

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR AUTHORITY)	CASE NO.
PURSUANT TO KRS 278.300 TO ISSUE AND)	2023-00029
SELL PROMISSORY NOTES OF ONE OR MORE)	
SERIES AND FOR OTHER AUTHORIZATIONS)	

ORDER

On February 13, 2023, Kentucky Power Company (Kentucky Power) filed an application pursuant to KRS 278.300 for authority to issue and sell promissory notes of one or more series through December 31, 2023 (Notes). Specifically, Kentucky Power requested the authority to issue indebtedness and engage in financings in the amount up to \$550,000,000, which will consist of the refinancing of \$150,000,000 Term Loan due June 17, 2023; the refinancing of a \$150,000,000 Term Loan due December 31, 2023; the refinancing a \$125,000,000 Term Loan due December 31, 2023; and the issuance of up to \$125,000,000 in new unsecured promissory notes for its general corporate purposes. There are no intervenors. Kentucky Power requested the Commission enter an Order no later than April 1, 2023, because an Order by that date would enable Kentucky Power to obtain advantageous financing terms and conditions. This case now stands submitted for a decision based on the evidentiary record.

LEGAL STANDARD

KRS 278.300 requires Commission approval before a utility may “issue any securities or evidence of indebtedness or assume any obligation or liability in respect to

the securities or evidence of indebtedness of any other person.”¹ The legal standard contained in KRS 278.300(3) establishes the purview of Commission review, stating:

The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

Additionally, KRS 278.300(8) establishes that KRS 278.300 does not apply if the proposed issuance of securities or indebtedness is payable at periods of not more than two years from the issuance date and any renewals of such notes do not exceed six years from the initial issuance date.

BACKGROUND

Kentucky Power is seeking authority to issue indebtedness and engage in financings in an amount not to exceed \$550,000,000. Currently, Kentucky Power has three existing term loans: \$150,000,000 that matures June 17, 2023; \$150,000,000 that matures December 31, 2023; and \$125,000,000 that matures December 31, 2023.² The proposed financings will consist of up to \$125,000,000 in new unsecured promissory notes for its general corporate purposes.³ The general corporate purposes of the financing include the construction, acquisition, and upgrade of environmental, generation, transmission, distribution, technology, and communication facilities. Kentucky Power

¹ KRS 278.300(1).

² Application, paragraph 6.

³ Application, paragraph 6.

stated that the proceeds will be used for ordinary extensions of existing systems and may be used for projects requiring a certificate of public convenience and necessity.⁴

Kentucky Power noted that the utility lacks remaining long-term and short-term financing authorization sufficient to replace the three terms loans.⁵ Further, Kentucky Power requested authority to issue indebtedness and engage in financing prior to the closing of the transfer of Kentucky Power to Liberty Utilities Co.⁵

Kentucky Power committed that each series of notes will mature in not less than nine months and not more than 60 years. Kentucky Power also stated that the Notes will be sold by competitive bidding, through negotiation with underwriters or agents in private placement offerings, or by direct placement with a commercial bank or another institutional investor. Kentucky Power stated the interest rate of the Notes may be fixed or variable, whichever is advantageous at the time of the issuance and sale of the Notes.⁶ The interest rates will be subject to the following limits: (1) any fixed rate of interest will be at a yield to maturity which will not exceed 500 basis points of the yield to maturity on United States Treasury bonds of comparable maturity at the time of pricing; and (2) any initial fluctuating rate of interest on Notes will not exceed 8 percent per annum at the time of issuance.⁷ Kentucky Power further noted that any specific redemption provision will be

⁴ Application, paragraph 9.

⁵ Application, paragraph 8.

⁵ See Case No. 2021-00481, *Electronic Joint Application of American Electric Power Company, Kentucky Power Company, and Liberty Utilities Co. for Approval of the Transfer of Ownership and Control of Kentucky Power Company* (Ky. PSC May 4, 2022).

⁶ Application, paragraph 11.

⁷ Application, paragraph 12.

agreed upon at the time of the pricing.⁸ Kentucky Power also requested to issue one or more Notes to American Electric Power Company, Inc. (AEP) or to any entity owning directly or indirectly all the outstanding common stock. Associated interest rates and maturity dates will parallel the cost of capital to AEP.⁹

Kentucky Power requested authority to decide at a later date whether there will be more than one series and the maturity of each series of Notes.¹⁰ Kentucky Power stated that present market conditions make it difficult to determine whether it would be more beneficial to sell its Notes with a 60-year maturity date or Notes with a shorter maturity date. Thus, having the flexibility to adjust their financings program to developments in the markets for medium- and long-term debt securities so that when they occur, it allows for the best possible prices, interest rates, and terms for its Notes.¹¹

Kentucky Power stated that the Notes will be issued in compliance with all applicable indenture and other standards relating to such securities and capitalization ratios for Kentucky Power and that the actual cost will be determined at the time of the sale(s). Further, within 30 days, Kentucky Power will file a verified statement with the Commission disclosing the date(s) of issuance, the price paid, the interest rate, and the purchasers.¹² Kentucky Power will also file an estimate of all fees and expenses related

⁸ Application, paragraph 12.

⁹ Application, paragraph 13.

¹⁰ Application, paragraph 15.

¹¹ Application, paragraph 15.

¹² Application, paragraphs 18 and 22.

to the cost of issuance of the Notes of which is estimated to be approximately \$2,750,000.¹³

Kentucky Power further requested authorization, in connection with the issuance of the Notes, to enter into one or more interest rate hedging agreements. Such hedging agreements include but are not limited to treasury lock agreements, forward-starting interest rate swaps, treasury put options or interest rate collar agreements (Treasury Hedge Agreement), and protect against future interest rates changes.¹⁴ Kentucky Power also requested authorization to enter into one or more Interest Rate Management Agreements because these arrangements allow for sufficient alternatives and flexibility to reduce its effective interest cost and manage interest cost on financings.¹⁵ All such interest rate techniques will be accounted for in accordance with generally accepted accounting principles.¹⁶

DISCUSSION AND FINDINGS

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the authorization to issue and sell promissory notes of one or more series in the aggregate amount of \$550,000,000 and the authorization to enter into Treasury Hedge Agreements and Interest Rate Management Agreements are for lawful objects within the corporate purposes of Kentucky Power's utility operations, which is to provide adequate, efficient and reasonable service at fair, just and reasonable rates, in

¹³ Application, paragraph 19..

¹⁴ Application, paragraph 24.

¹⁵ Application, paragraph 26.

¹⁶ Application, paragraph 27.

accordance with KRS 278.300. The proposed financing are for lawful objects within the utility's purpose because it will be used to strengthen Kentucky Power's financial position through favorable financing options as market conditions permit and to construct new facilities and improve existing facilities. Additionally, the Commission finds that the Notes are necessary and appropriate for, and consistent with, the proper performance of Kentucky Power's service to the public and will not impair Kentucky Power's ability to perform that service. The proposed financing will provide Kentucky Power with greater flexibility in financing options, to refund existing debt as market conditions permit, and to purchase or construct new facilities and improve Kentucky Power's existing utility plant. The financing is reasonably necessary and appropriate for such purposes because the Notes will replace terms loans that are maturing and are for the construction, acquisition, and upgrade of environmental, generation, transmission, distribution, technology, and communication facilities needed to provide adequate, efficient and reasonable service.

IT IS THEREFORE ORDERED that:

1. Kentucky Power is authorized to issue and sell promissory notes of one or more series in the aggregate amount of \$550,000,000 for the purpose of refinancing the \$125,000,000 Term Loan maturing June 17, 2023; the refinancing of a \$150,000,000 Term Loan due December 31, 2023; the refinancing a \$125,000,000 Term Loan due December 31, 2023; and to issue other securities in the amount of \$125,000,000 for its general corporate purposes.

2. Kentucky Power 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 Kentucky Power's application.

3. Kentucky Power is authorized to enter into Treasury Hedge Agreements and Interest Rate Management Agreements as described in the application.

4. Kentucky Power is authorized to determine the subsequent date of whether there will be more than one series, and the maturity of each series of Notes.

5. The proceeds from the transaction authorized in this Order shall be used for the lawful purpose set out in the application.

6. Kentucky Power shall file, within 30 days from the date of issuance, with the Commission a statement setting forth the date or dates of issuance of the securities authorized herein, the date of maturity, the price paid, and proceeds of such issuances, the interest rate, costs or gains from the use of hedging agreements, and all fees and expenses, including underwriting discounts, commissions, or other compensations involved in the issuance and distribution. Kentucky Power shall also file documentation showing the quotes that it relied upon to determine the lowest interest rates.

7. All documents filed pursuant to ordering paragraph 6 of this Order shall reference the number of this case and shall be retained in the post case correspondence file.

8. This case is closed and removed from the Commission's docket.

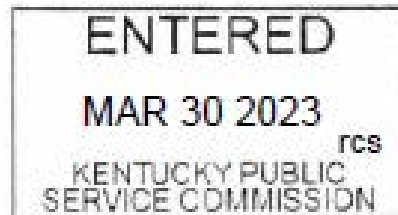
Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


Executive Director

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