

Proposed Draft Order

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. _____
Dixie-Escalante REA, dba Dixie Power)	
("Dixie") for Approval to Issue)	Report and Order
Securities in the form of Loan)	
Documents and/or Promissory Note(s))	
Under the Paycheck Protection Program)	
Pursuant to the Coronavirus Aid, Relief,)	
And Economic Security Act or CARES Act)	
)	

ISSUED: _____

By the Commission:

PROCEDURAL HISTORY

On April 9th, 2020, Applicant Dixie-Escalante REA, dba Dixie Power ("Dixie") filed a Verified Application seeking authority pursuant to § 54-4-31 to issue certain securities and to execute certain documents in the form of loan documents and promissory note(s) in an amount up to \$1,746,067 in connection with a loan pursuant to the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act ("CARES Act").

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.

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 on or before April 15, 2020, if feasible, in order to access emergency Paycheck relief funds as provided and contemplated by the CARES Act in response to the COVID-19 crisis. In light of its board's unanimous approval of the proposed transaction, 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 _____, 2020, the Division of Public Utilities filed a memorandum recommending approval of the same.

BACKGROUND AND DISCUSSION

According to the Application, in response to the unprecedented COVID-19 emergency, the United States Congress enacted the CARES Act, providing, among other things, the Paycheck Protection Program ("PPP") which authorizes forgivable government-guaranteed loans to small businesses to pay their employees during the COVID-19 crisis.

The PPP loan amounts will be forgiven and will not have to be repaid as long as:

- The loan proceeds are used to cover Paycheck costs, and most mortgage interest, rent, and utility costs over the 8-week period after the loan is made; and
- Employee and compensation levels are maintained.

Applicant states it has experienced dramatically reduced price(s) and demand for electric generation produced from ongoing operations, most likely attributable to the dramatic effect of the COVID-19 crisis. Applicant anticipates it will continue to experience depressed demand and price(s) for power and energy sold to its members in its service area, which Applicant normally relies upon to maintain stable, affordable rates and charges for its electricity provided to its members.

To help address and maintain stable operations during the COVID-19 emergency, and to ensure continued retention of employees, Applicant has been authorized by the unanimous approval of its Board of Trustees, representing each of its six distribution co-operative members, to apply for and procure the PPP Loan in the maximum amount of 2.5 times Applicant's average monthly Paycheck expenses as set forth pursuant to the CARES Act.

Applicant states that all proceeds of the PPP Loan will be used exclusively for permitted uses provided pursuant to the CARES Act, primarily including Paycheck and related qualifying employee compensation/benefits, qualifying utility expenses, mortgage and interest payments.

Applicant states it anticipates that, aided in part by virtue of the PPP Loan proceeds, it will retain and maintain approximately the equivalent average workforce through the period identified in the CARES Act to qualify for full or nearly full forgiveness of the PPP Loan amount.

Applicant states that all amounts due and owing for borrowed funds under the PPP Loan are expected to become due and payable two (2) years after the loan advance occurs; amounts borrowed under the PPP Loan will bear interest at the rate(s) set forth by the U.S. Treasury Department and/or the Small Business Administration in accordance with regulations promulgated or guidance otherwise issued pursuant to the CARES Act.

Applicant states that the PPP Loan will be unsecured and that amounts borrowed under the PPP Loan may be repaid and/or prepaid at any time without penalty.

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 PPP Loan, and that Applicant anticipates it will qualify for loan forgiveness with respect to substantially all amounts borrowed under the PPP Loan. 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 *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 Promissory Note(s) in an amount up to \$1,746,067 under the PPP Loan Program.

5. Execution and delivery of the PPP Loan Promissory Note(s) and related loan documents as described herein is in the public interest.
6. In light of the approval of the PPP Loan by unanimous consent of Applicant's board of trustees representing all of its member systems, and consent of Applicant's secured creditor, 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 is hereby authorized to execute and to deliver one or more Promissory Note(s) pursuant to the PPP Loan Program of the CARES Act, discussed above on substantially the same terms and conditions set forth in this Report and Order.
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, _____, 2020.

/s/ _____, Chair

/s/ _____, Commissioner

/s/ _____, Commissioner

Attest:

/s/ _____,
Commission Secretary

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.