

ORDINANCE NO. 0-84-45

AN ORDINANCE AUTHORIZING THE CITY OF CONWAY, ARKANSAS TO AMEND CERTAIN AGREEMENTS REGARDING THE OWNERSHIP AND OPERATION OF THE INDEPENDENCE STEAM ELECTRIC STATION; AUTHORIZING THE CITY TO ENTER INTO CERTAIN OTHER AGREEMENTS REGARDING THE INDEPENDENCE STEAM ELECTRIC STATION AND CONSENTING TO THE SALE AND LEASEBACK BY ARKANSAS ELECTRIC COOPERATIVE CORPORATION OF ITS 35% UNDIVIDED INTEREST IN INDEPENDENCE UNIT 2; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City"), is a municipality existing under the laws of the State of Arkansas; and

WHEREAS, the City has, along with six other parties, including without limitation Arkansas Electric Cooperative Corporation ("AECC"), constructed an 840 MW (nominal rated capacity) coal-fired steam electric generating unit located in Independence County, Arkansas which generating unit is known as "Independence Unit 2"; and

WHEREAS, AECC desires to sell to and lease back from United States Trust Company of New York, not in its individual capacity but solely as trustee under a Trust Agreement with General Electric Credit Corporation, AECC's 35% undivided interest in Independence Unit 2 and to enter into certain agreements related thereto (the "Transaction"); and

WHEREAS, it is deemed desirable and in the best interests of the City to amend certain agreements to which the City is a party, to enter into certain other agreements with respect to Independence Unit 2 and to consent to the Transaction, all to facilitate the Transaction; and

WHEREAS, substantially final forms of the documents to be executed by the City in connection with the Transaction have been prepared and presented to and reviewed by the Conway Corporation; and

WHEREAS, it is appropriate to adopt an ordinance authorizing the execution of such documents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS, IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARKANSAS AND THE CHARTER OF THIS CITY, THAT:

Section 1. The following agreements (the "AECC Documents") to be entered into by the City with respect to the Transaction:

(a) Amendment to Independence Steam Electric Station Ownership Agreement;

(b) Amendment to Independence Steam Electric Station Operating Agreement;

(c) Owners' Agreement; and

(d) Consent, Amendment and Assumption

substantially in the forms presented to this meeting, be, and the same hereby are, in all respects approved.

Section 2. The City is hereby authorized to enter into and perform its obligations under each of the AECC Documents in the forms authorized hereby.

Section 3. The Mayor, the City Clerk, or the Vice-Mayor, if any, of the City be, and each of them hereby is, authorized, empowered and directed to execute and deliver, in the name of and on behalf of the City, where necessary, to attest and to affix the seal of the City to, each of the AECC Documents, each substantially in the form presented to this meeting as aforesaid, with such changes therein or additions thereto as shall be approved by the person or persons executing the same, the execution and delivery of such AECC Documents by any such person or persons to be conclusive evidence of their approval of the form thereof and that the same is duly authorized by this Ordinance.

Section 4. The City shall, and the officers and agents of the City are hereby authorized, empowered and directed, in the name and on behalf of the City and under its seal where necessary, to execute and deliver such further agreements, documents, certificates and instruments, to take or cause to be taken, and to do and perform all such other acts and things, as may be necessary advisable or appropriate in order to carry out the transactions contemplated by the agreements and instruments referred to in this Ordinance and to carry out and comply with the intent of this Ordinance.

Section 5. The City Clerk is hereby authorized and directed to file in the office of the City Clerk, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person a copy of each of the AECC Documents presented at this meeting and as finally

executed, and such documents shall be on file for inspection by any interested person.

Section 6. There is hereby found and declared to be an immediate need for the accomplishment of the Transaction and the execution and delivery of the AECC Documents in order to assure the timely completion and operation of Independence Unit 2 and the immediate application of the provisions of the AECC Documents, to provide electricity and otherwise benefit the public health, safety and welfare of the City and the inhabitants thereof, and the taking of the action authorized hereby is immediately necessary for the accomplishing of these public benefits and purposes. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in force and effect immediately upon and after its passage.

PASSED: November 27th, 1984.

ATTEST:

Martha Hartwick
City Clerk

APPROVED:

By

Bill Wright
Mayor

(SEAL)