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September 15, 2009

Steven K. Strickland  
Vice President  
Regulatory Affairs

Ms. Sharla Dillon, Docket Room Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Tennessee Regulatory Authority Docket No. 09-00098  
Entergy Arkansas, Inc. (EAI) Request for Authorization to Enter  
into Certain Financing Transactions During the Years 2010  
Through 2012

Dear Ms. Dillon:

In followup to EAI's letter to you dated August 20, 2009, attached for filing with the Tennessee Regulatory Authority (TRA) are the original and 4 hard copies along with a compact disc containing the Arkansas Public Service Commission's (APSC) Order No. 1 issued September 14, 2009 in the APSC Docket No. 09-068-U approving EAI's Application filed July 10 in that Docket.

EAI is requesting that the TRA issue an order approving or concurring with the APSC Order as expeditiously as possible which will allow EAI the authority to enter into these proposed financial transactions pursuant to TENN. CODE ANN. § 65-4-109. The bond underwriters require APSC and TRA approval of the proposed financing transactions described in EAI's Application. The bond underwriters also require that the 60-day period following the issuance of the TRA Order be completed prior to EAI entering into these proposed financial transactions described in its Application. Therefore, EAI requests that the TRA act to consider this request and issue an order by October 31, 2009 to allow for the 60-day period to be completed by December 31, 2009.

If you have any questions or need additional information, please do not hesitate to call me at (501) 377-4457 or Mr. David Hunt at (501) 377-4338.

Sincerely,

A handwritten signature in black ink, appearing to read "SKS/tlv", written over a horizontal line.

SKS/tlv  
Attachments

c: Mr. Jerry Kettles  
Mr. Carlos Black

## ARKANSAS PUBLIC SERVICE COMMISSION

7<sup>00</sup> SEP 14 P 3: 27

FILED

IN THE MATTER OF THE APPLICATION )  
 OF ENTERGY ARKANSAS, INC. FOR )  
 AUTHORIZATION TO ENTER INTO )  
 CERTAIN FINANCING TRANSACTIONS )  
 BETWEEN JANUARY 1, 2010, AND )  
 DECEMBER 31, 2012 )

DOCKET NO. 09-068-U  
 ORDER NO. 1

ORDER

On July 10, 2009, Entergy Arkansas, Inc. ("EAI") filed in this Docket its Application seeking Arkansas Public Service Commission ("Commission") approval for EAI to enter into certain financing transactions between January 1, 2010, and December 31, 2012. EAI's Application was filed pursuant to Ark. Code Ann. § 23-3-103, et. seq. and Rules 4 and 5 of the Commission's Rules of Practice and Procedure ("RPP"). Filed in support of its Application was the Direct Testimony of EAI witness Steven C. McNeal.

EAI is subject to the jurisdiction of the Commission and is also subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") as an electric utility subsidiary of Entergy Corporation. The Tennessee Regulatory Authority ("TRA") also regulates the issuances of securities by EAI. EAI states that it must, therefore, comply with applicable rules and regulations promulgated by the FERC and the TRA and secure certain approvals of the TRA in connection with the proposed financing transactions in addition to the approval of this Commission. (Application at ¶ 1).

The current authorization for EAI to enter into certain financing transactions granted in Commission Docket No. 06-096-U expires on December 31, 2009. In order to take advantage of favorable capital market conditions, EAI states that it is essential

that EAI be able to engage in the proposed financing transactions during the period January 1, 2010, through December 31, 2012. EAI also states that the financing transactions for which authorization is requested in this Docket are comparable to the transactions authorized in Docket No. 06-096-U. (*Id.* at ¶ 2).

Pursuant to Ark. Code Ann. § 23-3-104, EAI seeks an order authorizing it from “time to time not earlier than January 1, 2010, and not later than December 31, 2012, to issue and sell one or more series of its first mortgage bonds (the ‘Bonds’ or ‘First Mortgage Bonds’) in such principal amounts as EAI may elect, which combined amounts, in the aggregate, shall not exceed the sum of \$800 million. The Bonds of each series will be due not less than one year nor more than 50 years after their respective dates of issuance.” (*Id.* at ¶ 3).

EAI seeks approval to issue \$800 million of First Mortgage Bonds reflecting the combined \$400 million principal amounts of the Company’s outstanding First Mortgage Bonds that mature or could possibly be economically refunded over the next three years are \$400 million plus an additional \$400 million of First Mortgage Bonds to “provide flexibility under special circumstances, such as emergency restoration.” (*Id.* at ¶ 4).

EAI proposes that each series of Bonds “will be sold at such price, will bear interest at such rate (which may be an adjustable rate), and will mature on such date as will be determined at the time of sale. EAI anticipates that the issuance and sale of each series of Bonds will be by means of competitive bidding or a negotiated public offering or private placement with institutional investors in order to secure the advantage of an advanced marketing effort and the best available terms. Because the markets for the

Bonds are constantly fluctuating, it is not possible to forecast the precise interest rate for any series of the Bonds at this time.” (*Id.* at ¶ 5).

EAI states that each series of Bonds will be issued as a new series of First Mortgage Bonds under EAI’s existing Mortgage and Deed of Trust (the “Mortgage”), dated as of October 1, 1944, as heretofore supplemented and as proposed to be further supplemented by additional supplemental indentures thereto. A copy of the Mortgage, as supplemented, is on file with the Commission. A copy of the proposed form of supplemental indenture relating to each series of the Bonds was attached to EAI’s Application as EAI Exhibit A. (*Id.* at ¶ 6).

The Mortgage constitutes a first mortgage lien on “substantially all of the properties presently owned by EAI ... subject to (a) leases of minor portions of the Company’s property to others for uses that do not interfere with the conduct of the Company’s business, (b) leases of certain EAI property not used in its electric utility business, and (c) excepted encumbrances. There are excepted from the lien of the Mortgage all cash and securities, certain equipment, fuel, materials or supplies, automobiles and other vehicles and aircraft, timber, minerals, mineral rights, and royalties, receivables, contracts, leases and operating agreements, and certain unimproved lands sold or to be sold. The Mortgage contains provisions for encumbering after-acquired property by the lien thereof, subject to limitation in the case of consolidation, merger, or sale of substantially all of EAI’s assets.” (*Id.* at ¶ 7).

EAI further states that EAI’s Mortgage “provides that each new series of First Mortgage Bonds may be subject to annual sinking or improvement fund payments. EAI is not obligated to make annual payments into sinking or improvement funds with

respect to any of its outstanding First Mortgage Bonds and does not intend to issue any new series of First Mortgage Bonds which will be subject to such requirements.” (*Id.* at ¶ 8).

The aggregate amount of First Mortgage Bonds which was issued and outstanding under the Mortgage as of June 30, 2009, was approximately \$1,321 million (including \$121 million of Collateral Bonds) all of which is secured by the lien of the Mortgage. (*Id.* at ¶ 9).

EAI states that the net proceeds which it will receive from the proposed issuance and sale of the Bonds “will be used for general corporate purposes, including, but not limited to, the possible acquisition, redemption, and refunding of certain outstanding securities, for both economic refunding and refinancing of maturing debt; for restructuring debt to provide more flexibility; to fund capital expenditures and working capital needs; and to finance unanticipated events, such as emergency restoration.” (*Id.* at ¶ 10).

EAI also seeks authorization to “create, issue, and sell, from time to time but not earlier than January 1, 2010, and not later than December 31, 2012, one or more series of its \$100 Par Value, \$25 Par Value or Class A Preferred Stock, or any combination thereof, each such series consisting of such number of shares as EAI shall elect; provided, however, that the total number of such shares shall not exceed the number of shares authorized by the Company’s Amended and Restated Articles of Incorporation (‘Articles of Incorporation’), which is on file with the [Commission] ... and is hereby incorporated by reference. Such shares shall not have an aggregate par value or involuntary liquidation value, as the case may be, in excess of \$120 million. Each new

series of the Preferred Stock shall have the same rank and relative rights as, and shall otherwise be identical to, each series of EAI's Preferred Stock presently issued and outstanding, except as follows: (i) the par value and/or involuntary liquidation value of each such new series may differ; (ii) the resolutions authorizing the creation of each such new series of the Preferred Stock may provide for different dividend rates, dates from which dividends shall commence to accumulate, redemption rates, and redemption restrictions, if any; and (iii) the holders of the \$25 Preferred Stock will not have the right to vote, consent to, or otherwise restrict EAI's ability to issue or assume unsecured indebtedness." (*Id.* at ¶ 11).

Each series of Preferred Stock will be sold at such price and have such dividend rate as will be determined at the time of sale. EAI "anticipates that the issuance and sale of each series of Preferred Stock will be by means of competitive bidding or a negotiated public offering or private placement with institutional investors to secure the advantage of an advanced marketing effort and/or the best available terms. Because the market for the Preferred Stock is constantly fluctuating, it is not possible to forecast the precise dividend rate for any series of the Preferred Stock at this time." (*Id.* at ¶ 12).

EAI further states that the Preferred Stock will be issued in accordance with EAI's Articles of Incorporation, which "currently authorize the issuance of 3,730,000 shares of its \$100 Par Value Preferred Stock, 9,000,000 shares of its \$25 Par Value Preferred Stock, and 15,000,000 shares of its Class A Preferred Stock, of which 413,500 shares of its \$100 Par Value Preferred Stock and 3,000,000 shares of its \$25 Par Value Preferred Stock were issued and outstanding as of June 30, 2009." There are no shares of the Class A Preferred Stock issued and outstanding. (*Id.* at ¶ 13).

The net proceeds that EAI will receive from the issuance and sale of the Preferred Stock “will be used for general corporate purposes, including, but not limited to, the possible acquisition, redemption, and refunding of certain outstanding securities, for both economic refunding and refinancing of maturing debt; for restructuring debt to provide more flexibility; to fund capital expenditures and working capital needs; and to finance unanticipated events, such as emergency restoration.” (*Id.* at ¶ 14).

EAI also seeks authorization “to issue and sell to Entergy Corporation an aggregate amount of its common stock, \$0.01 par value per share (‘Common Stock’) not exceeding 16,000,000 shares, at a minimum price of \$12.50 per share, in one or more separate transactions occurring at such times as the Company deems appropriate, but not earlier than January 1, 2010, and not later than December 31, 2012, for an aggregate maximum consideration of \$200 million. EAI will enter into such agreements with Entergy Corporation for the sale and purchase of the Common Stock, to occur in such installments and at such times before December 31, 2012, as EAI and Entergy Corporation shall determine.” The Common Stock will be issued in accordance with the Company’s Articles of Incorporation, “which currently authorize the issuance of 325,000,000 shares of its Common Stock, of which 46,980,196 shares were issued and outstanding as of June 30, 2009.” (*Id.* at ¶¶ 15, 16).

The net proceeds that EAI will receive from the issuance and sale of the Common Stock “will be used for general corporate purposes, including, but not limited to, the possible acquisition, redemption, and refunding of certain outstanding securities, for both economic refunding and refinancing of maturing debt; for restructuring debt to

provide more flexibility; to fund capital expenditures and working capital needs; and to finance unanticipated events, such as emergency restoration.” (*Id.* at ¶ 17).

Also, EAI proposes to enter into arrangements for the issuance and sale, by one or more governmental authorities (each an “Issuer”), of “one or more series of tax-exempt bonds in an aggregate principal amount not to exceed \$350 million (‘Tax-Exempt Bonds’) at one time or from time to time not earlier than January 1, 2010, and not later than December 31, 2012.” The Company proposes to “enter into one or more leases, installment sales, refunding, loan, or similar agreements and/or one or more supplements or amendments thereto (collectively, the ‘Facilities Agreement’) contemplating the issuance and sale by the Issuer(s) of one or more series of Tax-Exempt Bonds pursuant to one or more trust indentures and/or one or more supplements thereto (collectively, the ‘Indenture’) between the Issuer and one or more trustees (collectively, the ‘Trustee’). The proceeds of the sale of Tax-Exempt Bonds, net of any underwriters’ discounts or other expenses payable from proceeds, will be applied to acquire and construct certain pollution control or sewage and solid waste disposal facilities at EAI’s generating plants (‘Facilities’) or to refinance outstanding Tax-Exempt Bonds issued for that purpose.” (*Id.* at ¶ 18).

EAI states that the payments to be made by EAI under the Facilities Agreement “will be in amounts sufficient (together with any other moneys held by the Trustee under the Indenture and available for such purpose) to pay the principal of, and the premium, if any, thereon, together with interest accrued or to accrue on, the related series of Tax-Exempt Bonds as the same become due and payable, and such payments will be made directly to the Trustee pursuant to an assignment and pledge thereof by the



Issuer to the Trustee as set forth in the Indenture. Under the Facilities Agreement, EAI also will be obligated to pay (a) the fees and charges of the Trustee and any registrar or paying agent under the Indenture, (b) all expenses necessarily incurred by the Issuer in connection with its rights and obligations under the Facilities Agreement, (c) all expenses necessarily incurred by the Issuer or the Trustee under the Indenture in connection with the transfer or exchange of Tax-Exempt Bonds, and (d) all other payments that the Company agrees to pay under the Facilities Agreement.” (*Id.* at ¶ 19).

EAI further states that the Indenture “may provide that, upon the occurrence of certain events relating to the operation of all or a portion of the Facilities financed, the Tax-Exempt Bonds will be redeemable by the Issuer, at the direction of EAI. Any series of Tax-Exempt Bonds may be made subject to a mandatory cash sinking fund under which stated portions of the Tax-Exempt Bonds may be subject to mandatory redemption in other cases. The payments by EAI under the Facilities Agreement in such circumstances shall be sufficient (together with any other moneys held by the Trustee under the Indenture and available therefor) to pay the principal of all the Tax-Exempt Bonds to be redeemed or retired and the premium, if any, thereon, together with interest accrued or to accrue to the redemption date on such Tax-Exempt Bonds.” (*Id.* at ¶ 20).

The proposed Tax-Exempt Bonds “will mature not less than one year from the first day of the month of issuance nor later than 40 years from the date of issuance. Tax-Exempt Bonds will be subject to optional redemption, at the direction of EAI, in whole or in part, at the redemption prices (expressed as percentages of principal

amount) plus accrued interest to the redemption date, and at the times, set forth in the Indenture.” (*Id.* at ¶ 21).

EAI further states that the Facilities Agreement and the Indenture “may provide for a fixed interest rate or for an adjustable interest rate for each series of Tax-Exempt Bonds .... No series of Tax-Exempt Bonds will be sold if the fixed interest rate or initial adjustable rate thereon would exceed the maximum interest rate permitted by applicable law. If the series of Tax-Exempt Bonds has an adjustable interest rate, the interest rate during the initial Rate Period would be determined in discussions between EAI and the purchasers thereof from the Issuer and would be based on the current market rate for comparable Tax-Exempt Bonds having a maturity comparable to the length of the initial Rate Period. Thereafter, for each subsequent Rate Period, the interest rate on such Tax-Exempt Bonds would be that rate (subject to a specified maximum rate) which will be sufficient to permit the remarketing of Tax-Exempt Bonds of such series at their principal amount. Such interest rates would be determined based on the market rates for Tax-Exempt Bonds of comparable maturity and quality.” (*Id.* at ¶ 22).

In order to obtain “a more favorable rating on one or more series of the Tax-Exempt Bonds, and, thereby improve the marketability thereof,” EAI states that it “may arrange for an irrevocable letter of credit from a bank (the ‘Bank’) in favor of the Trustee. In such event, payments with respect to principal, premium, if any, interest, and purchase obligations in connection with any such Tax-Exempt Bonds coming due during the term of such letter of credit would be secured by, and payable from funds drawn under, the letter of credit. In order to induce the Bank to issue such letter of

credit, the Company would enter into a Letter of Credit and Reimbursement Agreement ('Reimbursement Agreement') with the Bank pursuant to which EAI would agree to reimburse the Bank for all amounts drawn under such letter of credit within a specified period after the date of the draw and with interest thereon. The terms of the Reimbursement Agreement would correspond to the terms of the Letter of Credit." (*Id.* at ¶ 23).

EAI anticipates that the Reimbursement Agreement would require the payment by EAI to the Bank of "annual letter-of-credit fees and perhaps an up-front fee. Any such letter of credit may expire or be terminated prior to the maturity date of any such Tax-Exempt Bonds, and, in connection with such expiration or termination, such Tax-Exempt Bonds may be made subject to mandatory redemption or purchase on or prior to the date of expiration or termination of the Letter of Credit, possibly subject to the right of owners of such Tax-Exempt Bonds not to have their Tax-Exempt Bonds redeemed or purchased. Provision may be made for extension of the term of the Letter of Credit or for the replacement thereof, upon its expiration or termination, by another letter of credit from the Bank or a different bank." (*Id.* at ¶ 24).

In addition, or as an alternative, to the security provided by a letter of credit, "in order to obtain a more favorable rating on one or more series of Tax-Exempt Bonds, and consequently improve the marketability thereof, EAI may determine (a) to provide an insurance policy for the payment of the principal of and/or premium and/or interest on such Tax-Exempt Bonds, and/or (b) to provide security for holders of such Tax-Exempt Bonds and/or the Bank equivalent to the security afforded to holders of first mortgage bonds outstanding under the Company's Mortgage by obtaining the authentication of

and pledging one or more new series of EAI's First Mortgage Bonds ('Collateral Bonds') under the Mortgage as it may be supplemented. (*Id.* at ¶ 25).

EAI states that Collateral Bonds would be issued "on the basis of unfunded net property additions and/or previously-retired first mortgage bonds, and would be delivered to the Trustee under the Indenture and/or to the Bank in order to evidence and secure EAI's obligation to pay the purchase price of the related Facilities or repay the loan made by the Issuer under the Facilities Agreement, and/or in order to evidence and secure the Company's obligation to reimburse the Bank under the Reimbursement Agreement. Collateral Bonds could be issued in several ways. First, if the Tax-Exempt Bonds bear a fixed interest rate, Collateral Bonds could be issued in a principal amount equal to the principal amount of such Tax-Exempt Bonds and bear interest at a rate equal to the rate of interest on such Tax-Exempt Bonds. Second, they could be issued in a principal amount equivalent to the principal amount of such Tax-Exempt Bonds plus an amount equal to interest thereon for a specified period. In such a case, such Collateral Bonds would bear no interest. Third, Collateral Bonds could be issued in a principal amount equivalent to the principal amount of such Tax-Exempt Bonds or in such amount plus an amount equal to interest thereon for a specified period, but carry a fixed interest rate that would be lower than the fixed rate of such Tax-Exempt Bonds. Fourth, Collateral Bonds could be issued in a principal amount equivalent to the principal amount of such Tax-Exempt Bonds at an adjustable rate of interest, varying with the rate of such Tax-Exempt Bonds but having a 'cap' above which the interest on Collateral Bonds could not rise. The terms of any Collateral Bonds relating to maturity, interest payment dates, if any, redemption provisions, and acceleration will correspond

to the terms of the related Tax-Exempt Bonds. Upon issuance, the terms of any Collateral Bonds will not vary during the life of such series, except for the interest rate in the event such Collateral Bonds bear interest at an adjustable rate. The maximum aggregate principal amount of Collateral Bonds shall be \$400 million (which \$400 million of Collateral Bonds is not included in the \$800 million of Bonds for which authorization is sought ....)" (*Id.* at ¶ 26).

In one or more Facilities Agreements, EAI states that it "may grant, or promise to grant in the future, a subordinated lien on some or all of its property, or some other form of collateral, to the Trustee under the Indenture for that series of Tax-Exempt Bonds to provide security for the Company's obligation under the Facilities Agreements." (*Id.* at ¶ 27).

Further, EAI contemplates that the Tax-Exempt Bonds will be sold by the Issuer pursuant to arrangements with an underwriter or a group of underwriters or by private placement in a negotiated sale or sales. EAI will not be a party to the underwriting or placement arrangements. However, the Facilities Agreement will provide that the terms of the Tax-Exempt Bonds, and their sale by the Issuer, shall be satisfactory to the Company. EAI "expects that interest payable on the Tax-Exempt Bonds will not be includable in the gross income of the holders thereof for Federal income tax purposes under the provisions of Section 103 of the Internal Revenue Code of 1986, as amended to the date of issuance of Tax-Exempt Bonds (except for interest on any Tax-Exempt Bond during a period in which it is held by a person who is a 'substantial user' of the Facilities or a 'related person' within the meaning of Section 147(a) of such Code)." EAI also expects that "interest payable on the Tax-Exempt Bonds will not be includable in

the gross income of the holders thereof for Arkansas income tax purposes under Ark. Code Ann. § 14-267-112.” (*Id.* at ¶ 28).

EAI states that its Application, together with the financing plan proposed therein, was “approved by the Company’s Board of Directors by unanimous written consent effective as of June 15, 2009.” Excerpts from the consent setting forth the resolutions approving the Application and the financing plan are attached as EAI Exhibit B to EAI’s Application. (*Id.* at ¶ 29). Further, EAI estimates that its aggregate expenses in connection with the issuance and sale of the initial series and any subsequent series of the First Mortgage Bonds, and the Preferred Stock, the Common Stock, and the Tax-Exempt Bonds and Collateral Bonds will be as reflected in EAI Exhibit C attached to its Application. (*Id.* at ¶ 30).

EAI further asserts that after the issuance of the First Mortgage Bonds, the Preferred Stock, the Common Stock and Tax-Exempt Bonds, “the aggregate amount of all of its outstanding stock, bonds, notes and other evidences of indebtedness will not exceed the fair value of EAI’s properties and the reasonable cost of the issuance and sale of the First Mortgage Bonds, the Preferred Stock, the Common Stock and the Tax-Exempt Bonds.” (*Id.* at ¶ 31).

In Order No. 2, as affirmed by Order No. 3, in Docket No. 06-096-U, the Commission provided EAI with a three-year authorization subject to the restrictions and limits in the Company’s Application. EAI requests in the instant Application that the Commission authorize the continuation of a three-year financing period “to facilitate its long-range planning and to achieve the administrative efficiency of a three-year term.” (*Id.* at ¶ 33).

Finally, “in order to take advantage of favorable capital market conditions,” EAI asserts that “it is essential that EAI be able to proceed with the authority requested [in its Application] ... when presented with opportunities to enhance its financial flexibility and/or reduce its capital cost.” EAI further states that the proposed financing transactions must also be approved by the TRA which “usually will not act on EAI’s Application filed with the TRA until the [Arkansas Commission] ... has approved this Application. A final order from the TRA approving EAI’s Application would not become effective until 60 days after issuance. Therefore, EAI requests that the Commission consider and act on this Application expeditiously and enter an order on or before September 15, 2009.” (*Id.* at ¶ 34).

EAI witness Steven McNeal testified that EAI’s Application “is intended to address EAI’s general financing needs for the next three years, beginning January 1, 2010, and ending December 31, 2012. With the fluctuations in capital markets, EAI may have opportunities to reduce its financing costs and increase its financial flexibility. Thus, EAI is requesting authorization to issue and sell first mortgage bonds, preferred stock, common stock, and tax-exempt bonds up to certain specified amounts. The proceeds from such transactions would, among other things, permit EAI to acquire, redeem, or refund outstanding securities.” (McNeal Direct at pg. 5).

Mr. McNeal further testified that “[w]ith adequate financial flexibility, EAI can take advantage of favorable interest rate fluctuations to refund its higher cost debt. If the authorization sought by the Application is granted, by ‘pre-registering’ an amount of securities greater than its immediate needs with the Securities and Exchange Commission ..., EAI could, for example, sell a particular series of bonds with a shorter

lead-time than if an initial registration of each series were required. This procedure affords EAI financial flexibility that makes it possible to take advantage of desirable interest rates, and to finance optimal amounts each time securities are sold. The more financial flexibility the Company has, the better the Company will be able to plan ahead ....” (*Id.* at pg. 6).

Mr. McNeal testified that EAI has historically achieved benefits due to the financial flexibility that the previously authorized finance plan provided. Specifically, Mr. McNeal testified that “EAI was able to access the capital markets in July 2008 to fund the acquisition of and improvements to the Ouachita Generating Facility. The capital markets were extremely volatile in 2008. Because EAI had sufficient authorization to finance in place, the Company was able to find a window of opportunity to issue bonds prior to the closing of the transaction.” (*Id.* at pg. 7).

Regarding EAI’s intended use of the capital to be raised by the issuance of the proposed securities, Mr. McNeal testified that EAI “proposes to use the proceeds derived from the issuance and sale of the securities ... for general corporate purposes, including, but not limited to, the possible acquisition, redemption, and refunding of certain outstanding securities, for both economic refundings and reissuances of debt maturities; for restructuring debt to provide more flexibility; to fund capital expenditures and working capital needs; and to finance unanticipated events, such as emergency restoration. The Company is requesting authorization for such securities sales primarily to achieve the flexibility that will permit a timely response to changing market conditions when it becomes beneficial for the Company to refinance, refund or otherwise acquire outstanding higher cost securities.” (*Id.* at pg. 8).



Mr. McNeal further testified that EAI “does not have any current plans to issue any additional new debt with two possible exceptions: (1) storm cost securitization bonds which would be addressed in a separate filing and (2) first mortgage bonds and/or tax-exempt and associated collateral bonds to finance expenditures related to the installation of the Environmental Controls Project at EAI’s White Bluff Steam Electric Station.” (*Id.*).

Mr. McNeal testified that “EAI’s overall financing goal is to meet its liquidity and working capital requirements and to achieve a low cost of capital. EAI believes that it can best accomplish that goal by enhancing its financial flexibility. Capital markets are constantly changing and economic conditions sometimes offer opportunities to decrease costs and/or to issue securities with terms more flexible to the issuer than at other times.” (*Id.* at pg. 15).

EAI’s financial plan, Mr. McNeal testified, “is designed to allow the Company to issue securities primarily for the purpose of refunding outstanding securities and for other corporate purposes ... with the most cost effective and financially flexible structure available at the time. Approval of this plan would provide the Company with the continued financial flexibility to take advantage of opportunities to reduce financing costs to the benefit of EAI and its customers. For these reasons, the Company believes it to be in the public interest for this Application to be approved by the Commission.” (*Id.* at pg. 16).

In conclusion, Mr. McNeal asks "that the APSC issue an order by September 15, 2009, so that EAI can proceed to secure approval by the TRA through a similar application. The TRA usually does not act on an application by EAI until the APSC has granted approval. A final order of the TRA approving EAI's Application would not become effective until 60 days after issuance. This timing should allow for EAI to have financing authorization in place by the end of this year, when its current authorization expires." (*Id.*)

On August 20, 2009, the General Staff of the Commission ("Staff") filed the Direct Testimony of Staff witness Jo Ann Sterling in response to EAI's Application and the supporting Direct Testimony of EAI witness McNeal. Regarding the reasonableness of EAI's request that the Commission provide EAI with a three-year authorization for issuing financial securities up to a specified maximum amount, Ms. Sterling testified as follows: "In terms of refinancing, the primary objective is to afford full flexibility for the Company to timely move in the financial markets to reduce its cost of capital as opportunities present themselves. EAI also states that continuation of a three-year term facilitates long-range planning and helps achieve administrative efficiency. Approval of the Application should facilitate these objectives. Furthermore, a three-year authorization period is generally consistent with the shelf-registration effective period for securities registered with the Securities and Exchange Commission. As to the issuance of new amounts of securities, the Application and Mr. McNeal's testimony identify the market benefits of financing flexibility and clearly delineate that only EAI purposes will be served by such issuances." (Sterling Direct at pg. 5, footnote omitted).

Ms. Sterling further testified that "Commission authorization of security issuances does not guarantee rate recovery. A review of the need for capital issuance(s) and any resultant rate recovery implications can be made in the context of subsequent proceedings. To that end, I recommend the Commission expressly reserve for future consideration the ratemaking treatment of any security issuances. Further, no finding of this Commission regarding the securities requested in the instant docket should be deemed a finding that the installation of environmental controls as outlined by EAI in its Petition pending in Docket No. 09-024-U, is necessary and appropriate or in the public interest." (*Id.* at pg. 5-6).

Regarding the need for specific reporting requirements, Ms. Sterling recommends that EAI be required to file a report providing "the purpose of the issuance and identifying the specific terms of each issuance, including the actual interest rate and maturity date, all fees and other relevant facts, and the detailed accounting entries to record the transactions. The reports should be filed in this docket within thirty (30) days of the issuance or effective date, as applicable. Each report should also provide a status of remaining authorization, including the amount authorized for the period, the amount issued to date, and the remaining authorization after the instant issuance. To the extent the report contains estimates a follow up report should be filed reflecting actual amounts." (*Id.* at pg. 6).

Finally, based on the specific representations made by the Company in the Application and in Mr. McNeal's testimony and subject to the reporting requirements outlined above, Ms. Sterling recommends that EAI's Application be approved. Further, Ms. Sterling notes that "nothing in my testimony constitutes a recommendation of value

for ratemaking purposes. The appropriate ratemaking treatment of any of the security issuances which are the subject of this docket should be expressly reserved for future consideration. Further, no finding of this Commission regarding the securities issuances should be deemed a finding that the installation of environmental controls as outlined by EAI in its Petition pending in Docket No. 09-024-U is necessary and appropriate or in the public interest." (*Id.* at pg. 6-7).

Accordingly, having considered EAI's Application and the supporting Direct Testimony of EAI witness McNeal as well as the Direct Testimony of Staff witness Sterling, the Commission finds that EAI's Application is in the public interest and, therefore, should be approved. Therefore, the Commission directs and orders as follows:

1. EAI's Application is granted and EAI is hereby authorized to issue and sell in one or more series, from time to time not earlier than January 1, 2010, and not later than December 31, 2012, in each case in the manner described herein: (i) First Mortgage Bonds in an aggregate principal amount not to exceed \$800 million, which includes the Company's outstanding First Mortgage Bonds that mature or could possibly be economically refunded over the next three years (\$400 million) and an additional amount of \$400 million of First Mortgage Bonds to provide flexibility under special circumstances, such as emergency restoration.; (ii) Preferred Stock, in an aggregate par value or involuntary liquidation value, as the case may be, not to exceed \$120 million; (iii) Common Stock, not to exceed 16,000,000 shares, at a minimum price of \$12.50 per share, for an aggregate maximum consideration of \$200 million; and (iv) Tax-Exempt Bonds in an aggregate principal amount not to exceed \$350 million, and Collateral

Bonds in an aggregate principal amount not to exceed \$400 million (separate and apart from the authorization requested herein relating to the issuance and sale of First Mortgage Bonds); and, in connection therewith, EAI is authorized to enter into the related proposed Facilities Agreement.


2. Further, EAI is authorized to apply the proceeds from the sale of the First Mortgage Bonds, the Preferred Stock, the Common Stock and the Tax-Exempt Bonds for the purposes set forth in its Application.


3. The Commission expressly reserves for future consideration the ratemaking treatment of any security issuances made pursuant to this Order. Further, nothing in this Order shall be deemed a finding that the installation of environmental controls as outlined by EAI in its Petition currently pending in Docket No. 09-024-U, is necessary and appropriate or in the public interest.

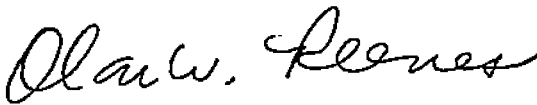
4. EAI is directed to file a report providing "the purpose of the issuance and identifying the specific terms of each issuance, including the actual interest rate and maturity date, all fees and other relevant facts, and the detailed accounting entries to record the transactions. The reports should be filed in this docket within thirty (30) days of the issuance or effective date, as applicable. Each report should also provide a status of remaining authorization, including the amount authorized for the period, the amount issued to date, and the remaining authorization after the instant issuance. To the extent the report contains estimates a follow up report should be filed reflecting actual amounts.

5. The Secretary of the Commission is directed forthwith to serve by electronic mail a copy of this Order on the official parties to this Docket


BY ORDER OF THE COMMISSION,  
This 14<sup>th</sup> day of September, 2009.

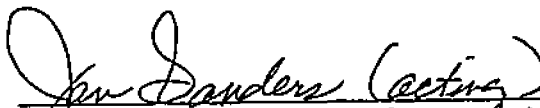
  
Paul Suskie, Chairman

  
Colette D. Honorable, Commissioner

  
Olan W. Reeves, Commissioner

I hereby certify that the following order issued  
by the Arkansas Public Service Commission  
has been served on all parties of record this  
date by U.S. mail with postage prepaid, using  
the address of each party as indicated in the  
official docket file.

  
Secretary of the Commission  
Date 9-14-09

  
Office of the Secretary of the Commission