COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR APPROVAL OF THE AUTHORITY TO ISSUE UP TO $300,000,000 OF SECURED PRIVATE PLACEMENT DEBT AND / OR SECURED TAX EXEMPT BONDS AND FOR THE USE OF INTEREST RATE MANAGEMENT INSTRUMENTS	)	CASE NO. 2018-00115

ORDER

On March 27, 2018, East Kentucky Power Cooperative, Inc. (EKPC) filed an application for authorization to issue up to $300 million in secured private placement debt, secured tax-exempt bonds, or some combination thereof, and authorization to enter into interest-rate management agreements in an effort to control its overall interest costs (Application).[1] On May 24, 2018, the Commission issued an order extending the statutory application period an additional 60 days and simultaneously issued Requests for Information (Staff's First Request) to investigate the Application further. On June 25, 2018, Commission Staff issued its Second Request for Information (Staff's Second Request). EKPC responded to Staff's Second Request on July 2, 2018, and indicated, among other things, that it was withdrawing its request for authority to issue tax-exempt bonds and to enter into interest rate management agreements.[2] Thus, the only issue in

[1] Application at 1.

[2] Staff's Second Request, Item 1.

this matter is whether to authorize EKPC to issue up to $300 million in secured private placement debt.

EKPC is a generation and transmission cooperative that provides wholesale electric service to 16 member distribution cooperatives who, in turn, provide retail electric service to its customers. EKPC typically uses its unsecured Credit Facility and operating cash flow to provide funding for construction projects until it qualifies for Rural Utilities Service (RUS) or other long-term financing.[3] The Credit Facility bears a variable interest rate of LIBOR + 0.95% and has a maturity date of July 6, 2021.[4] As of March 23, 2018, the Credit Facility had a rate of 2.83%, but that rate reflects an 80% increase since December 2016.[5]

EKPC is expecting increased capital expenditures over the next several years. EKPC stated that it will be funding a $260 million CCR/ELG project at the Spurlock plant in Maysville, which was approved in Case No. 2017-00376.[6] EKPC also stated that it currently has plans for a backup fuel oil project at the bluegrass facility in Oldham County that will cost approximately $60 million with a completion date in 2020.[7] Finally, EKPC stated that its base capital expenditures have averaged $75 million over the last five years.[8] Thus, EKPC expects that its capital expenditures over the next five years,

[3] Staff's First Request, Item 1.

[4] Application at 3.

[5] Staff's First request, Item 4.

[6] Staff's First Request, Item 1.

[7] *Id.*

[8] *Id.*

including the CCR/ELG project and the back-up fuel oil project, will be about $155 million per year on average.[9]

EKPC acknowledged that the majority of its capital projects could eventually be funded through the RUS. However, EKPC represented that some projects are not practical to finance through RUS. Moreover, due to the long process of obtaining RUS funds after construction is complete, EKPC indicated that an increase in Treasury rates during that period could result in RUS financing at rates higher than those which EKPC could obtain through the current private placement market, even with the favorable spreads that RUS offers.[10]

EKPC stated that it planned to use the proceeds from the proposed private placement issuance "to reduce borrowings under Applicant's unsecured Credit Facility, to fund capital expenditures associated with the construction of utility plant, and for general corporate purposes."[11] However, EKPC indicated that the purpose of the loans was to reduce the balance of its Credit Facility.[12] It stated that, "[s]ince money is fungible, EKPC specifies 'general corporate purposes' to establish with the lenders that this financing would not be tied to any specific project."[13]

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[9] *Id.*

[10] Staff's First Request, Item 1.

[11] Application at 3.

[12] *See* Staff's First Request, Item 7 ("The proceeds of the financing requested herein are expected to be used to reduce EKPC's Credit Facility balance."); Staff's First Request, Item 4 ("EKPC's (sic) intends to use this financing to pay down some, if not all, of the existing unsecured Credit Facility balance.").

[13] Staff's First Response, Item 7.

EKPC stated that by paying down its unsecured Credit Facility with the proceeds of the private placement issuance, it will lock in a favorable fixed interest rate.[14] EKPC noted that the Federal Reserve is expected to increase rates another two to three times in 2018 and stated that it sees the requested private placement as an opportunity to exchange some, if not all, of the short-term debt on the Credit Facility with secured long-term debt while long term rates remain advantageous.[15] EKPC also stated that paying down the Credit Facility would ensure liquidity necessary for capital projects and other working capital due to delays in RUS and other long-term financing and that the liquidity would, in turn, assist EKPC in maintaining its credit rating.[16]

The proposed private placement debt will be issued under an existing Indenture of Mortgage, Security Agreement and Financing Statement executed on October 11, 2012, between the EKPC and U.S. Bank National Association, as Trustee, as supplemented and amended.[17] The private placement debt is to be sold by auction, through underwriters or agents, or by direct placement with commercial banks or institutional investors. The proposed private placement debt would have a fixed interest rate that will not exceed 3.0 percent of the yield to maturity of United States Treasury Bonds of a comparable maturity at the time of issuance, including the effect of any fees and expenses

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[14] Staff's First Request, Item 4.

[15] *Id.*

[16] *Id.* at Item 4 and 5; *See also Id.* at Item 1; (indicating the importance of liquidity to credit rating agencies).

[17] *Id.* at Exhibit 1, pg. 1; Staff's First Request, Item 8; *see also* Case No. 2012-00249, *Application of East Kentucky Power Cooperative, Inc. for Approval to Obtain a Trust Indenture*, Final Order (Ky. PSC Aug. 9, 2012).

associated with the offering of the private placement debt.[18] Each issuance of private placement debt will have a maturity date that will not exceed 30 years from the date of issuance.[19]

Due to volatility in credit markets, EKPC stated that it did not know with certainty what rates it would receive and the term that would be most advantageous.[20] However, EKPC stated that:

> Given current treasury rates and indications from our banking partners, all-in financing is expected to be in the range of 4.0% to 4.5% for amortizing structures with a 15- to 18-year weighted average life and a 30-year final maturity.[21]

EKPC seeks authority to issue the proposed private placement debt at a time or times when it believes it is prudent to do so, subject to parameters approved by the Commission. EKPC is not seeking approval to issue $300 million in private placement debt on a revolving basis.[22] EKPC did not propose any limit on the period during which it could issue the proposed private placement and stated that it did not believe that a deadline was necessary given the modest amount for which approval was requested as compared to its total assets.[23] However, EKPC stated that it would be reasonable for the Commission to limit its authority to issue the proposed private placement debt from the

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[18] Application at Exhibit 1, pg. 1 (indicating the limit on the interest rate proposed by EKPC); Staff's First Request, Item 9 ("Any private placement issuance would have a fixed interest rate.").

[19] Application at Exhibit 1, pg. 1.

[20] Staff's First Request, Item 11(a); Staff's Second Request, Item 10(b).

[21] Staff's Second Request, Item 11(a).

[22] Staff's Second Request, Item 9(a).

[23] *Id.*at Item 9(b).

date of any order herein through December 31, 2019, and argued that a longer period would provide it flexibility if markets were volatile, unsettled, or otherwise challenging during the initial offering.[24]

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds, subject to the conditions set forth herein, that the issuance of up to $300 million in secured private placement debt as proposed by EKPC is for lawful objects within EKPC's corporate purposes, is necessary and appropriate for and consistent with the proper performance of its service to the public. Furthermore, the Commission finds that it will not impair EKPC's ability to perform that service, is reasonably necessary and appropriate for such purpose, and should therefore be approved, provided that EKPC abides by the limits set forth in its Application and responses to request for information. However, the Commission finds that it would be unreasonable for it to authorize the issuance of the private placement debt for an unlimited period as requested by EKPC given that circumstances might change making the issuance of debt inappropriate, and therefore, the Commission finds that authorization to issue the proposed private placement debt shall only be valid through December 31, 2019.

IT IS THEREFORE ORDERED that:

1. EKPC's Application is approved, subject to the conditions set forth herein, to the extent it requested authority to issue up to $300 million in secured private placement debt.

[24] *Id.*; *see also* Staff's Second Request, Item 5 (in which EKPC indicates it expects to complete the offering by December 31, 2019).

2. EKPC's Application is denied as moot to the extent it requested authority to issue any secured tax-exempt bonds or to enter into interest rate management agreements based on EKPC's withdrawal of its request for such authority.

3. EKPC is authorized to issue up to $300 million in secured private placement debt in one or more transactions from the date of this Order through December 31, 2019.

4. The proceeds from the secured private placement debt authorized herein shall be used only for the lawful purposes set out in EKPC's Application.

5. EKPC shall agree only to such terms and conditions for the secured private placement debt that are consistent with those terms and conditions set out in EKPC's Application, including but not limited to the following terms and conditions:

a. All secured private placement debt shall have a fixed interest rate;

b. The interest rates on all secured private placement debts, including any fees and expenses associated with the offering of the private placement debt, shall not exceed 3.0 percent of the yield to maturity of United States Treasury Bonds of a comparable maturity at the time of issuance; and

c. The maturity date on any secured private placement debt shall not exceed 30 years.

6. Within 30 days of the date of issuance of any debt authorized herein, EKPC shall file with the Commission a statement setting forth the date or dates of the issuance(s), the proceeds of such issuance(s), the interest rate(s); the maturity date(s), and all fees and expenses incurred by EKPC in the issuance of the any and all such debt. The statement shall further include a detailed explanation as to how the interest rate(s) chosen represent the most reasonable interest rate available at the time of issuance.

7. Any documents filed in the future pursuant to finding paragraph 6 shall reference this case number and shall be retained in the utility's general correspondence file.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

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By the Commission

ENTERED

JUL 24 2018

KENTUCKY PUBLIC SERVICE COMMISSION

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