

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)	CASE NO.
ELECTRIC CORPORATION FOR APPROVAL TO)	2023-00087
ISSUE EVIDENCES OF INDEBTEDNESS)	

ORDER

On March 22, 2023, pursuant to KRS 278.300(3), Big Rivers Electric Corporation (BREC) filed an application requesting to amend and restate its existing \$150,000,000 Revolving Credit Facility with National Rural Utilities Cooperative Finance Corporation (CFC) and enter into a 20-year, \$135,000,000 term loan with CFC. BREC’s current Revolving Credit Facility was approved by the Commission in 2015 and renewed in 2017 and 2020.¹ There are no intervenors. BREC requested the Commission enter an Order no later than May 21, 2023, because an Order by that date would enable BREC to close on the term loan by June 30, 2023. 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 evidences of indebtedness, or assume any obligation or liability in respect to

¹ Case No. 2014-00423, *Application of Big Rivers Electric Corporation for Approval to Issue Evidences of Indebtedness* (Ky. PSC Jan. 28, 2015); Case No. 2017-00243, *Application of Big Rivers Electric Corporation to Issue Evidences of Indebtedness* (Ky. PSC Aug. 14, 2017); Case No. 2020-00129, *Electronic Application of Big Rivers Electric Corporation for Approval to Issue Evidences of Indebtedness* (Ky. PSC May 8, 2020).

the securities or evidences of indebtedness of any other person. 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 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.

PROPOSED EVIDENCE OF INDEBTEDNESS

BREC is seeking authority to amend and restate its current revolving credit facility and enter into a 20-year loan not to exceed \$135,000,000. The current revolving credit facility has interest rates that are based either on the London Interbank Offered Rate (LIBOR) or the Alternative Base Rate (ABR). All LIBOR rates are being discontinued after June 30, 2023. The ABR borrowing option will still be available, but unlike LIBO borrowings, BREC loses the ability to lock in the ABR interest rate for a specified period of time.² The amended and restated revolving credit facility will resolve this issue by providing a replacement rate, the Secured Overnight Financing Rate (SOFR).

BREC has entered into the rate lock option agreement with the CFC which guarantees the rates specified in the agreement but is required the first draw on the loan on or before June 30, 2023.³ BREC relies on the revolving credit facility for capital expenditures, general corporate use, and the issuance of letters of credit. The revolving

² Application at 2.

³ Application at 2.

credit facility also provides BREC access to liquidity vital to its operations and maintaining investment grade credit ratings.⁴

Additionally, BREC requests to enter into a 2023 term loan with CFC not to exceed \$135,000,000 that would be used to fund transmission reliability projects, projects from BREC 2020 Environmental Compliance Plan, and construction of its new headquarters facility.⁵ The Commission has previously approved Certificate of Public Convenience and Necessity's (CPCN) for the transmission reliability projects in Case No. 2021-00275, 2022-00012 and 2021-00023, as well as the headquarters facility in Case No. 2021-00314.⁶ The Commission approved all of the Environmental Compliance Plan projects with the necessary CPCN's in Case No. 2019-00435.⁷

DISCUSSION AND FINDINGS

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that BREC's proposed financing satisfied the legal standards established in KRS 278.300 to amend and restate its revolving credit facility and enter into the term loan with CFC not to exceed \$135,000,000 for the following reasons. First,

⁴ Application at 6.

⁵ Application at 8.

⁶ Case No. 2021-00275, *Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity to Construct a 161 KV Transmission Line in McCracken County, Kentucky* (Ky. PSC Jan. 14, 2022); Case No. 2022-00012, *Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity to Construct a 161 KV Transmission Line in Henderson County, Kentucky* (Ky. PSC June 6, 2022); Case No. 2021-00314, *Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity Authorizing Construction of a New Headquarters Facility and an Order Authorizing Big Rivers to Sell Its Existing Headquarters Facility* (Ky. PSC Sept. 27, 2022).

⁷ Case No. 2019-00435, *Electronic Application of Big Rivers Electric Corporation for Approval of its 2020 Environmental Compliance Plan, Authority to Recover Costs Through a Revised Environmental Surcharge and Tariff, the Issuance of a Certificate of Public Convenience and Necessity for Certain Projects, and Appropriate Accounting and Other Relief* (Ky. PSC Dec. 27, 2021).

the financing is for lawful objects within the corporate purposes of BREC. The lawful object of the utility's purposes is to provide adequate, efficient and reasonable service at fair, just and reasonable rates. The amending of the credit facility and loan meets the lawful object of the utility's purposes because it will be used to strengthen BREC financial position through savings from favorable financing options as market conditions permit and to construct new facilities and improve existing facilities. Second, the financing is necessary and appropriate for, and consistent with, the proper performance by the utility of its service to the public and will not impair BREC's ability to perform that service. This is because the loan agreement and amended revolving credit facility will provide BREC with greater flexibility in financing options and to purchase or construct new facilities and improve BREC's existing utility plant. Third, the financing is reasonably necessary and appropriate for BREC to meet its statutory duty to provide adequate, efficient and reasonable service because it provides for savings through flexible financing options as market conditions permit and to construct new and improve existing facilities.

Therefore, the Commission concludes that the amending and restating of BREC's existing revolving credit facility, and proposed term loan not to exceed \$135,000,000 is for lawful objectives within the corporate purposes of BREC's utility operations, is 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, is reasonable, necessary, and appropriate for such purposes, and should be approved.

IT IS THEREFORE ORDERED that:

1. BREC is authorized to amend and restate its existing \$150,000,000 Revolving Credit Facility and enter into a 20-year \$135,000,000 loan with CFC and related evidences of indebtedness as described in its application.

2. BREC is authorized to issue notes to CFC and other lenders that are parties to the 2020 Credit Agreement in an aggregate amount not to exceed \$150,000,000.

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

4. BREC shall agree only to such terms and prices that are consistent with the parameters set out in its application.

5. Within 30 days of its execution of these evidences of indebtedness, as listed here in ordering paragraphs 1 and 2, BREC shall file with this Commission a statement setting forth the date or dates of implementation of the revolving loan authorized herein, the interest rate, and all fees and expenses.

6. Any documents filed pursuant to ordering paragraph 5 shall reference this case number and shall be retain in the post-case correspondence file.

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

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

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

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