

ORDINANCE NO. 0-03- 39

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$9,900,000 OF ELECTRIC REVENUE REFUNDING BONDS, SERIES 2003, BY THE CITY OF CONWAY, ARKANSAS FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING ELECTRIC REVENUE REFUNDING BONDS, SERIES 1993, AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL TRUST INDENTURE PURSUANT TO WHICH THE SERIES 2003 BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE SERIES 2003 BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2003 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City"), a city of the first class, presently owns an electric generation and distribution system (the "System") serving the residents of the City, which System is operated and maintained by Conway Corporation, a nonprofit corporation organized and existing under the laws of the State of Arkansas (the "Corporation"), pursuant to a lease from the City and an exclusive franchise to operate the System granted to the Corporation by the City; and

WHEREAS, the City is authorized under the provisions of the Constitution of the State of Arkansas and Arkansas Code Annotated Sections 14-203-101 *et seq.* (Repl. 1998) (the "Act") to issue and sell its electric revenue bonds for the purpose of financing and refinancing the cost of improvements to the System; and

WHEREAS, the City has outstanding an issue of Electric Revenue Refunding Bonds, Series 1993, issued in the original principal amount of \$27,100,000, of which \$14,430,000 in principal amount currently remains outstanding (the "Series 1993 Bonds"), issued under the provisions of Ordinance No. 0-93-13 of the City, adopted and approved on March 10, 1993; and

WHEREAS, the City has outstanding an issue of Electric Revenue Refunding Bonds, Series 2002, issued in the original principal amount of \$2,960,000, of which \$2,365,000 in principal amount currently remains outstanding (the "Series 2002 Bonds"), issued under the provisions of Ordinance No. 0-02-33 of the City, adopted and approved on February 26, 2002; and

WHEREAS, in order to secure funds necessary to refund the Series 1993 Bonds, to fund a debt service reserve, and to pay printing, legal, underwriting and other expenses incidental to the issuance of electric revenue refunding bonds for such purposes, the City has determined to issue its Electric Revenue Refunding Bonds, Series 2003, in the aggregate principal amount of \$9,900,000 (the "Series 2003 Bonds"); and

WHEREAS, the City has determined to issue and secure the Series 2003 Bonds on a parity basis with its outstanding Series 2002 Bonds pursuant to the Trust Indenture dated as of March 15, 2002 (the "Trust Indenture"), by and among the City, the Corporation and Metropolitan National Bank, as trustee (the "Trustee"), as amended and supplemented by a First Supplemental Trust Indenture to be dated as of May 1, 2003 (the "First Supplemental Indenture"), a form of which has been presented to and is before this meeting; and

WHEREAS, the City proposes to enter into a Bond Purchase Agreement (the "Bond Purchase Agreement") in substantially the form presented to and before this meeting, with Crews & Associates, Inc., Little Rock, Arkansas, and Stephens Inc., Little Rock, Arkansas (the "Underwriters"), providing for the sale of the Series 2003 Bonds.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Conway, Arkansas that:

Section 1. The City Council hereby finds and declares that the refunding of the Series 1993 Bonds is in the best interests of the City and the customers of the System due to the reduction of the interest expense secured by System revenues following such refunding.

Section 2. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 65 to the Constitution of Arkansas and the Act, there is hereby authorized the issuance of bonds of the City to be designated as "Electric Revenue Refunding Bonds, Series 2003" (the "Series 2003 Bonds"). The Series 2003 Bonds shall be issued in the original aggregate principal amount of Nine Million Nine Hundred Thousand Dollars (\$9,900,000), shall mature not later than August 1, 2007, and shall bear interest at the rates specified in the Bond Purchase Agreement. The Series 2003 Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, and shall contain such other terms, covenants and conditions, all as set forth in the First Supplemental Indenture. The Series 2003 Bonds shall not be subject to redemption prior to maturity. The Series 2003 Bonds shall be issued and secured on a parity basis with the Series 2002 Bonds.

Section 3. To prescribe the terms and conditions upon which the Series 2003 Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge the First Supplemental Indenture dated as of May 1, 2003 (the "First Supplemental Indenture"), by and among the City, the Corporation and Metropolitan National Bank, as trustee (the "Trustee"), and the City Clerk is hereby authorized and directed to execute and acknowledge the First Supplemental Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the First Supplemental Indenture to be accepted, executed and acknowledged by the Corporation and the Trustee. The First Supplemental Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the pledge of System revenues to the Series 2003 Bonds and the terms of the Series 2003 Bonds. The Mayor is hereby authorized to confer with the Corporation, the Trustee and the Underwriters in order to complete the First Supplemental Indenture in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the First Supplemental Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the First Supplemental Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Series 2003 Bonds. The Preliminary Official Statement is hereby "deemed final" within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved and ratified. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City, the Corporation and the Underwriters, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Corporation, the Trustee and the Underwriters in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. In order to prescribe the terms and conditions upon which the Series 2003 Bonds are to be sold to the Underwriters, the Mayor is hereby authorized and directed to execute, at the request of the Corporation, a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and among the City, the Corporation and the Underwriters, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Corporation and the Underwriters in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. In order to provide for the redemption of the Series 1993 Bonds, the Mayor is hereby authorized and directed to execute an Escrow Deposit Agreement to be dated as of the date of its execution (the "Escrow Agreement"), by and between the City and BankOne, N.A., Chicago, Illinois, as escrow trustee (the "Escrow Trustee"), and the Mayor is hereby authorized and directed to cause the Escrow Agreement to be executed by the Escrow Trustee. The Escrow Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Corporation and the Underwriters in order to complete the Escrow Agreement in substantially the form submitted to this meeting with such

changes as shall be approved by such persons executing the Escrow Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Escrow Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. In order to provide for continuing disclosure of certain financial and operating information with respect to the City and the System in compliance with the provisions of Rule 15c2-12 of the U. S. Securities and Exchange Commission, the Mayor is hereby authorized and directed to execute a Continuing Disclosure Agreement to be dated as of the date of its execution (the "Continuing Disclosure Agreement"), by and among the City, the Corporation and the Trustee, and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Corporation and the Trustee. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Corporation, the Trustee and the Underwriters in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 8. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Series 2003 Bonds and to effect the execution and delivery of the First Supplemental Indenture, the Bond Purchase Agreement, the Official Statement, the Escrow Agreement, the Continuing Disclosure Agreement, a Tax Regulatory Agreement relating to the tax exemption of interest on the Series 2003 Bonds, and a Forward Purchase Agreement relating to the investment of debt service payments to be made by the Corporation with respect to the Series 2003 Bonds and the Series 2003 Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 9. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Series 2003 Bonds.

Section 10. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 11. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 12. It is hereby found and determined that there is an urgent need to refinance certain outstanding indebtedness of the City secured by the revenues of the System, and that in order to do so on the most favorable terms, it is necessary to enter into the Bond Purchase Agreement as soon as possible. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate preservation of the public health, safety and welfare, shall be in force and take effect immediately upon and after its passage.


ADOPTED AND APPROVED THIS 8th DAY OF APRIL, 2003.

APPROVED:



Mayor

ATTEST:



City Clerk

(SEAL)