

TELCO/RHG

Decision 02-06-040 June 27, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CAL-ORE)	
TELEPHONE COMPANY U-1006-C, for an Order)	
Authorizing it to Issue Notes in an Amount not)	Application 02-01-005
Exceeding \$6,711,750, and to Execute a Related)	(Filed January 2, 2002)
Agreement and Supplemental Security Instruments.)	
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)	

OPINION

Summary of Decision

This decision grants Cal-Ore Telephone Co. (Cal-Ore) the authority requested in Application (A.) 02-01-005.

Cal-Ore requests authority pursuant to §§ 818 and 851 of the Public Utilities (PU) Code to enter into a loan agreement with the Rural Utilities Service (RUS) and the Rural Telephone Bank (RTB) and to issue notes in an amount not exceeding \$6,711,750.

The proceeds of the issuance are to be used for expansion and improvement of Cal-Ore’s facilities.

Notice of the filing of the Application appeared on the Commission’s Daily Calendar of January 10, 2002. No protests have been received.

Background

Cal-Ore, a California corporation, is a public utility under the jurisdiction of this Commission, and provides telephone services to portions of Siskiyou and Modoc Counties, and the cities of Dorris and Tulelake, California. The property owned by Cal-Ore and devoted to telephone services is comprised of pole lines, wire, cable, lands, easements, central office equipment, buildings and other pertinent equipment necessary for the rendition of telephone service.

Pursuant to the Application, Cal-Ore has experienced and is experiencing an increasing demand for higher grades and greater quantity of telephone services provided by it. This demand requires the expansion and improvement of its facilities.

Pursuant to its Income Statement for the fiscal year ended June 30, 2001, shown as Exhibit B to the Application, Cal-Ore reported total operating revenues of \$4,633,982 and net income before taxes of \$1,332,395.

Cal-Ore's Balance Sheet at June 30, 2001, shown also as part of Exhibit B, is summarized as follows:

<u>Assets and other Debits</u>	<u>Amount</u>
Current Assets	\$ 2,847,283
Non-current Assets	3,442,055
Net Property, Plant, and Equipment	<u>5,631,122</u>
Total	<u><u>\$11,920,460</u></u>
 <u>Liabilities and other Credits</u>	
Current Liabilities	\$ 696,214
Long-term Debt	3,235,870
Other Liabilities	173,472
Stockholders' Equity	<u>7,814,904</u>
Total	<u><u>\$11,920,460</u></u>

Description of Financing

Cal-Ore seeks authority to enter into a loan agreement with RUS and RTB for \$6,711,750. Cal-Ore has previously made long-term secured borrowings from the United States of America, acting through the RUS (formerly the Rural Electrification Administration) and from the RTB¹.

The proposed loan will be secured by previously executed mortgages and supplemental mortgages of substantially all of Cal-Ore's property to the RUS and the RTB, as previously authorized by the Commission and will be subject to documentation

¹ Decision 87-06-023 dated June 15, 1987 for \$875,700.

substantially similar to that which is attached as Exhibit C to the Application, changed only in the manner, if any, required for compliance with the published rules of the U.S.

Department of Agriculture.

Cal-Ore further proposes that it will issue a mortgage note or notes (Mortgage Note) in substantially the same form as the Mortgage Note found in Exhibit C to the Application, subject only to similar required form changes, to provide for the long-term borrowing by Cal-Ore of a principal amount not exceeding \$6,711,750 in the aggregate. To effect this transaction, Cal-Ore will execute an amendment to the existing loan agreement between it and the RUS and RTB (Telephone Loan Contract Amendment). The terms of the Telephone Loan Contract Amendment, as mandated by Federal regulations, will require Cal-Ore to purchase shares of Class "B" stock of the RTB in the same manner as previously approved by the Commission. As set forth in the Telephone Loan Contract Amendment and the Mortgage Note, money shall be advanced to Cal-Ore from time to time after the execution of the Mortgage Note.

Each advance under the Mortgage Note will bear interest at various rates, which shall be determined by terms set forth in the Mortgage Note. There is not a stated rate of interest for the RUS and the RTB's subsidized loans to telephone companies. Instead, the applicable rate of interest for advances under RUS and RTB loans is determined on the date of each advance and is essentially equal to the U.S. Government's cost of funds. The rates so determined are generally and consistently much lower than rates available from private and commercial lenders. The Commission has long recognized this differential and its advantage to Cal-Ore and Cal-Ore's subscribers. Pursuant to the Telephone Loan Contract, as amended, Cal-Ore is obligated from time to time to execute supplemental mortgages and other security instruments in favor of Cal-Ore's secured lenders.

Cal-Ore requests that it be authorized to continue to execute and deliver from time to time such supplemental mortgages and other security instruments as may be required by the terms of its Telephone Loan Contract, and to execute and deliver such Telephone Loan Contract or other extension agreements as may be required in the future to permit the further advance of funds under the Telephone Loan Contract.

Environmental Impact

The Application states that Cal-Ore seeks Commission approval to enter into a loan transaction as required by §§ 818 and 851 of the PU Code, and that the purpose of the funds sought is to expand and improve its facilities. In particular, Cal-Ore indicates additions and improvements which include: 1) service to approximately 431 new subscribers; 2) construction of two new fiber routes from the Macdoel and Dorris central offices to points of interconnection with other local exchange carriers; 3) replacement of buried copper plant in the Dorris and Macdoel exchanges and addition of line extensions; and 4) addition of fiber termination equipment in the Dorris and Macdoel central offices.

The California Environmental Quality Act (Public Resources Code Section 21000, et seq., hereafter “CEQA) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities. (CEQA Guideline Section 15002).

The Commission must issue a discretionary decision without which the proposed project activities cannot proceed (i.e., the Commission must act on §§ 818 and 851 application), thus the Commission must act as either a Lead or Responsible Agency under CEQA. Generally, the Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guideline Section 15051(b).)

In this instance, the County of Siskiyou (County) is the Lead Agency for the proposed project. The County prepared an Initial Study and approved a Mitigated Negative Declaration for the project in March 2002. A Notice of Determination approving the project and adopting the mitigation measures required by the Initial Study/Mitigated Negative Declaration was filed with the State Clearinghouse on May 7, 2002.

The Commission is a responsible Agency for the project under CEQA. CEQA requires that a Responsible Agency consider the Lead Agency’s Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b).) The specific activities that must be conducted by a Responsible Agency are contained in CEQA Guideline Section 15096.

We have reviewed and considered the Initial Study/Mitigated Negative Declaration prepared by the County and find that these documents are adequate for our review. The

County identified potential environmental impacts resulting from the project related to erosion, surface water quality, dust control, the spread of noxious weeds, wetland habitat degradation, hazardous substance release, fire hazard, maintenance of public roads, paleontological resources, and archaeological resources. For each identified potential impact, the County adopted a mitigation measure that reduced the impact to a less than significant level, and identified a specific implementing agency and monitoring agency to ensure that the mitigation was performed in accordance with the specified timing.

We find that the County adopted feasible mitigation measures are reasonable and we adopt the mitigation measures as fully described in the County’s mitigation and monitoring program for purposes of our approval.

Construction Budget

Cal-Ore’s estimated construction budget for calendar years 2002, 2003, and 2004, included as supplemental data to the Application, are as follows:

	(\$ in 000)		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Distribution improvements	5,000	2,000	500
Other equipment	<u>80</u>	<u>0</u>	<u>0</u>
Total	<u>5.080</u>	<u>2,000</u>	<u>500</u>

Cash Requirements Forecast

Cal-Ore's estimated cash requirements forecast for 2002 through 2004 are summarized as follows:

	(\$ in 000)		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Funds for Construction	5,080	2,000	500
Estimated Cash Available from Internal Sources	<u>500</u>	<u>700</u>	<u>900</u>
Additional Funds from External Sources	<u>4,580</u>	<u>1,300</u>	<u>0</u>

Cal-Ore's cash requirements forecast indicates that internally generated funds will provide approximately \$2,100,000 or 27.7% of its total cash requirements of \$7,580,000 for years 2002 through 2004. The requested \$6.7 million debt is necessary to help Cal-Ore meet majority of its forecasted cash requirements.

Capital Ratios

Cal-Ore's capital ratios as of June 30, 2001, submitted as supplemental information to the Application, are presented below as recorded and adjusted to give pro forma effect to the proposed \$6.7 million loan and estimated retained earnings of \$1.2 million for years 2002 through 2004:

	<u>Recorded</u>		<u>Pro Forma</u>	
	(\$000)	%	(\$000)	%
Long-Term Debt	3,236	29.3	9,936	52.4
Common Equity	<u>7,815</u>	<u>70.7</u>	<u>9,015</u>	<u>47.6</u>
Total Capitalization	<u>11,051</u>	<u>100.0</u>	<u>18,951</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.

Use of Proceeds

Cal-Ore states in the Application that it will require up to an additional \$6,711,750 to pay for additions and improvements to plant to: 1) serve approximately 432 new subscribers; 2) construct two new fiber routes from the Macdoel and Dorris central offices to points of interconnection with other local exchange carriers; 3) replace buried copper plant in the Dorris and Macdoel exchanges and to add line extensions; and 4) add fiber termination equipment in the Dorris and Macdoel central offices.

Cal-Ore believes that it is not in a position nor is it prudent or in the best interest of subscribers to finance all of its large program out of its current earnings or resources when below market rate interest loans are available from the RUS and the RTB.

Cal-Ore's proposed project is consistent with its provision of telecommunications services as a public utility. Because long-term borrowings from the RUS and the RTB represent a much lower cost of capital than either equity or other forms of debt, it is beneficial to both utility and customers. However, the Commission does not by this decision determine that the proposed use of the loan proceeds, including the construction budget, the cash requirements forecasts, and the capital structure presented herein, are necessary or reasonable for ratemaking purposes.

In Resolution (Res.) ALJ 176-3080 dated January 23, 2002, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. No formal 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 176-3080.

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

We approve Cal-Ore's Application in this order.

Findings of Fact

1. Cal-Ore is a public utility subject to the jurisdiction of this Commission.
2. Cal-Ore needs external funds for the purposes set forth on page 7 of this order.
3. The proposed loan is for proper purposes and would not be adverse to the public interest.
4. The Commission does not by this decision determine that the proposed use of the loan proceeds, including the construction budget, the cash requirements forecasts, and the capital structure presented herein are necessary or reasonable for ratemaking purposes.
5. The execution of a Telephone Loan Contract Amendment and supplemental mortgages would not be adverse to the public interest.
6. The County of Siskiyou is the Lead Agency for the proposed project under the CEQA.
7. The County prepared an Initial Study/Mitigated Negative Declaration for the proposed project in March 2002, and filed a Notice of Determination approving the project and adopting mitigation measures on May 27, 2002.
8. The Commission is a Responsible Agency for the proposed project under CEQA.
9. We find that the County adopted feasible mitigation measures to reduce all potential environmental impacts to less than significant levels proper and we adopt the mitigation measures described in the County's mitigation and monitoring program for purposes of our approval.
10. Notice of the Filing of the Application appeared on the Commission's Daily Calendar of January 10, 2002. There is no known opposition and there is no reason to delay granting the authority requested.

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. The money, property, or labor to be procured or paid for by the loan proceeds is to be used solely for the purposes specified on page 7 of this order. The proceeds may not be charged to operating expenses or income.
4. Cal-Ore should pay the fee determined in accordance with § 1904(b) of the PU Code.
5. The following order should be effective on the date of signature.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, Cal-Ore Telephone Company (Cal-Ore), upon terms and conditions consistent with those described at pages 2 and 3 of this decision, is authorized to enter into a Telephone Loan Contract Amendment with the Rural Utilities Service (RUS) and the Rural Telephone Bank (RTB) in principal amount not exceeding \$6,711,750, and to execute and deliver the Mortgage Note and supplemental mortgages of Cal-Ore's properties.
2. Cal-Ore shall apply the proceeds of the loan for the purposes described at page 7 of this decision.
3. Cal-Ore shall file with the Commission's Telecommunications Division copies of the Telephone Loan Contract Amendment, the Mortgage Note, and supplemental mortgages within thirty (30) days of execution.
4. On or before the 25th day of each month, Cal-Ore shall file the reports required by General Order Series 24.
5. The authority granted by this order shall become effective when Cal-Ore pays \$7,712 as required by § 1904(b) of the Public Utilities Code.
6. Application 02-01-005 is granted as set forth above.
7. Application 02-01-005 is closed.

A.02-01-005 TELCO/RHG

This order is effective today.

Dated June 27, 2002, at San Francisco, California.

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