

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Flowell)
Electric Association, Inc. for Authority to) DOCKET NO. 10-027-01
Issue Securities in the form of a Secured)
Promissory Note and Related Documents) ORDER
)

ISSUED: August 17, 2010

SYNOPSIS

The Commission grants the uncontested request for authority to issue securities in the form of a secured promissory note.

By The Commission:

PROCEDURAL HISTORY

On June 11, 2010, Flowell Electric Association, Inc. ("Flowell") filed a Verified Application for Approval of Issuance of Securities ("Application") pursuant to *Utah Code Ann.* § Section 54-4-31, seeking authority to issue securities in the form of a Secured Promissory Note to the National Rural Utilities Cooperative Finance Corporation ("CFC") in an amount up to \$2,000,000 ("Secured Promissory Note"), and to enter into and deliver other documents, agreements and arrangements reasonably incident to the same. Additionally, Flowell requests the Commission to adjudicate its Application informally, pursuant to Utah Administrative Code R746-110-1 et seq. Flowell 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.

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On July 15, 2010, the Division of Public Utilities (“Division”) filed a memorandum detailing its investigation of the Application and recommending approval of the same. On July 29, 2010, the Division filed a supplemental memorandum correcting a misunderstanding reflected in its original memorandum, providing a revised analysis, and maintaining its recommendation for approval of the Application.

BACKGROUND AND DISCUSSION

According to the Application, Flowell’s Board of Directors has determined Applicant should enter into a Secured Promissory Note for up to \$2,000,000 to provide long-term financing to complete planned public utility work projects for the foreseeable future. Advances under the Secured Promissory Note will carry terms of up to 35 years and will, at Flowell’s option, bear interest at a CFC Fixed Rate or a CFC Variable Rate, available and in effect from time to time. Payments will be due quarterly. The Secured Promissory Note, along with existing long-term debt of nearly \$1.6 million and a revolving line of credit of up to \$1 million, will continue to be secured by a Restated Mortgage and Security Agreement dated November 11, 2008, as authorized by the Commission’s Order issued October 7, 2008, in Docket 08-027-01, covering virtually all of Flowell’s assets. Flowell’s Board of Directors has approved the proposed transaction.

Having reviewed financial statements supplied by Flowell, the Division concludes Flowell has been financially stable for the last five years, has been able to meet its financial obligations and will be able to remain profitable with the increased debt. Based upon these considerations, the Division recommends the Commission approve the Application.

Flowell has presented a legally sufficient case in support of the Application. Moreover, the Application is unopposed and uncontested. Accordingly, there appears no reason to convene an evidentiary hearing, and this proceeding is designated an informal adjudicative proceeding.

Having reviewed the Application, and the Division recommending approval, and finding approval of the Application to be warranted, the Commission enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Flowell is a public utility subject to the jurisdiction of this Commission.
2. The Commission has jurisdiction over the Application pursuant to the provisions of Utah Code Ann. § Section 54-4-31.
3. It is in the public interest to handle this matter as an informal adjudicative proceeding pursuant to Utah Code Ann. § 63G-4-202 and Utah Administrative Code R746-110-1.
4. Following a duly-noticed board meeting, Flowell's Board of Directors determined that Flowell should enter into a Secured Promissory Note for up to \$2,000,000 to provide a means of long-term financing to complete planned public utility work projects for the foreseeable future. Advances under the Secured Promissory Note will carry terms of up to 35 years and will, at Flowell's option, bear interest at a CFC Fixed Rate or a CFC Variable Rate, available and in effect from time to time. Payments will be due quarterly.

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5. Flowell requests authority to execute and deliver to CFC a Loan Agreement in an amount up to \$2,000,000, in substantially the form attached to the Application as Exhibit "B," a Secured Promissory Note, in an amount up to \$2,000,000 in substantially the form attached to the Application as Exhibit "C," and other related documents requested by CFC, including a UCC-1 Financing Statement. The Secured Promissory Note, along with all of Flowell's other obligations to CFC, will be secured by an existing Restated Mortgage and Security Agreement in favor of CFC.
6. Execution and delivery of the Loan Agreement, Secured Promissory Note and other documents as described herein should be approved, as recommended by the Division. The Commission, however, makes no finding concerning the reasonableness of the terms of the ensuing financial transactions.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. This matter is designated an informal adjudicative proceeding pursuant to Utah Code Ann. § 63G-4-202 and Utah Administrative Code R746-110-1.
2. Flowell is authorized to execute the Loan Agreement, Secured Promissory Note and other documents discussed above on substantially the same terms and conditions set forth in this Order.

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3. Applicant is authorized to execute and deliver such documents and take such actions as may be reasonably necessary or convenient for the completion of the above-stated documents.
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. Pursuant to Utah Administrative Code R746-110-2, the authority granted herein shall become effective twenty (20) days after the date of this Order. Any person may file a protest prior to its effective date. If the Commission finds the protest to be meritorious, the effective date shall be suspended pending further proceedings. Absent a meritorious protest, this Order shall automatically become effective without further action twenty days from the date hereof. This order shall be served by the Applicant upon the Division of Public Utilities and the Office of Consumer Services, who are the persons deemed by the Commission to have an interest or potential interest in the subject matter, and no further public notice shall be required.
6. Pursuant to Utah Code §§ 63G-4-301 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 within 30 days after the effective date of this 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

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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 Judicial Review within 30 days after final agency action. Any Petition for Judicial Review must comply with the requirements of Utah Code §§ 63G-4-401 and 63G-4-402.

DATED at Salt Lake City, Utah, this 17th day of August, 2010.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#67890