COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR AUTHORITY PURSUANT TO KRS 278.300 TO ISSUE AND SELL PROMISSORY NOTES OF ONE OR MORE SERIES AND FOR OTHER AUTHORIZATIONS	)))))	CASE NO. 2021-00131

O R D E R

On March 19, 2021, Kentucky Power Company (Kentucky Power) filed an application pursuant to KRS 278.300 for authority to issue and sell promissory notes in one or more series through December 31, 2022. Kentucky Power further requests the authority to issue indebtedness and engage in financings in an amount up to $350 million consisting of: $110 million for its general corporate purposes; the refinancing of the $40 million 7.25 percent Senior Notes, Series A, due 2021; the refinancing of a $125 million Term Loan due in 2022; and the refinancing of a $75 million Variable Rate Local Bank Facility Program due in 2022. There are no intervenors in the case. The case stands submitted on the record for a decision.

APPLICABLE LAW

KRS 278.300 requires Commission authorization before a utility may "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."[1] KRS 278.300(3) clarifies the scope of Commission review and states:

[1] KRS 278.300(1).

> The Commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and 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..

As discussed more fully below, the Commission finds that Kentucky Power should be authorized to issue securities in the aggregate amount of $350 million for the purpose of: refinancing of the $40 million 7.25 percent Senior Notes, Series A, due 2021; refinancing of the $125 million Term Loan due 2022; refinancing of the $75 million Variable Rate Local Bank Facility Program due 2022; and to issue other securities in the amount of $110 million for its general corporate purposes.

BACKGROUND AND DISCUSSION

Kentucky Power proposes to employ up to $110 million of the financing proceeds for general corporate purposes which will include: construction; acquisition; upgrade environmental; generation; transmission; distribution; technology; and communication facilities.[2]

Kentucky Power has not allocated the proceeds to specific projects, but states that the proceeds will be used for ordinary extensions of the existing system in the usual course of business and may be used for projects requiring a certificate of public convenience and necessity. Kentucky Power states it will seek all necessary authority

[2] Application, Exhibit D.

before commencing construction of a project or facility requiring approval under KRS 278.020.[3]

Kentucky Power states in the application that if approved by the Commission, it will issue and sell, in one or more transactions periodically through December 31, 2022, up to $350 million of the aggregate principal amount of unsecured promissory notes in one or more new series (Notes). Kentucky Power states that the Notes may be issued in the form of Senior Notes and in no event will the amount of the Notes issued in the transaction exceed the principal amount of $350 million. Kentucky Power anticipates issuing the first of the Senior Notes in June 2021.[4]

Kentucky Power commits that each series of notes will mature in not less than nine months and not more than 60 years; 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 states the interest rate of the Notes may be fixed or variable as determined to be most advantageous at the time of the issuance and the sale of the Notes. The interest rates will be subject to the following limits (1) any fixed rate of interest will be at a yield to maturity which shall 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 the Notes will not exceed 8 percent per annum at the time of issuance.[5]

Kentucky Power may agree to specific redemption provisions, if any, including

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[3] *Id.* at paragraph 7.

[4] *Id.* at paragraph 8.

[5] *Id.* at paragraph 10.

redemption premiums, at the time of the pricing. If redemption premiums are deemed advisable, the Notes may be provided some form of credit enhancement, including but not limited to a letter of credit, standby purchase agreement, or surety bond.[6]

Kentucky Power may issue one or more Notes to American Electric Power Company, Inc. (AEP), or to any entity owning directly or indirectly all of the outstanding common stock of Kentucky Power. The interest rates and maturity dates of any such borrowings will be designed to parallel the cost of the capital of AEP and will comply with any applicable laws or regulations.[7]

Kentucky Power may agree to restrictive covenants, which would prohibit it from, among other things (1) creating or permitting to exist any liens on its property, with certain stated exceptions; (2) creating indebtedness except as specified therein; (3) failing to maintain a specified financial condition; (4) entering into certain mergers, consolidations and dispositions of assets; and (5) permitting certain events to occur in connection with pension plans. In addition, Kentucky Power may permit the holder of the Notes to require the Company to prepay them after certain specified events, including an ownership change.[8]

Kentucky Power has requested authority to issue these Notes through December 31, 2022, so that it may assess market conditions to determine the most advantageous terms for Kentucky Power and its customers. Kentucky Power seeks flexibility in its financing program to take advantage of developments in the markets for medium- and

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[6] *Id.*

[7] *Id*. at paragraph 11.

[8] *Id*. at paragraph 12.

long-term debt securities in order to obtain the best possible price, interest rate, and terms for the Notes in the public interest. Therefore, Kentucky Power requests authorization to determine at a subsequent date whether there will be more than one series, and on the maturity of each series of the Notes. Kentucky Power may agree to specific redemption provisions, if any, at the time of the pricing of the Notes.[9]

The Notes may be issued under Indenture either new or under an existing Indenture dated September 1, 1997, with the Bank of New York Mellon Trust Company, National Association, as successor to Deutsche Bank Trust Company Americas, as Trustee, or any eligible and qualified Successor, as supplemented from time to time by one or more company orders or similar documentation.[10] Kentucky Power estimates that the issuance costs for the Notes will be approximately $1.75 million.[11]

Kentucky Power may purchase any outstanding securities through a tender offer, negotiated, open market, or other forms of purchase or otherwise by means other than redemption if they can be refunded at a lower cost. Any purchase of the outstanding securities may be undertaken only if the premiums being paid would be offset by interest expense savings. Kentucky Power seeks to treat the premiums as an expense of the Notes and that it would be amortized over the life of the Notes. Kentucky Power intends to utilize deferred tax accounting for the premium expense to match properly the amortization of the expense and the related tax effect.[12] Kentucky Power has not

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[9] *Id.* at paragraph 13.

[10] *Id.*, Exhibits A, B, and C.

[11] *Id*. at paragraph 15.

[12] *Id.* at paragraph 17.

identified which outstanding securities, if any, it might purchase through a tender offer, open market or other forms of purchase other than redemption. Kentucky Power states that it will file the required information within 30 days of any such purchase.[13]

Kentucky Power states that it would file, within 30 days after issuance of each series of the Notes, a verified statement with the Commission disclosing the date or dates of the issuance of the Notes, the price paid, the interest rate, the purchasers, and an estimate of all fees and expenses that includes underwriting discounts, commissions, or other compensations paid by Kentucky Power in connection with the issuance and distribution of the Notes.[14]

Kentucky Power states that it may enter into one or more interest rate hedging agreements from the date of the Commission's Order and December 31, 2022. These hedging agreements may be, but are not limited to, treasury lock agreements, forward-starting interest rate swaps, treasury put options or interest rate collar agreements (Hedge Agreements) to protect against future interest rate movements in connection with the issuance of the Notes. Each Hedge Agreement will correspond to one or more Notes that Kentucky Power will issue pursuant to this application. Accordingly, the aggregate corresponding principal amounts of the Hedge Agreements will not exceed an amount equal to, on the date, or dates of entering such agreements, $350 million.[15]

Kentucky Power states that with the Commission's approval, it will utilize interest rate management techniques and enter into Interest Rate Management Agreements

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[13] Pursuant to 807 KAR 5:001, Section 18(1)(f).

[14] Application at paragraph 20.

[15] *Id.* at paragraph 22.

through December 31, 2022. Kentucky Power states that such authority will allow it sufficient alternatives and flexibility to reduce the effective interest cost and allow Kentucky Power the ability to better manage the interest cost on financings.[16]

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky Power should be authorized to issue securities in the aggregate amount of $350 million for the purpose of: refinancing of the $40 million 7.25 percent Senior Notes, Series A, due 2021; refinancing of the $125 million Term Loan due 2022; refinancing of the $75 million Variable Rate Local Bank Facility Program due 2022; and to issue other securities in the amount of $110 million for its general corporate purposes. As set out in Kentucky Power's application, its requests are for lawful objects within the corporate purposes of Kentucky Power's utility operations, are necessary and appropriate for and consistent with the proper performance of its service to the public, will not impair its ability to perform that service, are reasonably necessary and appropriate for such purposes, and should therefore be approved.

IT IS THEREFORE ORDERED that:

1. Kentucky Power, pursuant to KRS 278.300, is authorized to issue certain securities as defined in the application to refinance the $40 million 7.25 percent Senior Notes, Series A, due 2021; refinance the $125 million Term Loan due 2022; refinance the $75 million Variable Rate Local Bank Facility Program due 2022; and $110 million for its general corporate purposes with the total amount not to exceed $350 million.

[16] *Id*. paragraph 23.

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 Interest Rate Management Agreements as described in the application.

4. The proceeds from the transactions authorized herein shall be used only for the lawful purposes set out in the application.

5. 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, the 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 rate.

6. Any documents filed pursuant to ordering paragraph 5, of this Order shall reference the number of this case and shall be retained in the post case correspondence file.

7. 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.

By the Commission

ENTERED

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KENTUCKY PUBLIC
SERVICE COMMISSION

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