

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Application of Flowell)
Electric Association, Inc. for Authority to Issue)
Securities in the form of Secured Promissory)
Notes for Long-Term Loans)

DOCKET NO. 01-027-01
REPORT AND ORDER

ISSUED: December 26, 2001

By The Commission:

INTRODUCTION

On November 29, 2001, Applicant Flowell Electric Association, Inc. ("Flowell") filed a Verified Application ("Application") seeking authority pursuant to *Utah Code Ann.* § 54-4-31 to issue certain securities and to execute documents reasonably incident thereto. Flowell requested Informal Adjudication of the Application under R746-110, *Rules of the Public Service Commission*, and represented that the matter was anticipated to be unopposed and uncontested. Flowell also requested Commission determination as to the required service or public notice of this proceeding under R746-110-2, *Rules of the Public Service Commission*.

FINDINGS OF FACT

1. Flowell is a rural electric cooperative that provides electric services at retail to its members/owners in the State of Utah.
2. Flowell is a public utility subject to the jurisdiction of this Commission under the laws of the State of Utah.
3. Pursuant to a Board Resolution dated July 11, 2001, Flowell's Board of Directors authorized Flowell to borrow up to a maximum of \$1,600,000 over the next five years in long-term loans under CFC's "Power Vision" program.
4. In accordance with the Board Resolution, Flowell intends to execute a Loan Agreement ("Loan Agreement") with CFC in an amount up to \$1,600,000 ("Maximum Loan Amount"), and Secured Promissory Notes ("Notes") to reflect the Loans. Each advance against the Maximum Loan Amount will be reflected in a separate Note.
5. The Notes are to be secured by a lien against virtually all of Flowell's assets under the terms of the Restated Mortgage and Security Agreement between Flowell and CFC dated as of October 16, 1996, as supplemented, amended, consolidated or restated from time to time.
6. Under the Loan Agreement, Flowell may, upon advance approval by its Board of Directors, request advances against the Maximum Loan Amount for a period of five years from the date the Loan Agreement is executed. In connection with each advance, Flowell may elect a repayment term (not to exceed 40 years), fixed or variable interest rates available at the time from CFC for similarly classified loans, and to amortize the loan through quarterly principal payments or to make interest-only payments. Flowell may prepay any Note in whole or in part and may convert to different available fixed or variable interest rates.
7. The Board of Directors of Flowell has approved the Loans and related transactions as in the best interests of Flowell and its members/ratepayers. The purpose of the Loans is to provide a ready source of long-term financing as needed for future electric facilities and related long-term needs of Flowell that are consistent with its Articles, Bylaws and applicable laws and regulations.
8. Flowell has or will have sufficient operating margins to service any additional debt incurred pursuant to the Notes and

Loan Agreement. Under the Loan Agreement, Flowell will generally be required by CFC to maintain a Debt Service Coverage Ratio of at least 1.35 and Equity of at least 20% of Total Assets.

9. The proposed Loans and related transaction are for lawful objects within Flowell's proper corporate purposes, are compatible with the public interest, are necessary or appropriate for or consistent with the proper performance by Flowell of its services as a public utility, and will not impair Flowell's ability to perform those services.

10. In a Memorandum dated December 18, 2001, the Division of Public Utilities recommended approval of the Application.

CONCLUSIONS OF LAW

1. Flowell is a public utility subject to the jurisdiction of this Commission.
2. All legal and factual prerequisites and requirements for the issuance of this Order have been satisfied.
3. Flowell has represented that the requested transaction has been approved by its Board of Directors following proper notice.
4. Issuance by Flowell of the proposed securities as described herein is in the public interest. As a result, Flowell should remain in a strong position to provide reliable, reasonably priced services to consumers.
5. Issuance by Flowell of the proposed securities and security interests is for lawful and proper purposes, within Flowell's corporate powers, consistent with the public interest, sound financial practices, and the proper performance of Flowell's public service, and is designed to enhance and not impair Flowell's ability to perform its public services.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. Flowell is hereby authorized to issue the proposed securities and take the proposed actions described in this Report and Order, or on other terms and conditions substantially consistent with this Report and Order.
2. Flowell is hereby authorized to issue securities pursuant to *Utah Code Ann.* § 54-4-31 and to grant security interests in the amounts, for the purposes and in the forms as explained herein and as described in Flowell's Application and documents submitted therewith, including a Loan Agreement with CFC in an amount up to \$1,600,000 and Secured Promissory Notes with a principal balance of \$1,600,000. No portion of the proceeds of these notes may be used for utility operations or assets outside of Flowell's service area.
3. Flowell is hereby authorized to execute such documents and take such actions as may be reasonably necessary or convenient for the completion of the transactions described herein.
4. Pursuant to R746-110-2, *Rules of the Public Service Commission*, this Report and Order is tentative in form and shall not be effective until twenty days after its date of issuance as specified above. A copy of this Report and Order shall be served upon the parties hereto and any other person who has previously requested a copy of such Commission Orders. No additional service or public notice is required under R746-110-2, *Rules of the Public Service Commission*. Any person may file a protest to this Report and Order prior to its effective date. If the Commission finds any such protest to be meritorious, the effective date of this Report and Order shall be suspended pending further proceedings. Absent meritorious protest prior to the effective date, this Report and Order shall be effective and a Final Order without further action twenty days after issuance.
5. Nothing in this Order shall be constructed to obligate the State of Utah to pay or guarantee in any manner whatsoever any securities authorized, issued, assumed, or guaranteed hereunder.

DATED at Salt Lake City, Utah, this 26th day of December, 2001

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

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