

**EGYPTIAN ELECTRIC COOPERATIVE ASSOCIATION
POLICY BULLETIN NO. 308**

**BOARD POLICY ON OFFERS TO ACQUIRE ALL OR
SUBSTANTIALLY ALL OF THE COOPERATIVE'S ASSETS**

WHEREAS, Egyptian Electric Cooperative Association (the "Cooperative") was created, and for more than 57 years has served to bring electric service to homes, businesses, farms, and industry in areas where service was not otherwise available;

WHEREAS, the Cooperative was organized to provide its members with adequate and reliable electric service and to assist its members in the efficient and economical use of energy;

WHEREAS, the Cooperative is a viable business, which is efficiently performing the services for which it was organized;

WHEREAS, the Cooperative is locally owned and managed and is a vital part of the community which it serves and as such, has concerns that include the interests of that community, its members and employees;

WHEREAS, the Cooperative is operated as a nonprofit corporation, whereby all revenues in excess of the Cooperative's expenses are allocated to its members on a patronage basis as capital credited to the members' accounts, and those capital credits are retired to the members in accordance with state law and the Articles of Incorporation and Bylaws of the Cooperative;

WHEREAS, the Cooperative is one of the distribution cooperative members of Southern Illinois Power Cooperative, a generation and transmission electric cooperative (collectively referred to as the "Affiliated Cooperatives");

WHEREAS, the Cooperative is part of a closely related, interdependent cooperative system, and the effects of an action taken by Affiliated Cooperative may materially affect the operations and viability of the other Affiliated Cooperatives;

WHEREAS, the Board of Directors recognizes that its partial ownership of Southern Illinois Power Cooperative is a major asset of the Cooperative and in order to recognize full value for the Cooperatives' assets, it will be necessary for Southern Illinois Power Cooperative's assets to be disposed of at the same time as the Cooperative;

WHEREAS, the Board of Directors recognizes the possibility that the Cooperative could in the future receive an offer to acquire all or substantially all of the Cooperative's assets, whether by purchase, merger, lease, or otherwise;

WHEREAS, the Board of Directors has determined that in order for the Directors to carry out their duties to the Cooperative, minimize the costs and disruption to the Cooperative involved in undertaking repeated due diligence reviews, and abide by the terms of its Articles of Incorporation, Bylaws, and any applicable laws or regulations, it is in the best interest of the Cooperative and its members to establish certain procedures to govern the Cooperative's receipt, consideration, and final action on an offer.

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NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Cooperative hereby adopts the following Policy, to establish certain policies and procedures relating to offers, which shall be followed unless the Board determines that an exception is required by extenuating circumstances.

BE IT FURTHER RESOLVED, that in recognition of the Cooperative's close and interdependent relations with its Affiliated Cooperatives, the terms of this Policy shall not apply to offers received from any of the Affiliated Cooperatives, unless otherwise provided herein.

BE IT FURTHER RESOLVED, that this Policy is designed only to provide guidance for the Cooperative's Board of Directors and shall not be construed to create rights in the Cooperative's members, a party submitting an offer to the Cooperative, or any other person, corporation, or other entity.

BE IT FINALLY RESOLVED, that this Policy shall not be amended or repealed, except by an affirmative vote of two-thirds (2/3) of the Directors.

1. BOARD POLICIES AND PROCEDURES

- A. If an offer is received by the Cooperative and such offer is not a Qualifying Offer (as defined in Paragraph 1. (C), below), it shall be considered an "Inquiry." The recipient of any inquiry shall notify the person, corporation, or other entity submitting the Inquiry, that, under the terms of this Policy, the Board of Directors shall not consider an offer unless it qualifies as a Qualifying Offer, as defined in Paragraph 1. (C).
- B. The Manager of the Cooperative shall notify the Board of any Inquiry or Qualifying Offer immediately upon notice thereof.
- C. The Board of Directors shall consider only offers, which meet all of the criteria listed in this Paragraph, in which case it shall be considered a Qualifying Offer. If at any time it is determined that an offer does not meet all of the criteria in this Paragraph, it shall be rejected by the Board, and the person, corporation, or other entity submitting the offer (the "Interested Party") shall be notified of the rejection. The Interested Party, however, shall be given an opportunity to submit additional information to meet these criteria within a reasonable period of time, not to exceed three (3) months.
 - 1. A Qualifying Offer must be for the purchase, merger, lease or otherwise of all the assets of the Cooperative and Southern Illinois Power Cooperative.
 - 2. A Qualifying Offer must be a written offer, containing the acquisition price and all other material terms, which is binding upon the Interested Party until a specified date or until rejected;
 - 3. A Qualifying Offer must specify the date on which it will expire if not accepted by the Cooperative;

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4. A Qualifying Offer must disclose the identity of the Interested Party and be executed by authorized representatives of the Interested Party;
5. A Qualifying Offer must contain the names, addresses and telephone numbers of persons representing the Interested Party with whom the Board may communicate and from whom it may secure authoritative answers regarding the Qualifying Offer;
6. In light of the expense in responding to a Qualifying Offer, a Qualifying Offer must be accompanied with an Escrow Agreement acceptable to the Cooperative, which Agreement shall require the Interested Party to deposit an amount equal to at least 10% of Total Utility Plant of the Cooperative and Southern Illinois Power Cooperative in an escrow account. The terms of the Escrow Agreement shall provide that the principal amount of the deposit may be drawn on by the Cooperative to:
 - a. pay for all costs (including accounting, engineering and legal) of studies, reviews, analyses, appraisals by and for the Cooperative in its evaluation of the Qualifying Offer; and
 - b. pay costs incurred by the Cooperative in seeking regulatory approvals.

If the offer is withdrawn or rejected, any remaining balance in the escrow account shall be paid to the Interested Party when the Board certifies that all costs set forth in (a) and (b) of this section have been paid in full.

7. A Qualifying Offer must contain an agreement by the Interested Party not to issue press releases or discuss the Qualifying Offer with the media without prior written notification to the Cooperative and Southern Illinois Power Cooperative, and to refrain from issuing misleading statements or advertising; and
 8. A Qualifying Offer must not be in direct conflict with the terms of the Cooperative's Articles of Incorporation, Bylaws, this Policy, or any applicable law or other policies.
- D. Upon a determination by the Board that it has received a Qualifying Offer the Board shall:
1. Designate an individual from the Cooperative to receive all communications, including telephone calls and written communications, from the Interested Party, the members, and the media. This individual shall understand and follow this Policy but not have authority to bind the Board or the Cooperative on any matter regarding the Qualifying Offer.
 2. Notify the Cooperative's members of the receipt of the Qualifying Offer. The Notice should include the following:

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- a. a summary of the Qualifying Offer;
 - b. a statement that the Board has taken the Qualifying Offer under advisement, as is required by the terms of this Board Policy;
 - c. a brief description of the procedures the Board shall follow in evaluating the Qualifying Offer;
 - d. a statement that the members may review a copy of the Qualifying Offer at the Cooperative's office during its regular business hours; and
 - e. the name of the person whom the members may contact with questions regarding the Qualifying Offer.
3. Send a copy of the Qualifying Offer to its attorney.
 4. Send a copy of the Qualifying Offer to Southern Illinois Power Cooperative and request a statement as to the effects of the Qualifying Offer upon the Cooperative's Wholesale Power Contract.
 5. Send a copy of the Qualifying Offer to such other persons, if any, required by the "First Refusal Agreement" or by state law.
 6. Send a copy of the Qualifying Offer to the Rural Utility Service ("RUS") and any other lenders and request a statement as to the effects of the Qualifying Offer upon the Cooperative's Mortgage and Loan Agreement or other instruments relating to the Cooperative's outstanding debt.
 7. Obtain at least two (2) independent appraisals concerning the value of the Cooperative and its assets. The appraisal should use commonly accepted valuation methods.
 8. Obtain a comparison of the Cooperative's and the Interested Party's present and reasonably foreseeable future rates; fees and charges, including service extension requirements; other service rules and regulations; adequacy and reliability of service; and any other considerations relevant to the provision of electric service.
 9. Request detailed information from the Interested Party, such as annual reports, tax returns, and form 10-K filings dating back at least five (5) years; full copies of all relevant audits, internal planning documents, employee policy manuals and union contracts; a current stockholder list; a list of all pending court and administrative proceedings; and any relevant operations manuals, engineering studies, construction plans, and environmental impact statements.

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10. Request the Interested Party to submit an expert opinion on the potential tax liabilities of the transaction to the Cooperative and the members.
 11. Undertake any other investigations, studies, or comparisons that the Board considers relevant to its evaluation of the Qualifying Offer.
 12. Evaluate the Qualifying Offer in accordance with the terms of this Policy, considering the evaluation criteria set forth in Paragraph 11, below, and any other criteria which the Board deems relevant.
- E. After evaluation, if the Board determines that the Qualifying Offer should be rejected, it shall notify the Interested Party and the Cooperative's members of the reasons for the rejection. The Board shall also notify its attorney, Southern Illinois Power Cooperative, the other parties to the First Refusal Agreement, RUS, and any other lenders of the Board's decision.
- F. If, after evaluation, a two thirds (2/3) majority of the Board determines that the sale, lease, merger, or other acquisition proposed by the Qualifying Offer is in the best interest of the Cooperative and its members, the Board shall notify the Interested Party of its intent to further pursue the transaction, subject to written agreement by the Interested Party to the following terms and conditions:
1. That Southern Illinois Power Cooperative's members have agreed to sell, lease, merge or be acquired in accordance with the Qualifying Offer;
 2. That the Cooperative is released from or otherwise satisfies its Wholesale Power Contract;
 3. That any adverse tax impacts upon the Cooperative as an entity and its present and former members will be minimized to the extent practicable;
 4. That all existing employees of the Cooperative are offered continued employment for at least 2.99 years upon terms at least equal to those enjoyed by the Cooperative's employees at the time the Qualifying Offer was submitted to the Board. The terms to be considered shall include wages, salaries, severance benefits, insurance and pension benefits, fringe benefits, rank and job title, union membership, place of employment, and residence;
 5. That the Interested Party will indemnify and hold harmless any employees, Directors, officers, agents, servants, attorneys, accountants, consultants, representatives, affiliates, subsidiaries, and insurers of and all others acting in privity with the Cooperative for any actions taken in connection with the Qualifying Offer;
 6. That the total consideration for the acquisition will be paid in cash directly to the Cooperative and the Southern Illinois Power Cooperative or their accounts; and

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7. That the transaction will become void if all regulatory and contractual approvals are not obtained within a reasonable time after member approval.

- G. After the Board has received the Interested Party's written agreement to the terms and conditions in Paragraph 1. (F), the Board shall submit a Notice of Opportunity to Exercise Refusal" (as that term is defined in the First Refusal Agreement) to those parties having such rights thereunder. Once the Notice of Opportunity to Exercise Refusal has been submitted, the Board shall not permit the Interested Party to change any material terms in either its Qualifying Offer or its written agreement to the terms and conditions in Paragraph 1. (F).

- H. If a party to the First Refusal Agreement exercises its rights thereunder (the "First Refusal Offer"), the Board shall proceed with a vote of the members on the First Refusal Offer pursuant to Paragraphs I through K, below. The Board shall only proceed under Paragraphs I through K, below, on a Qualifying Offer if no party to the First Refusal Agreement has exercised its rights thereunder, or if the Cooperative's members have rejected the First Refusal Offer.

- I. Before submitting the Qualifying Offer or the First Refusal Offer to a vote of the members, the Board shall notify its attorney, Southern Illinois Power Cooperative, RUS, and any other lenders of the Board's intention to submit it to a vote of the members.

- J. Once the above procedures have been followed, the Board shall notify the members in writing of its intent to submit the Qualifying Offer or the First Refusal Offer to the membership for a vote. The notice shall include a summary of the final terms and conditions of the Qualifying Offer or the First Refusal Offer. A membership meeting shall be called for the purpose of voting on the Qualifying Offer or the First Refusal Offer. The meeting shall be called pursuant to the Cooperative's Articles of Incorporation, Bylaws, and applicable laws and regulations.

- K. Any meeting of the members to vote on the Qualifying Offer or the First Refusal Offer shall be conducted according to its bylaws, and the Board of Directors shall designate a person with expertise in such matters to chair the meeting.

- L. If the members vote to accept the Qualifying Offer or the First Refusal Offer, the Board shall take all actions necessary to finalize the transaction and, if necessary, dissolve and wind up the business of the Cooperative; provided, however, that it shall be the responsibility of the Interested Party to obtain all necessary regulatory and contractual approvals. Unless such approvals are obtained within a reasonable time, the transaction shall be deemed to be null and void.

- M. If at any time a Qualifying Offer is rejected, whether by the Board or by the members, or if a Qualifying Offer is withdrawn by the Interested Party, any further such Qualifying Offer by the Interested Party or any of its affiliates or subsidiaries within two (2) years after the date of rejection shall be rejected by the Board unless it materially differs from the withdrawn or rejected Qualifying Offer.

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II. EVALUATION CRITERIA

As provided in Paragraph 1. (D) (12), above, the Board may consider any criteria that the Board deems relevant in its evaluation of a Qualifying Offer. To the extent practicable, and so long as not inconsistent with the best interests of the members, the Board shall consider each of the following criteria:

- A. Whether the Qualifying Offer is in the best interest of the Cooperative's present and future members. In determining whether the Offer is in the members' best interest, the Board should consider both economic and non-economic matters, both at the present time and for the reasonably foreseeable future.
- B. The results of the independent appraisals concerning the fair value of the Cooperative. Although the Board shall consider all such information and opinions, it shall have the final responsibility to make the Cooperative's official determination of value and whether acceptance of the Qualifying Offer is in the best interests of the Cooperative and its members.
- C. Whether the Qualifying Offer is in compliance with all applicable laws, regulations and requirements of the Cooperative's Articles of Incorporation, Bylaws, and policies.
- D. Whether the Qualifying Offer complies with all requirements of the Cooperative's mortgage and loan documents.
- E. Whether the Qualifying Offer is in compliance, or would allow the Cooperative to comply, with all contractual obligations with other parties.
- F. Whether rates, fees, and other charges, and service rules and regulations of the Interested Party will be at least equivalent to, or better than, those of the Cooperative, both at the time of the Qualifying Offer and for the reasonably foreseeable future, but for a minimum of five (5) , years. In evaluating rates, the Cooperative's capital credit system shall be taken into account. In addition, the Board should consider how the members' rates may be impacted in the future by the cost of the acquisition.
- G. Whether the Interested Party's electric service would be at least as reliable as that provided by the Cooperative at the time of the Qualifying Offer and as projected into the reasonably foreseeable future.
- H. Whether other service functions affecting the members would be at least as good as those afforded by the Cooperative.
- I. Whether the Interested Party is financially able to consummate the Qualifying Offer. The Board should also consider the source and feasibility of the proposed financing.

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- J. Whether the Interested Party would continue or enhance the Cooperative's community involvements including: control, management, offices, board membership and economic development.

CERTIFICATION OF SECRETARY

I, Raymond C. Mulholland, do hereby certify that the above Policy was adopted by the Board of Directors on April 2, 1996.

SEAL

Raymond C. Mulholland, Secretary

Adopted: August 24, 2004
Revised: 7/21/2010

Attested: Gilbert Kroening, Secretary
Attested: Ray Mulholland, Secretary