

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Empire)
Electric Association, Inc. for Approval of) DOCKET NO. 07-025-01
Financing) REPORT AND ORDER APPROVING
) ISSUANCE OF SECURITIES
)

ISSUED: December 7, 2007

SYNOPSIS

No detriment to the public interest appearing, the Commission granted the authority sought by the Applicant with certain conditions.

By the Commission:

PROCEDURAL HISTORY

On October 16, 2007, Applicant Empire Electric Association, Inc., filed an application seeking authority pursuant to *Utah Code Ann.* § 54-4-31 to issue certain securities in the form of a long-term Restated Mortgage and Security Agreement (“Loan Agreement”) resulting in receipt of a loan from the Rural Utilities Service and the National Rural Utilities Cooperative in the amount of approximately \$9,680,000 (the “Loan”).

Applicant has submitted copies of the relevant documents, certified and verified pursuant to the Application, and other information to establish the facts pertinent to the Application.

On November 20, 2007, the Division of Public Utilities filed a memorandum detailing its investigation of the Application and recommending approval of the same.

BACKGROUND AND DISCUSSION

The Loan is to be made through the Loan Agreement attached to the Application and is to be funded by the federal Rural Utilities Service, Federal Financing Bank which is an agency of the U.S. Department of Agriculture. The interest rate on the Loan will be established at the time of the individual draws and will be based upon the official interest rate published by the U.S. Treasury on the date of the Loan withdrawal pursuant to Title 7 of the Code of Federal Regulations or by the Secretary of the Treasury. Applicant can choose to “lock-in” the rate that would be expected to approximate the 30-year Treasury bond yield at the time of the draw, or can take a rate for a lesser term which will be periodically repriced. Applicant currently estimates that the interest rate will be approximately 5 percent per annum for these loans. The loans made under the Loan Agreement will mature in 35 years.

The Division notes the Applicant, which has total access to financial information about its operations and budgets, has conducted an evaluation and has concluded that the proposed loan is the most beneficial financing option available to Applicant. Applicant’s Board of Trustees has approved the proposed transaction. Based upon financial statements supplied by Applicant, the Division concludes Applicant has been financially stable for the last three or four years and has been able to meet its financial obligations. Based upon these considerations, the Division recommends the Commission approve the Application.

Since no meritorious opposition has been raised, and Applicant has made out its *prima facie* case in support of the Application, there appears no reason to convene an evidentiary

hearing on the matter. Accordingly, the Commission, having been fully advised in the premises, enters the following Report, containing Findings of Fact, Conclusions of Law, and the Order based thereon.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Applicant is a public utility subject to the jurisdiction of this Commission.
2. The Commission has jurisdiction over the Application pursuant to the provisions of § 54-4-31, UCA 1953, as amended.
3. It is in the public interest to convert this matter to an informal proceeding, pursuant to § 63-46b-4(3), UCA 1953, as amended.
4. Applicant has requested Commission authority to issue certain securities in the form of a long-term Loan Agreement resulting in receipt of a loan from the Rural Utilities Service and the National Rural Utilities Cooperative in the amount of approximately \$9,680,000. The interest rate on the Loan will be established at the time of the individual draws and will be based upon the official interest rate published by the U.S. Treasury on the date of the Loan withdrawal pursuant to Title 7 of the Code of Federal Regulations or by the Secretary of the Treasury. Applicant can choose to “lock-in” the rate that would be expected to approximate the 30-year Treasury bond yield at the time of the draw, or can take a rate for a lesser term which will be periodically repriced. Applicant currently estimates that the interest rate will be approximately 5 percent per annum for these loans. The loans made under the Loan Agreement will mature in 35 years.

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5. Execution and delivery of the Loan Agreement as described herein is in the public interest.

6. Pursuant to Rule 746-110-2, good cause exists to waive the 20-day tentative period for an order issued in an informally adjudicated proceeding. Accordingly, this order will become effective on the date of issuance.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. This matter be, and it is, converted to an informal proceeding pursuant to §63-46b-4(3), UCA 1953, as amended.

2. Applicant Empire Electric Association, Inc., is hereby authorized to execute and to secure the Restated Mortgage and Security Agreement in the amount of approximately \$9,680,000, on substantially the same terms and conditions set forth in this Report and Order.

3. Applicant is hereby authorized to execute and deliver such documents and take such actions as may be reasonably necessary or convenient to the completion of the Restated Mortgage and Security Agreement.

4. Nothing in this Order shall be construed to obligate the State of Utah to pay or guarantee in any manner whatsoever any securities authorized, issued, assumed, or guaranteed hereunder.

5. The authority granted herein is effective the date of this Order.

Pursuant to Utah Code §§63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission

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within 30 days after the effective date of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code §§63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 7th day of December, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#55495