

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION )  
OF WABASH VALLEY POWER )  
ASSOCIATION, INC. FOR )  
AUTHORITY TO EXECUTE NOTES AS ) CAUSE NO. 45656  
EVIDENCE OF INDEBTEDNESS UP TO )  
\$330 MILLION PAYABLE AT PERIODS )  
OF MORE THAN TWELVE MONTHS )  
FOR THE PURPOSE OF FUNDING )  
THE CONSTRUCTION OR IMPROVEMENT )  
OF CERTAIN TRANSMISSION, )  
DISTRIBUTION, AND GENERATION )  
FACILITIES AND GENERAL PLANT )  
AND TO ENCUMBER ITS PROPERTY )  
TO SECURE THE INDEBTEDNESS )

**SUBMISSION OF PROPOSED ORDER**

Wabash Valley Power Association, Inc. dba Wabash Valley Power Alliance  
("Petitioner"), by counsel, hereby submits for the Commission's consideration and use in the  
above referenced Cause the form of proposed Order attached hereto.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following by email  
this 25<sup>th</sup> day of March, 2022:

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<b>FACILITIES AND GENERAL PLANT</b>	)	
<b>AND TO ENCUMBER ITS PROPERTY</b>	)	
<b>TO SECURE THE INDEBTEDNESS</b>	)	

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Sarah Freeman, Commissioner**

**Jennifer Schuster, Administrative Law Judge**

On December 17, 2021, Wabash Valley Power Association, Inc. dba Wabash Valley Power Alliance (“Petitioner”) filed its Verified Petition (“Petition”) in this Cause with the Indiana Utility Regulatory Commission (“Commission”) requesting authority to execute notes as evidence of indebtedness up to \$330 million payable at periods of more than 12 months for the purpose of and to the extent required for obtaining funds sufficient for the construction or improvement of Petitioner’s transmission, distribution, and generation facilities and general plant, and to encumber its property to secure the indebtedness.

On December 17, 2021, Petitioner filed its redacted direct testimony and exhibits of Nisha A. Harke, Petitioner’s Manager of Finance & Rates, along with Petitioner’s Motion for Protection and Nondisclosure of Confidential and Proprietary Information in accordance with 170 IAC 1- 1.1-4, Ind. Code ch. 5-14-3, and Ind. Code § 8-1-2-29. In a Docket Entry dated January 4, 2022, confidentiality was granted on a preliminary basis, and Petitioner submitted its Confidential Direct Testimony and Exhibits. On February 22, 2022, Petitioner filed a Notice of Substitution of Witness and Revisions to Testimony, in which Petitioner indicated that Theresa Young, Petitioner’s Chief Financial Officer, was substituting for and adopting the testimony previously filed by Petitioner witness Nisha A. Harke with certain revisions to the foundational information.

On January 12, 2022, Tipmont REMC (“Tipmont”) filed a Petition to Intervene pursuant to 170 IAC 1-1.1-11. In a Docket Entry dated January 31, 2022, the Commission granted Tipmont’s Petition to Intervene. On February 11, 2022, Tipmont REMC filed the testimony and exhibits of Julia Frayer, Managing Director at London Economics International LLC (“LEI”). On February 11, 2022, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the testimony of Caleb R. Loveman, Utility Analyst for the OUCC’s Electric Division. Petitioner filed its rebuttal testimony on February 18, 2022. On February 22, 2022, Petitioner filed a Notice Substitution of Witness and Submission of Revisions to Direct Testimony.

The Commission convened an evidentiary hearing in this Cause on March 17, 2022, at 9:30 a.m. in Room 222, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the OUCC, and Tipmont appeared and participated in the hearing. The testimony and exhibits of Petitioner, the OUCC, and Tipmont were admitted into evidence without objection.

Based on the applicable law and evidence presented, the Commission now finds:

**1. Notice and Commission Jurisdiction.** Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Petitioner is a “public utility” as defined in Ind. Code § 8-1-2-1(a) and is subject to the jurisdiction of the Commission to the extent provided by Indiana law. Pursuant to Ind. Code §§ 8-1-2-76 through 8-1-2-81 and 84(f), Petitioner seeks authority to issue instruments of indebtedness payable at periods of more than 12 months and authority to encumber its property to secure the indebtedness. Accordingly, the Commission has jurisdiction over Petitioner in the subject matter of this proceeding.

**2. Petitioner’s Characteristics.** Petitioner is a generation and transmission cooperative formed as a mutual benefit corporation organized and existing under Indiana law, with its principal place of business located at 6702 Intech Boulevard, Indianapolis, Indiana. Pursuant to the Commission’s Order dated January 13, 1978, in Cause No. 35091, Petitioner is certificated and authorized to operate as a public utility, including the authority to serve as a power supplier to its members, and to construct, own, and operate generation, transmission, and related plants and facilities. Petitioner provides public utility service to 23 rural electric membership corporations located in Indiana, Illinois, and Missouri.

**3. Relief Requested.** Petitioner requests authority to execute promissory notes as evidence of indebtedness in amounts not to exceed \$330 million payable at terms of more than 12 months for the purpose of financing the construction and improvement of transmission, distribution, and generating facilities and general plant. Petitioner seeks to encumber its property to secure the payment of the indebtedness.

**4. Petitioner’s Direct Evidence.** Theresa Young, Petitioner’s Chief Financial Officer, testified that Petitioner requests authority to execute promissory notes as evidence of indebtedness for financing up to \$330 million for various 2022-2024 capital projects relating to Petitioner’s facilities and service. Ms. Young testified that Petitioner requests authority to issue proposed long-term debt to finance a variety of projects, including, but not limited to:

(1) transmission and distribution related projects that include substations, transmission lines, and joint ownership projects with Duke Energy Indiana, LLC and Indiana Municipal Power Agency; (2) Gibson Unit No. 5 improvements; (3) Prairie State Energy Campus improvements; (4) Wabash River Highland improvements; (5) Holland Energy improvements; (6) Vermillion improvements; (7) capital investments for Petitioner's demand response program and SCADA systems; and (8) other general capital projects. Ms. Young testified that while specific projects are presently budgeted, other projects to serve the electric needs of Petitioner's members may arise that could take priority over the list set forth above.

Ms. Young stated that the need for all transmission and distribution projects is driven by member system demand, timing requirements for serving load additions, and available alternatives, all of which can change from time to time and result in the need for other capital projects to take priority over listed projects. She also said that joint transmission system ("JTS") assignments can also impact Petitioner's capital budget. She explained that the costs for three years of capital projects were bundled into a single financing filing instead of seeking Commission approval each year. She testified that Petitioner's Board of Directors ("Board") approved \$330 million of financing for the capital projects on November 3, 2021. Ms. Young also provided the breakdown of projected financing amounts by year for 2022, 2023, and 2024.

Ms. Young testified that Petitioner seeks authorization to finance up to \$330 million related to the capital projects through competitive lenders, such as the National Rural Utility Cooperative Finance Corporation ("CFC"), CoBank, or private placement lenders. Petitioner intends to sign several promissory notes to finance these projects for up to 30 years at competitive interest rates.

Ms. Young said the financing facility may be a multi-draw facility and each note will have a different interest rate based on market conditions and the prevailing rate with the lending institution at the time of the draw. Ms. Young testified that, in addition to obtaining a competitive interest rate from CFC and CoBank, as a member of CFC and CoBank, Petitioner may also receive patronage capital. Ms. Young stated that after the return of patronage capital and other interest rate discounts potentially available to Petitioner, the effective interest rate will be less than the stated interest rates on the promissory notes. Ms. Young testified that Petitioner will always seek to obtain the lowest cost financing for its members.

Ms. Young testified about the annual debt service payments for all of the notes related to the capital projects. She said the loans will be secured by property owned by Petitioner through its existing Mortgage and Indenture of Trust ("Master Indenture"). She also testified that Petitioner's current rates will generate adequate revenues to repay the debt service obligations. She noted that the Master Indenture requires a Times Interest Earned Ratio ("TIER") of 1.0 or better and a debt service coverage ratio of 1.1 or better. Ms. Young testified that the minimum financial covenants of the Master Indenture will still be met with this financing. She explained that any capital projects financed using long-term debt by Petitioner also need to meet the requirements of its Master Indenture and any notes issued require the authorization of the Trustee under the Master Indenture and lender approval. She

testified Petitioner proposes to begin drawing on the proposed financing in the third or fourth quarter of 2022, provided the requisite approvals are received.

5. **OUC's Direct Evidence.** Caleb R. Loveman, Utility Analyst in the OUC's Electric Division, testified that the OUC recommends the Commission grant Petitioner's requested financing authority in this proceeding, subject to the following proposed conditions:

- (1) Petitioner's issuances pursuant to such authority shall be at a competitive market rate;
- (2) Interest rates should meet the following criteria: credit spread associated with new fixed debt should not exceed more than 500 basis points compared to the yield to maturity on U.S. Treasury bonds of comparable maturity at the time of pricing and 8.0% all-in rate for new variable rate debt;
- (3) An expiration date of December 31, 2024, shall be applied to the requested authority; and
- (4) Petitioner shall provide a written report to both the OUC and the Commission within 30 days of incurring the debt, including the amount and use of debt, maturity period, interest rate, premiums/discounts, issuance expenses, collateral details, repayment terms, and any other terms.

Mr. Loveman testified that Petitioner currently has a \$400 million line of credit facility, which was approved by the Commission in Cause No. 44928. He said Petitioner has used this credit facility to fund its general operating needs as necessary, with necessity largely determined by the timing of payment for capital expenditures in relation to the date at which permanent financing could be secured.

Mr. Loveman said Petitioner explained that these capital projects are needed to meet member load growth, provide reliable delivery of electric service to Petitioner's members and customers, maintain Petitioner's generating assets, and meet Petitioner's members' electric needs. He noted that borrowing long-term for capital projects creates rate stability for Petitioner's members.

Mr. Loveman testified that Petitioner has sufficient revenue to repay the borrowings and associated interest, noting it is regulated by the Federal Energy Regulatory Commission ("FERC") and is permitted to recover costs needed to meet the Petitioner's Board's approved margin. Mr. Loveman testified Petitioner indicated it strives to achieve an equity ratio of 20% or better and the most recent Board approved strategic plan targets a 30% equity ratio by 2025. Mr. Loveman further testified that Petitioner's Pro Forma Income Statement shows Petitioner exceeding the TIER and debt service coverage requirements required by its Master Indenture. Mr. Loveman said Petitioner has a current Standard and Poor's rating of A with a stable outlook.

**6. Intervenor's Testimony.** Julia Frayer, Managing Director, London Economics International LLC, testified on behalf of Intervenor Tipmont. Ms. Frayer stated that Petitioner's petition lacked details that would allow the Commission, and other stakeholders, to assess the reasonableness of Petitioner's request. She argued that the Commission should seek additional information from Petitioner about the investment thesis for the capital projects linked to this financing request. Ms. Frayer believed that Petitioner should provide a comprehensive analysis of rate impacts and benefits from the capital projects and associated financing in the longer term, reflecting the full range of costs and benefits of the capital projects and other likely operational changes and investments planned. She argued that Petitioner cannot demonstrate that it has the financial wherewithal to bear the additional debt without raising rates further, given that its current rates are already above competitive market levels then the Commission should consider additional regulatory safeguards. Ms. Frayer argued that Petitioner has not provided a cost-benefit analysis and risk evaluation of its projected capital spending plan and financing request. She also argued that Petitioner has not provided the Commission with any details as to the individual generation, transmission, and distribution projects relating to this request.

Ms. Frayer opined that Petitioner has not shown that its financing request is in the public interest or whether transmission and distribution capital projects are needed in the scale, scope and timing being pursued by Petitioner, and if the members benefit from all these investments. She argued that the scale of additional debt being requested, coupled with the need for more debt for the supply-related investments Petitioner plans to begin making in the next four years and the costs associated with Petitioner's existing assets and commitments, cast doubt on Petitioner's ability to offer reliable service at a reasonable rate to its members. Ms. Frayer recommended that if Petitioner cannot demonstrate that these capital projects are beneficial to Wabash Valley members and that it has the financial wherewithal to reasonably manage its operations to provide cost-effective and reliable services to its members, the Commission should consider additional regulatory safeguards before granting the approval of the financing request.

**7. Petitioner's Rebuttal Testimony.** Petitioner filed rebuttal testimony of Theresa Young. Ms. Young first responded to recommendations set forth in the testimony of OUCC Witness Loveman. Ms. Young testified that Petitioner does not oppose three (3) of the OUCC's four (4) proposed conditions, namely: (1) debt issuances shall be at competitive market rates; (3) an expiration date of December 31, 2024 shall be set for the financing authority; and (4) Petitioner will provide a written report within thirty (30) days of incurring debt. She testified that Petitioner does oppose the OUCC's proposal No. 2 to cap interest rates. Ms. Young testified that such a restriction is not necessary or prudent or warranted due to Petitioner's unique governance structure, namely that Petitioner's Board is comprised of its member "rate payers". Ms. Young testified that the OUCC recommended substantially identical interest rate cap conditions in Petitioner's prior financing cases, Cause Nos. 45325 and 45063. She stated that Petitioner's financial condition and circumstances have remained stable since its request for financing authority in Cause Nos. 45325 and 45063 and that Petitioner continues to maintain a credit rating from Standard and Poor's of A with a stable outlook.

Next Ms. Young responded to the testimony of Tipmont Witness Frayer. Ms. Young



stated that Petitioner disagrees with Tipmont's unsupported assertion that the capital projects for which financing authority is sought in this proceeding were not adequately reviewed and approved by Petitioner's Board and are not capable of being adequately reviewed and approved by the Commission. She testified that Petitioner provided information to directors and member CEOs, including the director and CEO of Tipmont, and presented budget and capital workplan information at four (4) meetings to allow directors and member CEOs to ask questions and discuss the proposed workplan and projects before the Board voted to approve the 2022 budget. She stated that Tipmont and every other member of Petitioner had ample information and opportunity to discuss and provide comments regarding the budget and capital workplan.

Ms. Young rebutted Tipmont's suggestion that this Petition for financing authority should involve a project-by-project review by the Commission. Ms. Young testified that generation assets are approved by the Commission in a different type of proceeding – a Certificate of Public Convenience and Necessity – (“CPCN”) proceeding, that Petitioner holds a CPCN for each of its current generation assets, and that the generation projects to be financed via this Petition are projects to maintain existing (approved) generation projects. With respect to transmission and distribution projects, Ms. Young testified the Commission has never required Petitioner to submit extensive evidence regarding each individual capital project for which financing authority has been sought. She testified that Petitioner's Board is vested with the responsibility to determine which transmission and distribution projects will best serve Petitioner's members. Finally, Ms. Young testified that Tipmont made various assertions regarding Petitioner's rates, which are outside of the scope of this proceeding. She explained that Petitioner's rates are under the exclusive jurisdiction of the FERC and are determined based on a formulary rate tariff on file and approved by FERC. Ms. Young testified that Tipmont testimony is an effort to relitigate issues that are the subject of an ongoing proceeding between Tipmont and Petitioner before FERC, which are outside the scope of this proceeding and the Commission's jurisdiction.

Ms. Young testified that the information provided as part of Petitioner's petition and testimony in this Cause is substantially similar to the information provided in Petitioner's previous five (5) financing petitions. She stated the process to obtain Petitioner's Board approval was the same in prior requests. Finally, she stated there is nothing new or different about the procedures that Petitioner or its Board have used to review and approve the capital expenditures and financing requests filed with the Commission.

**8. Cross Examination and Redirect Examination.** Under cross-examination and on redirect, Petitioner's witness Ms. Young testified about Petitioner's process for planning and obtaining Board approval for transmission and distribution projects. She also testified about the Petitioner's governance structure and explained that the Board makes a determination of whether proposed projects will benefit members when the Board approves the budget each year. Ms. Young testified about the rationale for using long-term debt to finance capital projects as compared to other options such as short-term debt or cash from operations. Finally, Ms. Young testified regarding the information that was provided to the Board prior to the Board authorizing Petitioner to file this financing Petition.

**9. Commission Discussion and Findings.** Under Ind. Code §§ 8-1-2-76 through 8-1-2-80, the Commission has jurisdiction over a public utility's issuance of any stocks,

certificates of stock, bonds, notes, or other evidences of indebtedness, payable at periods of more than 12 months from the execution thereof. When reviewing petitions requesting such authority, the Commission must determine whether the proposed issue is in the public interest in accordance with the laws addressing the issuance of securities by public utilities. The Commission must also find that the proposed issue is reasonably necessary in the operation and management of the utility's business so that the utility may provide adequate service and facilities.

**(i) Petitioner proposes to issue debt for purposes authorized by Ind. Code § 8-1-2-78**

Pursuant to Ind. Code § 8-1-2-78, a public utility may, with the approval of the Commission, issue bonds, notes, or other evidence of indebtedness payable at periods of more than one year for: (1) the acquisition of property, material, or working capital; (2) the construction, completion, extension, or improvement of facilities, plant, or distributing system; (3) the improvement of its service; (4) the discharge or lawful refunding of its obligations; and (5) the reimbursement of its treasury as provided under Ind. Code § 8-1-2-78(e). The evidence demonstrates that Petitioner will use the funds obtained through the proposed financing to issue proposed long-term debt to finance a variety of projects, including, but not limited to: (1) transmission and distribution projects (including substations and transmission lines and joint ownership projects with Duke Indiana and IMPA); (2) Gibson Unit No. 5 improvements; (3) Prairie State Energy Campus improvements (4) Wabash River Highland improvements; (5) Holland Energy improvements; (6) Vermillion improvements; (7) capital investments for Petitioner's demand response program and SCADA systems; and (8) other general capital projects. Petitioner projects to issue several promissory notes over a three year period during the years 2022, 2023, 2024 in an aggregate amount not to exceed \$330 million.

Tipmont argues the Commission should deny Petitioner's requested relief because Petitioner did not provide adequate detail for every proposed capital project that will be financed with the proposed debt issuance. Tipmont suggests that Petitioner is required to justify each proposed project in order to secure financing approval. We disagree with Tipmont's interpretation of the applicable statutes.

Under Ind. Code §§ 8-1-2-76 through 8-1-2-80, the Commission has jurisdiction over Petitioner's *issuance of debt* and must evaluate whether that *proposed issuance* satisfies the statutory requirements. We review whether the proposed issuance of debt is reasonable in aggregate amount under Ind. Code § 8-1-2-77, whether the proposed issuance will be used for a permissible purpose under Ind. Code § 8-1-2-78, and whether the proposed issuance of debt is reasonably necessary in the operation of Petitioner's business and in the public interest giving consideration to the resulting total capitalization and capital structure. A public utility's request for financing approval under Ind. Code §§ 8-1-2-76 through 8-1-2-80 is not a *de facto* request for approval of the underlying capital projects to be financed. As OUCB witness Loveman correctly points out, Petitioner is not seeking approval of specific construction projects in this proceeding. Public's Exhibit No. 1 at 4. On the contrary, the determination of the specific generation, transmission and distribution projects to be undertaken by Petitioner is reserved to Petitioner's Board of Directors.

The evidence shows that Petitioner's Board of Directors has approved both the proposed capital work plan for 2022 and Petitioner's request for financing authority to finance that work plan. Petitioner's Exhibit 1 at 10, Petitioner's Exhibit 9 at 9. The evidence shows that Petitioner provided extensive information to directors and member CEOs, including the director and CEO of Tipmont, and presented budget and capital workplan information at four meetings to allow directors and member CEOs to ask questions and discuss the proposed workplan and projects before the Board of Directors voted to approve the 2022 budget. Petitioner's Exhibit 9 at 9-11. The evidence shows that Tipmont and every other member of Wabash Valley had ample information and opportunity to discuss and provide comments regarding the budget and capital workplan. Petitioner's Exhibit 9 at 9-13.

Furthermore, we find the record contains ample evidence regarding Petitioner's rationale for the increased level of transmission and distribution investment that partially underlies the proposed financing. Petitioner is a joint owner in a joint transmission system with other utilities and has ownership investment and cost responsibilities within the JTS. Petitioner's Exhibit 1 at 4. The evidence also shows that in the past several years, Petitioner has seen an increase in the amount of capital expenditures related to transmission due to a focus on reliability and the need for upgrades to the aging transmission infrastructure. Petitioner's Exhibit 1 at 4. Ms. Young testified that reliability of electric service continues to be a top priority for Wabash Valley, and higher levels of transmission investments are expected to continue in the near term as aging electric utility infrastructure is updated. Petitioner's Exhibit 1 at 8. The evidence shows that in 2017, Petitioner's Board of Directors undertook a strategic planning process that identified transmission reliability as a key initiative. Petitioner's Exhibit 9 at 12-13. Member feedback, including specific input from Tipmont's CEO, encouraged Petitioner to take control of rising transmission costs and focus on transmission reliability because members had concerns about the large investment levels needed to address aging transmission infrastructure and Petitioner's lack of cost control due to incumbent investor-owned utilities making most decisions regarding transmission investment. Petitioner's Exhibit 9 at 12-13. The Board approved initiative has increased the level of transmission investment over the past several years and is the largest contributor to the increase in the requested level of financing in this proceeding as compared to prior financing requests filed by Petitioner. Petitioner's Exhibit 9 at 12-13. The transmission reliability initiative is focused on improving transmission reliability for members and is a collaborative process in which members work with Petitioner's planning staff to identify and select projects based on need. Petitioner's Exhibit 9 at 12-13.

The evidence also shows that Petitioner has sought to optimize recovery of transmission investment and related costs to mitigate the rising cost of transmission. Petitioner's Exhibit 9 at 12-13. To that end, Petitioner sought and received Commission approval in Cause No. 45613 to designate 69kV facilities and above as transmission facilities, which allows Petitioner to include the costs of these facilities within the regional transmission organization ("RTO") transmission tariff and provides Petitioner with transmission revenues to offset the cost of these transmission investments. Petitioner's Exhibit 9 at 12-13.

There is substantial evidence showing that Petitioner will use the proposed debt issuance for the construction, completion, extension, or improvement of its facilities, plant, or distributing

system and for the improvement of its service. There is no evidence to suggest that Petitioner will use the proposed debt issuance for any other purposes. Therefore, the Commission finds that these uses comply with the purpose requirements of Indiana Code § 8-1-2-78.

**(ii) Petitioner's proposed debt issuance is reasonable in aggregate amount.**

Based on the evidence presented, we find the amount of debt that Petitioner plans to issue through the proposed financing program does not exceed an amount that is reasonably necessary. First, the record evidence shows that while Petitioner's list of expected capital expenditures for 2022, 2023, and 2024 totals approximately \$423 million, Petitioner is only seeking approval for financing up to \$330 million for 2022, 2023, and 2024 capital projects and Petitioner intends to fund all of the capital expenditures in excess of \$330 million out of its cash from operations. Petitioner's Exhibit 1 at 9-10. Furthermore, Petitioner's Exhibit 5 (Confidential) shows that the proposed financing program will result in a pro forma total capitalization as of December 31, 2024 that is less than Petitioner's pro forma net utility plant. Thus, we find the resulting capital structure is reasonable and that Petitioner's total outstanding capitalization will not exceed the total value of Petitioner's property. Having given due consideration to the nature of Petitioner's business, its credit, future prospects and earnings, and the effect which the proposed financing may have on the management and efficient operation of Petitioner, we find that the proposed financing authority is reasonable in aggregate amount and satisfies the requirements of Ind. Code § 8-1-2-77.

**(iii) Petitioner's proposed debt issuance is reasonably necessary and in the public interest.**

Pursuant to Ind. Code § 8-1-2-79, Petitioner properly filed with the Commission a verified Petition and set forth the required description of the proposed financing program. Petitioner also provided confidential evidence regarding the total outstanding capitalization of the utility in relation to the total value of the property of the utility. The Petition includes the information required by Ind. Code § 8-1-2-79 as it pertains to the issuance of bonds, notes, or other evidences of indebtedness payable more than one year from the execution thereof and the issuance of preferred stock.

As discussed above, the Commission finds that the proposed purposes of the debt issuance are allowable purposes under Ind. Code § 8-1-2-78. The evidence shows that Petitioner's Board has reviewed and approved Petitioner's 2022 capital budget and has authorized Petitioner to seek financing authority to issue debt for these purposes. There is ample evidence explaining Petitioner's rationale for its budgeted capital projects. As discussed above, we find the proposed financing program does not exceed an amount that is reasonably necessary. Finally, we find that the issuance of long-term debt to finance Petitioner's capital projects benefits Petitioner's members by creating rate stability.

Regarding the terms of the proposed financing program, Ms. Young said the financing facility may borrow up to \$330 million as a multi-draw facility and each note would have a different interest rate based on market conditions and the prevailing rate with the lending institution at the time of the draw. In addition to obtaining a competitive interest rate from

CFC and CoBank, as a member of CFC and CoBank, Petitioner would also receive patronage capital. Ms. Young testified that after the return of patronage capital and other interest rate discounts potentially available to Petitioner, the effective interest rate would be less than the stated interest rates on the promissory notes. Based upon our review of the evidence, we find that the terms of the proposed financing program are reasonable.

Based on our review of the record evidence in this Cause and our findings set forth herein, we conclude that that Petitioner's proposed financing program is reasonably necessary in the operation and management of Petitioner's business and that the proposed debt issuance will serve Petitioner's members' interests and the public interest.

**(iv) Conditions imposed on the proposed financing program**

The OUCC did not oppose Petitioner's proposal. However, the OUCC recommended the Commission impose four conditions on Petitioner's proposed financing program: (1) Petitioner's issuances pursuant to the authority shall be at competitive market rates; (2) interest rates should meet the following criteria: credit spread associated with new fixed debt should not exceed more than 500 basis points compared to the yield to maturity on U.S. Treasury bonds of comparable maturity at the time of pricing and 8.0 percent all-in rate for new variable rate debt; (3) an expiration date of December 31, 2024, be set for the financing authority; and (4) Petitioner should provide a written report to both the OUCC and the Commission within 30 days of incurring the debt that includes all the terms of the debt, which includes: the amount and use of debt, maturity period, interest rate, premiums/discounts, issuance expenses, collateral details, repayment terms and any other terms.

The Commission has authority pursuant to Indiana Code § 8-1-2-80(b) to impose such conditions upon a public utility issuing securities as the Commission deems reasonable. We note that Petitioner has accepted OUCC's proposed conditions (1), (3), and (4), and we find conditions (1), (3) and (4) to be reasonable and consistent with the conditions imposed in Petitioner's prior financing cases.<sup>1</sup>

Consistent with our Orders in Cause Nos. 45325 and 45063, we reject the OUCC's proposed Condition No. 2, which would establish interest rate maximums. The evidence shows that Petitioner's financial condition and circumstances have remained stable since its request for financing authority in Cause Nos. 45325 and 45063, and Petitioner continues to maintain a credit rating from Standard and Poor's of A with a stable outlook. Petitioner's Exhibit 9 at 3. Based on the record evidence, we find that interest rate restrictions could be problematic. The evidence shows that if Petitioner elects to take advantage of both fixed and variable rates, the OUCC's interest rate restrictions could prevent Petitioner from converting the debt to a fixed interest rate option that may be more favorable than the variable rate. Petitioner's Exhibit 9 at 5-6. The evidence also shows that inflationary pressures are currently impacting interest rates. Petitioner's Exhibit 9 at 6.

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<sup>1</sup> See Petition of Wabash Valley, Cause No. 45325 (IURC 4/15/2020) and Petition of Wabash Valley, Cause No. 45063 (IURC 7/25/2018)

We also find that interest rate restrictions are not warranted due to Petitioner's governance structure. Petitioner is a generation and transmission cooperative and is democratically controlled by its member distribution cooperatives and governed by a Board elected from its membership. The evidence shows that Petitioner's Board is empowered to place interest rate maximums on Petitioner's borrowings. Petitioner's Exhibit 9 at 4-6. We conclude that if interest rates rise beyond the OUCC's recommended maximums, Petitioner should not be precluded from borrowing, particularly if its Board, representing its member ratepayers, has authorized the borrowing and has chosen not to impose interest rate restrictions. For the foregoing reasons, we find the imposition of interest rate limits in Condition No. 2 to be unnecessarily restrictive, and we decline to adopt the OUCC's recommendation.

#### **(v) Conclusion**

Based on our review of the evidence, we conclude that approval of the proposed financing program is in accordance with the provisions of Indiana law including, but not limited to, Ind. Code §§ 8-1-2-76 to -80. We conclude the proposed financing program is necessary and advantageous to Petitioner and in the best interest of Petitioner and the members it serves. Accordingly, the Commission finds that Petitioner's proposed financing program, subject to the OUCC's recommended conditions (1), (3), and (4) discussed above, is in the public interest and is approved. We therefore authorize Petitioner through December 31, 2024, to: (1) execute notes in amounts not to exceed \$330 million payable at terms of more than one year; (2) fund construction or improvement of Petitioner's transmission, distribution, generation facilities, and general plant; and (3) encumber its property to secure the indebtedness.

**10. Confidential Material.** On December 17, 2021, Petitioner filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information ("Motion"). Attached to the Motion was the Affidavit of Nisha A. Harke. Petitioner filed a Supplemental Motion on March 15, 2022 with the Affidavit of Theresa Young attached there to. On January 4, 2022 and March 16, 2022, the Presiding Officers issued a Docket Entry finding that the information ("Confidential Information") should be held as confidential by the Commission on a preliminary basis, after which the information was submitted under seal.

No party objected to the confidential and proprietary nature of the information submitted under seal in this proceeding. Upon review of the Confidential Information and consideration of the affidavit, the Commission finds that the Confidential Information contains confidential, proprietary and competitively sensitive trade secret information that has economic value to Petitioner and other parties. Therefore, the Confidential Information should be protected from being known to or ascertainable by Petitioner's competitors and other persons who could obtain economic and other persons who could obtain economic value from the knowledge and use of such information. Thus, the Confidential Information submitted to the Commission pursuant to the Motion is exempt from the public access requirements of Ind. Code § 5-14-3-3, Ind. Code § 8-1-2-29, and Ind. Code § 24-2-3-1 and shall be held confidential and protected from public access and disclosure by the Commission.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Petitioner is authorized to execute notes as evidence of indebtedness in an aggregate amount up to \$330 million payable at periods of more than 12 months at competitive market rates for the purpose of and to the extent required for obtaining funds sufficient for the construction or improvement of Petitioner's transmission, distribution, and generation facilities and general plant.
2. Petitioner is issued a Certificate of Authority for the issuance of such securities. This authority shall expire on December 31, 2024.
3. Petitioner is granted authority to execute such other transaction documents and evidences of indebtedness as are necessary and appropriate to effectuate the issuance of such long term debt, including the authority to encumber its property to secure the indebtedness.
4. Within 30 days of exercising any of the financing authority granted in this Order, Petitioner shall file under this Cause, with a copy to the OUCC, a written report to both the OUCC and the Commission including all the terms of the debt, which include: the amount and use of debt, maturity period, interest rate, premiums/discounts, issuance expenses, collateral details, repayment terms, and any other terms.
5. The Confidential Information filed under seal by Petitioner in this Cause shall continue to be treated by the Commission as confidential and not subject to public disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.
6. This Order shall be effective on and after the date of its approval.

**HOUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:**

**APPROVED:**

**I hereby certify that the above is a true  
And correct copy of the Order as approved.**

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**Dana Kosco  
Secretary of the Commission**