

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER S-35965

JEFFERSON DAVIS ELECTRIC COOPERATIVE, INC. EX PARTE

Docket No. S-35965, In re: Petition for Letter of Non-Opposition Authorizing Jefferson Davis Electric Cooperative, Inc. to Establish a Secured Consolidated Emergency Line of Credit.

(Decided at the May 19, 2021 Business and Executive Session.)

Background and Procedural History

On April 27, 2021, Jefferson Davis Electric Cooperative, Inc. (“JDEC” or the “Cooperative”) filed a petition (“Petition”) seeking a Letter of Non Opposition from the Louisiana Public Service Commission (“LPSC” or “Commission”) authorizing JDEC to enter into a Secured Consolidated Emergency Revolving Line of Credit (“Consolidated Line of Credit”) guaranteed by the National Rural Utilities Cooperative Finance Corporation (“CFC”), in the amount of two hundred twenty-five million (\$225,000,000.) dollars. JDEC advised that the Consolidated Line of Credit would be subject to a variable interest rate, set and published periodically by the CFC, and determined at the time of withdrawal. JDEC’s request is a result of its continuing service restoration efforts occasioned by Hurricane Laura’s devastating impact on the Cooperative’s southwestern Louisiana service territory. The funds drawn under this Consolidated Line of Credit are needed to continue funding those ongoing efforts and to bring the Cooperative’s three existing lines of credit related to its 2020 hurricane response into one line of credit. Notice of JDEC’s petition was published in the Commission’s Official Bulletin No. 1244, dated April 30, 2021 for a 10-day period of intervention. No interventions or protests were received during, or subsequent to, the intervention period.

JDEC is a nonprofit electric cooperative organized and existing under the laws of the State of Louisiana and domiciled in Jefferson Davis Parish, Louisiana. First incorporated in September 1941, JDEC provides retail electric service to the rural areas of the Parishes of Allen, Calcasieu, Cameron, Jefferson Davis and Vermillion. Since the 2020 hurricane season, the Cooperative is responsible for providing electric service to approximately 9,406 meters for 6,796 members and has an established history of providing reliable service.

On or about August 26, 2020, Hurricane Laura—a Category 4 Atlantic hurricane—made landfall at Cameron, Louisiana causing widespread damage in the region including loss of electricity for one-hundred percent (100%) of JDEC’s membership, more than 8,000 miles of downed power lines and the destruction of crucial transmission infrastructure. JDEC asserts that the credit facility is in the public interest as the Consolidated Line of Credit will allow the Cooperative to continue to fund expenditures related to the repair and replacement of facilities. In addition, JDEC has an ongoing need for the services of outside contract labor, to provide housing for laborers, and to acquire replacement equipment in order to fully restore power to its members. The Cooperative ultimately expects to recover the majority of the funds borrowed under the Consolidated Line of Credit from the Federal Emergency Management Agency (“FEMA”) and has indicated that it has already begun the process of pursuing such recovery.

Jurisdiction and Applicable Law

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Section 21 of the Louisiana Constitution.

La. Const. Art. IV, Sec. 21 provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and perform other duties as provided by law.

Approval of this transaction is specifically required pursuant to the Commission's **General Order dated November 13, 1996**. In particular, the General Order states under Item Number 1:

No public utility shall issue any security or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of any other public utility, or of any other person, until it has been authorized to do so by Order of this Commission.

Further, under Item Number 5 of the same Order:

This General Order does not modify in any manner the General Order issued by this Commission dated 3/18/94 related to Commission approval of sales, leases, etc. Any security issuance that requires a utility to "sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the property or assets of the utility must be approved by the Commission under the standards set forth in the 3/18/94 General Order as well.

General Order dated March 18, 1994:

Approval of this transaction is specifically required pursuant to the Commission's General Order dated March 18, 1994 as the loan terms require a pledge of assets of the Cooperative to secure the RUS funds.

Staff Review

The Commission Staff conducted a thorough review of JDEC's petition, a copy of the *Emergency Line of Credit Agreement* between JDEC and CFC, and responses to formal and informal data requests. The Cooperative provided an 18-factor analysis as required by the Commission's March 18, 1994 General Order. Staff reviewed JDEC's responses and determined that the proposed action is a fiscally prudent means to fund the Cooperative's restoration efforts. Staff understands that all amounts borrowed under this Consolidated Line of Credit will be used only to fund the repair or replacement of assets associated with damage caused by storms of the 2020 hurricane season. The agreement further stipulates that in the event that JDEC receives funds from FEMA or any other funding source designated for reimbursement of emergency or hardship expenditures, mandatory prepayment is necessary within five (5) days of receipt.

JDEC rates for service are currently managed under a Formula Rate Plan ("FRP") that sets rates based on a modified debt service coverage ratio. Although JDEC intends to seek cost recovery from FEMA for funds drawn under this line of credit, interest expenses associated with the credit agreement will periodically become due and payable in the interim. Due to uncertainty surrounding necessary replacement costs and timelines for reimbursement, Staff is of the opinion that any

request by JDEC for cost recovery from ratepayers should be made separate from and outside of the annual FRP review as the FRP was designed to be an expedited review of agreed-upon operating expenses. Thus, the predetermined FRP review period will likely not allow appropriate time to review such expenses. In the course of reviewing JDEC's request, Staff also confirmed that the Cooperative was in compliance with all relevant requirements for certain monthly, annual, and one-time filings for electric utilities.

After review of JDEC's Petition and all supporting documentation, including the 18-factor analysis pursuant to the March 18, 1994 General Order, Staff found that the Secured Consolidated Emergency Revolving Line of Credit is in the best interest of the Cooperative's members. Thus, the Commission Staff filed its Report and Recommendation on May 17, 2021 recommending that a Letter of Non-Opposition be issued, subject to certain conditions.

Commission Consideration

The Staff Report and Recommendation was considered by the Commission at its May 19, 2021 Business and Executive Session. On motion of Chairman Greene, seconded by Vice-Chairman Skrmetta, the Commission voted to accept the Staff Report and Recommendation filed on May 17, 2021, expressing its non-opposition to JDEC's request, subject to the terms and conditions detailed in the Staff Report and Recommendation.

IT IS THEREFORE ORDERED THAT:

The Commission expresses its non-opposition to JDEC's request to enter into an Emergency Revolving Line of Credit agreement in the amount of \$225,000,000 to be used to fund expenditures associated with the restoration of its system in the aftermath of Hurricane Laura, subject to the following terms and conditions:

1. JDEC shall file into the record of this proceeding, a copy of the signed Secured Consolidated Emergency Line of Credit Agreement, outlining the final terms and conditions, within thirty (30) days of the closing date.
2. Should the Secured Consolidated Emergency Line of Credit Agreement be modified in any way, prior to issuance of funds, the newly revised agreement shall be filed into the record of this proceeding no later than fifteen (15) days after such modification.
3. Once every six (6) months following the issuance of a Commission Letter of Non-Opposition, the Cooperative shall file a report into the record of this proceeding to provide an update on the status of funds drawn from the Secured Consolidated Emergency Line of Credit and provide a detailed outline of the work performed including, by not limited to, invoices for materials and labor.
4. Once every six (6) months following the issuance of a Commission Letter of Non-Opposition, JDEC shall file a report with the Commission detailing its cost recovery efforts and the responses received from FEMA or any other agency, alongside the status report on the Secured Consolidated Emergency Line of Credit.
5. Should JDEC receive any recovery of costs from FEMA, or any other agency, associated with work funded by the Secured Consolidated Emergency Line of Credit, the Cooperative shall immediately notify the LPSC in writing and make the required payment to CFC as stated in the Emergency Line of Credit Agreement.

6. Should JDEC seek recovery of costs for any of the work funded by the Secured Consolidated Emergency Line of Credit by ratepayers, they shall file for such recovery separately from its annual FRP review.
7. This non-opposition is granted without prejudice to the authority of the Commission to make investigations and require any reasonably necessary change that the Commission may legally find to be in the public interest.
8. This Order will be effective immediately upon issuance by the Commission.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 24, 2021



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

BRANDON M. FREY
SECRETARY

/S/ CRAIG GREENE

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