

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SALT RIVER ELECTRIC	)	
COOPERATIVE CORPORATION (1) FOR AN ORDER	)	
PURSUANT TO KRS 278.300 AND 807 KAR 5:001,	)	
SECTION 11 AND RELATED SECTIONS, AUTHORIZING	)	
THE CORPORATION TO BORROW AN AMOUNT NOT	)	
TO EXCEED \$4,334,000.00 FROM THE NATIONAL BANK	)	CASE NO.
FOR COOPERATIVES AND (2) FOR A CERTIFICATE OF	)	2001-192
CONVENIENCE AND NECESSITY PURSUANT TO KRS	)	
278.020 (1) AND 807 KAR 5:001, SECTION 9 AND	)	
RELATED SECTIONS, AUTHORIZING CERTAIN	)	
PROPOSED CONSTRUCTION AND ASSOCIATED	)	
CAPITAL OUTLAY	)	

O R D E R

On July 19, 2001,<sup>1</sup> Salt River Electric Cooperative Corporation (“Salt River”) filed its application for authority to issue notes in total amount not to exceed \$5,758,620.00.<sup>2</sup> Seventy percent of the total amount, \$4,030,000, is to be issued to the United States of America, Department of Agriculture, Rural Utilities Service (“RUS”), and thirty percent of the total amount, \$1,728,120, is to be issued to the National Bank for Cooperatives (“CoBank”). Salt River intends to use the proceeds of these notes to finance the projects contained in its 1996-1999 Work Plan, which was approved by the Commission

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<sup>1</sup> Salt River originally submitted its application to the Commission on June 22, 2001. Deficiencies were cited, and Salt River cured those deficiencies with the filing made on July 19, 2001.

<sup>2</sup> In Response 2(a) to the First Data Request of Commission Staff, dated August 6, 2001, Salt River explained that the amount requested in the application included a typographical error, and the correct requested amount should be \$5,758,120.

on December 12, 1996.<sup>3</sup> RUS approved its loan to Salt River by letter dated January 24, 2001 and CoBank approved its loan by letter on February 1, 2001.

Salt River's proposed issuance of notes is part of a larger effort to finance its 1996-1999 Work Plan projects. In Case No. 96-442, the Commission approved Salt River's request to borrow \$2,606,364 from CoBank. Salt River styled the current case in the same manner as Case No. 96-442 in order to reflect that this case is an additional filing relating to the 1996-1999 Work Plan. Therefore, there is a discrepancy between the amount reflected in the style, and the amount for which Salt River is seeking approval in this case.

The proposed issuance of notes from CoBank will be for a 35-year term. The loan will be secured by a Restated Mortgage and Security Agreement previously executed by and between Salt River, RUS, and CoBank. The interest rate may be either fixed or variable, depending on the lowest-cost interest rate options offered at the time the loan is drawn.

Salt River states in its application that the notes issued to RUS and CoBank are exempt from Commission regulation pursuant to KRS 278.300(10). The Commission's jurisdiction to approve evidences of indebtedness is set forth in KRS 278.300. Specifically excluded from that jurisdiction under KRS 278.300(10) are financings that are subject to the control of a federal agency such as RUS. Therefore, the Commission

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<sup>3</sup> Case No. 96-442, The Application of Salt River Electric Cooperative Corporation (1) For an Order Pursuant to KRS 278.300 and 807 KAR 5:001, Section 11 and Related Sections, Authorizing the Corporation to Borrow an Amount Not to Exceed \$4,334,000.00 from the National Bank for Cooperatives and (2) For a Certificate of Convenience and Necessity Pursuant to KRS 278.020(1) and 807 KAR 5:001, Section 9 and Related Sections, Authorizing Certain Proposed Construction and Associated Capital Outlay, by Interim Order dated December 12, 1996.

agrees with Salt River that Commission approval is not required for the RUS loan. However, the Commission is not persuaded by Salt River's contention that the financing from CoBank also falls within the exemption of the Commission's financing authority under KRS 278.300(10). Salt River asserts that the CoBank loan is exempt because RUS's regulation, supervision and control extend to a supplemental lender such as CoBank. However, it has failed to produce any evidence to support its contention other than it is required to obtain, and first draw funds from, a concurrent loan from CoBank. Salt River stated in response to the First Data Request of Commission Staff<sup>4</sup> that it is unaware of any statutory authority that would extend RUS's regulation, supervision and control to CoBank. Based on the evidence, the Commission declines to extend the jurisdictional exemption to the CoBank loan. The Commission, after consideration of the evidence of record and being sufficiently advised, finds that:

1. The loan from CoBank in the amount of \$1,728,120 requires Commission approval, is for lawful objects within the corporate purposes of Salt River, is necessary and appropriate for and consistent with the proper performance by the utility of its service to the public, will not impair its ability to perform that service, is reasonable, necessary and appropriate for such purposes, and should be approved.

2. Salt River is capable of executing its notes as security for the loan as stated herein.

3. Salt River should select the interest rate program that will result in the net lowest cost of money over the term of the financing.

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<sup>4</sup> See Salt River's response to Item 4 of the First Data Request of Commission Staff, dated August 6, 2001.

4. Within 10 days of its selection of the interest rate program, Salt River should notify the Commission in writing of the interest rate program selected and of the reasons for its selection.

5. The proceeds from the proposed loans should be used only for the lawful purposes set out in Salt River's application.

6. Salt River should include in its monthly financial report to the Commission the current interest rate on its outstanding variable rate loans.

7. As the issuance of securities or evidences of indebtedness subject to the control of a federal governmental agency does not require Commission approval, KRS 278.300(10), and as the RUS is an agency of the federal government, no action on Salt River's proposed loan from the RUS is required.

IT IS THEREFORE ORDERED that:

1. Salt River is authorized to borrow \$1,728,120 from CoBank for a 35-year period bearing either a fixed or variable rate, as chosen by Salt River at the time the first monies are drawn from CoBank, subject to the provisions and terms of the application with respect to renegotiation of the interest.

2. Salt River is authorized to execute its notes as security for the loan authorized herein.

3. Salt River shall comply with all matters set out in Findings 3 through 6 as if they were individually so ordered.

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.

Done at Frankfort, Kentucky, this 6<sup>th</sup> day of September, 2001.

By the Commission

ATTEST:

  
Executive Director