Resolution in rate base, PAWW should file an advice letter once the additions to plant, financed by the debt authority granted in this Resolution, have been completed. This subsequent filing will be subject to reasonableness review and the Commission's approval.

### **ENVIRONMENTAL IMPACT**

The California Environmental Quality Act (CEQA) applies to projects that require discretionary approval from a governmental agency, unless exempted by statute or other regulations. It is long established that the act of ratemaking by the Commission is exempt from CEQA review. As stated in the California Public Resources Code, the "establishment, modification, structuring or approval of rates, tolls, fares, or other charges by public agencies" is exempt from CEQA.<sup>3</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>4</sup>

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

PAWW 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, PAWW'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>3</sup> Public Resources Code Section 21090(b) (8).

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

## **REPORTING REQUIREMENT**

General Order 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, PAWW should file with the DWA's UAFCB the reports required by General Order 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 \$240.<sup>5</sup> PAWW must issue a check payable to the California Public Utilities Commission and remit the payment to the Commission's Fiscal Office before it can enter into the loan discussed in this Resolution.

## **COMMENTS**

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

## **FINDINGS**

1. PAWW, a California corporation, is a Class D water utility subject to the jurisdiction of this Commission.
2. PAWW is responsible for maintaining its quality of service and providing necessary improvements to its water system.
3. PAWW claims that due to the cost overrun associated with the water mains project, it was not able to construct the security gate and fences project with the proceeds of the debt authorized in Res. W-4659.
4. As shown in its cash requirements forecast, PAWW needs \$120,000 in funding for its construction project.

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<sup>5</sup> The fee is assessed on \$120,000 of authorized borrowing as follows: \$2 times (\$120,000/\$1,000) equals \$240.

5. The proposed borrowing is for proper purposes.
6. PAWW must comply with all environmental permitting requirements applicable to the construction and improvements that it will undertake in conjunction with this filing.
7. In Res. F-616, the Commission specifically exempts debt issues of \$20 million or less from its Competitive Bidding Rule.
8. General Order 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.
9. 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.
10. Notice of the filing appeared on the Commission's Daily Calendar on December 2, 2011. No protests have been received.
11. The fee for this financing authority as required by § 1904(b) is \$240.

### **CONCLUSIONS OF LAW**

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

5. PAWW should be authorized to execute a loan agreement and encumber its property to secure the debt authorized herein so long as the debt is to be used solely for the purposes specified in Table 4 of this Resolution.
6. The loan authorization herein is not a finding of the reasonableness of PAWW's proposed construction or expenditures, the resulting capital structure, or the cost of money, neither does it approve of matters subject to review in a general rate case or other proceedings.
7. This Resolution does not authorize any capital expenditures or construction projects. Construction projects which PAWW intends to finance via this filing should undergo CEQA review as early as feasible in the planning process, as required by CEQA Guidelines Section 15004(b).
8. PAWW's proposed loan is exempt from the Commission's Competitive Bidding Rule.
9. It is PAWW's responsibility to abide by and comply with any applicable environmental regulations for any capital improvement undertaken using the debt authorized herein.
10. Consistent with § 824, PAWW should maintain records to (i) identify the specific long-term debt issued pursuant to this Resolution, and (ii) demonstrate that the proceeds from such debt have been used only for the purposes authorized herein.

**THEREFORE, IT IS ORDERED** that:

1. Point Arena Water Works, Inc. is authorized to borrow \$120,000 from financial institutions upon terms and conditions substantially consistent with those set forth or contemplated in Advice Letter 65 and schedules attached thereto; to encumber utility assets to secure the loan; and to use the loan proceeds for the capital improvements described in the body of this order.
2. Point Arena Water Works, Inc. shall file with the Division of Water and Audit's Utility Audit, Finance and Compliance Branch copies of the loan agreement and loan related documents within 15 days of execution.
3. Point Arena Water Works, Inc. shall not use the proceeds authorized by this Resolution to begin the construction of capital projects until Point Arena Water Works, Inc. has obtained construction permits and any required environmental review under the California Environmental Quality Act.

4. Point Arena Water Works, Inc. is exempt from the Commission's Competitive Bidding Rule for the debt authorized herein.
5. Point Arena Water Works, 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.
6. On or before the 25<sup>th</sup> day of each month, Point Arena Water Works, 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 requirement shall terminate.
7. The authority granted by this Resolution shall become effective when Point Arena Water Works, Inc. pays \$240 as required by Public Utilities Code § 1904(b). Point Arena Water Works, Inc. must issue the check payable to the California Public Utilities Commission and remit the payment to the Commission's Fiscal Office.
8. This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 12, 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