

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SALT RIVER ELECTRIC)
COOPERATIVE CORPORATION FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY PURSUANT TO KRS 278.020(1) AND) CASE NO. 2000-342
807 KAR 5:001, SECTION 9 AND RELATED)
SECTIONS, AUTHORIZING CERTAIN PROPOSED)
CONSTRUCTION AND ASSOCIATED CAPITAL)
OUTLAY)

O R D E R

On July 3, 2000, Salt River Electric Cooperative Corporation ("Salt River") submitted an application requesting a certificate of public convenience and necessity for its 2000-2002 construction work plan. Salt River proposes to finance the construction through the issuance of notes, 70 percent to the United States of America, Department of Agriculture, Rural Utilities Service ("RUS") and 30 percent to the National Bank for Cooperatives ("CoBank"). Salt River requests a determination that its proposed issuance of indebtedness to "CoBank" is not subject to Commission approval under KRS 278.300(1) because the transaction is subject to the supervision and control of a federal agency, and thus exempt pursuant to KRS 278.300(10). Alternatively, Salt River requests that if the exemption in KRS 278.300(10) is determined to be inapplicable, the Commission grant approval of its proposed financing.

The Commission's authority to regulate financing transactions is set forth in KRS 278.300. KRS 278.300(1) provides that:

No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect

to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.

Specifically excluded from that jurisdiction under KRS 278.300(10) are financings that are subject to the supervision and control of the federal government or an agency thereof. Salt River claims that the financing from “CoBank” falls within this exemption because the financing is subject to the supervision and control of RUS. However, Salt River has provided the Commission with no evidence to support its claim.

CoBank is an institution of the Farm Credit System established under Section 413 of the Agricultural Credit Act of 1987 and is federally chartered. However, it is organized and operated on a cooperative basis¹ and as such is owned by its cooperative members. It is authorized to make loans and commitments under such terms and conditions as its board of directors may deem feasible. The board of directors consists of three members elected by the voting shareholders of the bank.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that:

1. Salt River’s financing with CoBank does not fall within the financing exception provided in KRS 278.300(10).
2. Salt River’s application does not meet the minimum filing requirements for approval of its proposed financing with CoBank. Absent adequate information supporting its proposed financing, Salt River’s application remains deficient, and the Commission cannot make a reasoned determination concerning Salt River’s request for approval of financing. Therefore, the Commission has determined that the application

¹12 U.S.C. § 2141(c).

of Salt River should be rejected and the statutory period in which the Commission must render its decision in the matter should not commence until Salt River has met the minimum filing requirements for financing.

IT IS THEREFORE ORDERED that:

1. The application submitted for filing by Salt River on July 3, 2000 is rejected.
2. Salt River shall file all documents required to meet the minimum filing requirements for approval of its proposed financing with CoBank.
3. Salt River may, at its option, pursue its request for a certificate of public convenience and necessity on its proposed 2000-2002 construction work plan separate and apart from its request for approval of financing by moving the Commission, in writing, to accept the certificate component of the application submitted and filing a separate proceeding for approval of financing.

Done at Frankfort, Kentucky, this 28th day of July, 2000.

By the Commission

ATTEST:


Executive Director