**STATE OF NEW HAMPSHIRE**
**PUBLIC UTILITIES COMMISSION**

**DG 17-132**

**Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities**

**Petition for Authority to Borrow Money/Issue Evidence of Indebtedness**

**Order Approving Petition**

**O R D E R N O. 26,084**

December 15, 2017

In this order, the Commission grants Liberty the authority to borrow up to $87,800,000 to retire existing debt. The Commission finds that the borrowing is consistent with the public good and approves the Petition.

## I. BACKGROUND

On August 28, 2017, pursuant to RSA 369:1, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty" or "the Company") filed a Petition to Issue Long-Term Debt Securities ("Petition"). The Company's filing included the direct testimony of Mark T. Timpe, Treasury Director for Liberty Utilities Corp.; information required by Puc Form F-4, Authority to Issue Securities; and a request for waivers of N.H. Code Admin. Rules Puc 509.03(b)(7) and (8). Following discovery, on October 26, 2017, Staff issued a memorandum recommending approval of the Petition and the requested waivers. The Petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-132.html

## II. POSITIONS OF THE PARTIES

### A. Liberty

Liberty's last long-term debt instrument issuance was concluded in December 2012, when it issued $90 million of promissory notes to its corporate parent, Liberty Utilities Corp. ("LUC"). Order No. 25,370 (May 30, 2012). In the Petition here, the Company seeks authority to issue long-term debt instruments in an amount not to exceed $18.2 million to replace a maturing intercompany promissory note, and to issue long-term debt instruments not to exceed $69.6 million to replace short-term debt, the new instruments to be issued by the Company's corporate parent, LUC. The total borrowing authority being sought is $87.8 million. The Company had approximately $83.8 million of short-term debt outstanding as of June 30, 2017.

The Company proposes to offer two 15-year promissory notes for $18,181,818.18 and $69,600,000.00 with the interest rate to be set at the 15-year U.S. Treasury rate published by Bloomberg approximately one business day prior to closing, plus a credit spread of 160 basis points. The indicative interest rate would be 4.12 percent based on a June 30, 2017, U.S. Tresasury rate of 2.52 percent. The actual interest rate may vary. The Company indicated, however, that it is not opposed to issuing a single, lump sum promissory note. The estimated cost of the financing is 50 basis points or $438,909. The terms and conditions of the borrowing reflect the terms and conditions of the $750 million of long-term debt instruments that were issued by LUC on March 24, 2017. The 15-year term is the weighted average maturity of the six tranches issued by LUC that ranged from 3 to 30 years and included issuance fees of 50 basis points. Mr. Timpe testified that the Company's debt-to-equity ratio will change very little as a result of the proposed debt issuance as the net proceeds of the offering will be used to repay existing debt. The Company's current capital structure is 50.5 percent debt and 49.5 percent equity; and following the issuance of the proposed debt instruments will be 50.8 percent debt and 49.2 percent equity. Testimony of Mark T. Timpe at 5-9.

The Company stated that it has been using short-term debt to finance ongoing construction needs such as replacement of cast iron and bare steel infrastructure, distribution system growth, and system upgrades. In addition to replacing existing long-term debt that matures on December 20, 2017, Liberty intends to replace short-term debt used to fund construction activities that produced long-lived assets. *Id.* at pages 4-5.

### B. Staff

Staff recommended approval of the borrowing requests, and for waivers from Puc Rule 509.03(b)(7) (requiring a copy of the mortgage indenture) and (8) (requiring the terms of new common preferred stock). Staff's Memorandum states:

> Staff believes the proposed issuance is routine in that the proposed use of funds is appropriate, the amount is not excessive, the cost of the issuance is reasonable and the expected interest rate is consistent with that of other entities with similar credit ratings .... There should be limited impact on [Liberty's] capital structure, which is a very balanced debt to equity ratio ....
>
> Liberty should issue one promissory note for the proposed debt issuance since the two draft notes contained in the filing have identical terms and issuing a single note will simplify future reporting. Staff also supports the Company's request for a waiver of Puc 509.03(b)(7) and Puc 509.03(b)(8), as Liberty will be entering into a promissory note with [LUC] and there will be no mortgage or stock issuance.

Staff Memorandum at 3-4.

## III. COMMISSION ANALYSIS

RSA 369:1 states a "public utility lawfully engaged in business in this state may, with the approval of the commission but not otherwise, issue and sell its stock, bonds, notes and other evidences of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes. The proposed issue and sale of securities will be approved by the commission where it finds that the same is consistent with the public good." RSA 369:1.

The Commission reviews the amount to be financed, the reasonableness of the terms and conditions, the proposed use of the proceeds, and the effect on rates. *Appeal of Easton,* 125 N.H. 205, 211 (1984); *see* RSA 369:4 (finding of public good required for approval of long-term public utility debt). The rigor of an *Easton* inquiry varies depending on the circumstances of the request. As we have previously noted, "certain financing related circumstance are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing." *Public Service Co. of N.H.*, Order No. 25,050 at 14 (December 8, 2009).

Here, we conduct an abbreviated review of this routine financing, because the Company is refinancing an existing mature debt, and using long-term debt to retire short-term debt. Based on the record, the Company's request has merit. The financing is routine in that the proposed use of funds is appropriate, the cost of the debt is reasonable, and the expected interest rate is consistent with that of other entities with similar credit ratings. The Commission thus finds that granting the Petition is consistent with the public good.

We also agree with the Company that Puc 509.03(b)(7) and (b)(8), which require the submission of mortgage indentures and information on preferred stock related to debt and equity financings, are inapplicable to this petition. In this financing, no mortgage is required and no preferred stock is being issued. Accordingly, under Puc 201.05(b)(1), which allows for waiving inapplicable requirements, we grant the requested waivers. We believe Staff's recommendation of having a single promissory note issued for this borrowing has merit, and should be implemented if feasible, as it would simplify reporting requirements.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Petition by the Company for approval to borrow money and issue evidence of indebtedness in an aggregate principal amount not to exceed $87,800,000 and on the terms described in this order is hereby GRANTED; and it is

**FURTHER ORDERED**, that the requested waivers of Puc Rule 509.03(b)(7) and (8), are hereby GRANTED.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of December, 2017.

Martin P. Honigberg
Chairman

Kathryn M. Bailey
Commissioner

Michael S. Giaimo
Commissioner

Attested by:

Debra A. Howland
Executive Director