

**PROPOSED DRAFT ORDER**

**- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -**

In the Matter of the Application of Dixie-Escalante Rural Electric Association, Inc. for Authority to Issue Securities in the form of a Loan Agreement and Secured Promissory Note	<u>DOCKET NO. 16-066-01</u>  <u>REPORT AND ORDER</u>
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ISSUED: \_\_\_\_\_

By the Commission:

PROCEDURAL HISTORY

On July \_\_, 2016, Applicant Dixie-Escalante Rural Electric Association, Inc. filed a Verified Application seeking authority pursuant to § 54-4-31 to issue certain securities and to execute certain documents in the form of a Loan Agreement with and a Secured Promissory Note to the National Rural Utilities Cooperative Finance Corporation in an amount up to \$20,000,000, the proceeds of which will be used primarily to help finance the construction of new transmission and distribution infrastructure, buildings and related facilities, and to enter into and delivery such other documents, agreements and arrangements as may reasonably be necessary or incident to the Loan. The Application was supported by sworn statements in the Verified Application of Applicant’s Chief Financial Officer Chery Hulet and by documents submitted in connection with the Application.

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Applicant requested Informal Adjudication of the Application in accordance with Rule R746-110, *Utah Administrative Code*, and represented that the matter was anticipated to be unopposed and uncontested. Applicant also requested final approval within thirty days, if feasible, in order to meet the lender's timing requirements. In light of its board's approval of the proposed transaction at a duly-noticed public meeting, Applicant further asked the Commission to determine that no additional public notice of this proceeding is required under Rule R746-110-2.

Applicant has submitted copies of relevant documents, certified and verified pursuant to the Application, and other information to establish the facts pertinent to the Application. On \_\_\_\_\_, 2016, the Division of Public Utilities filed a memorandum detailing its investigation of the Application and recommending approval of the same.

BACKGROUND AND DISCUSSION

According to the Application, Applicant is in the midst of a capital-intensive program to add and replace necessary transmission, distribution and business infrastructure to accommodate load growth in southern Utah. The Applicant has represented that the proceeds of the proposed loan will be used, along with other sources of capital, to construct infrastructure reasonably

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necessary to enable Applicant to continue to satisfy its obligation to provide its members with safe, affordable and reliable utility services, now and in the future. According to the Application, the proposed loan will be secured by a lien against virtually all of Applicant's assets, advances under the Loan will carry a term of no more than forty (40) years, advances will bear interest, at Applicant's option, at available fixed or variable rates, and payments will be due quarterly.

The Division notes that the Applicant, which has complete access to financial information about its operations and budgets, has conducted an evaluation and has concluded that the proposed Loan is a beneficial financing option available to Applicant. Applicant's Board of Directors has approved the proposed Loan. Based upon financial statements supplied by Applicant, the Division concludes that Applicant has been financially stable for many 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.

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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 *Utah Code Ann.* § 54-4-31.
3. It is appropriate under Rule 746-110 and in the public interest that this Application be adjudicated as an informal proceeding pursuant to *Utah Code Ann.* § 63G-4-201.
4. Applicant has requested Commission authority to issue certain securities in the form of a Loan Agreement with and a Secured Promissory Note to the National Rural Utilities Cooperative Finance Corporation in amounts up to \$20,000,000. The loan will be secured by a lien against virtually all of Applicant's assets under the terms of an existing Restated Mortgage and Security Agreement and existing UCC-1 Financing Statements in favor of the National Rural Utilities Cooperative Finance Corporation. Advances under the loan will carry a term of no more than forty (40) years and will bear interest, at Applicant's option, at fixed rates available for similar loans based on the lender's policies then in effect or at variable rates established by the lender for similar variable interest rate long-term loans. Payments will be due quarterly.

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5. Execution and delivery of the Loan Agreement and Secured Promissory Note by Applicant to the National Rural Utilities Cooperative Finance Corporation as described herein is in the public interest.

6. In light of the approval of the Loan by Applicant's board at a duly-noticed public meeting, no additional public notice of this proceeding is required under Rule R746-110-2.

7. 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 final and effective on the date of issuance.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. This matter be adjudicated as an informal proceeding in accordance with Rule 746-110-1 and *Utah Code Ann.* § 63G-4-201.

2. Applicant Dixie-Escalante Rural Electric Association, Inc., is hereby authorized to execute and to deliver to the National Rural Utilities Cooperative Finance Corporation the Loan Agreement and the Secured Promissory Note discussed above on substantially the same terms and conditions set forth in this Report and Order.

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3. Applicant is hereby authorized to execute and deliver such other documents and take such other actions as may reasonably be necessary or convenient to the completion of the above-stated transaction.

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.

DATED at Salt Lake City, Utah, \_\_\_\_\_, 2016.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance 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 does not grant a request for review or rehearing within 20 days after the filing of the request, 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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.