

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 25-004

LIBERTY UTILITIES (EVERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY

**Petition for Authority to Issue Long-Term Debt and to
Waive Portions of Puc 507.02(b)**

Order *Nisi* Approving Financing

O R D E R N O. 28,126

April 7, 2025

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty or the Company) filed a petition for authority to borrow up to \$125,000,000 in long-term loans from an affiliated company pursuant to RSA 369. In its petition, Liberty also seeks a waiver from portions of New Hampshire Code of Administrative Rules, Puc 507.02, which require gas utilities to submit specific types of documents in support of a petition to issue securities. The New Hampshire Department of Energy (DOE) is in favor of approving Liberty's petition, and filed a technical statement and legal analysis supporting its position. The DOE also supports Liberty's request for waiver. For the following reasons, the Commission GRANTS Liberty's petition on a *nisi* basis consistent with the ordering clauses below.

The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2025/25-004.html>.

I. BACKGROUND

The following information comes from Liberty's petition, the pre-filed testimony of Liberty's witness Michael Mosindy, and the technical statement of the DOE's utility

analyst Ashraful Alam. Liberty is a public utility that distributes natural gas within the state of New Hampshire and is a subsidiary of Algonquin Power and Utilities Corp. (“APUC”). In this petition, Liberty seeks to take a long-term loan of up to \$125,000,000 from Liberty Utilities Co. (“LuCo.”), an affiliated service company that is also owned by APUC. According to Liberty’s petition, the debt would be divided into the following three tranches:

- a. A note in the amount of \$41,818,181.82 for a term of 10 years at 5.92 percent to replace a matured intercompany promissory note of the same amount;
- b. An intercompany promissory note in the amount of \$42,000,000 for a term of 20 years at 6.29 percent to replace short-term debt; and
- c. An intercompany promissory note in the amount of \$41,181,818 for a term of 30 years at 6.36 percent, also to replace short-term debt.

In support of its petition, Liberty submitted the pre-filed testimony of Mr. Mosindy, an employee of a subsidiary of APUC who is responsible for managing the financing needs for all of APUC’s subsidiary companies. According to Mr. Mosindy, the Company selected the amounts and terms of financing to implement an appropriate laddering of Liberty’s long-term debt which will mitigate refinancing and interest rate risk when debt matures, and to aid in approaching its approved capital structure of 48% debt and 52% equity. Liberty’s current capital structure is 44.86% debt and 55.14 % equity, excluding goodwill. Issuing the requested debt will boost the debt ratio to 45%. In addition, based on the evidence the anticipated cost of the financing is \$870,661¹. According to Mr. Mosindy, the loan will have no discernable impact on rates, as the funds will be used to repay the Company’s existing short-term debt.

¹ In his pre-filed testimony, Mr. Mosindy testified that the cost of the financing would be \$633,865. In his technical statement, Mr. Alam, based on his communications with the company, represented that this was a miscalculation and that the actual cost would be \$870,661. Although Liberty has not independently confirmed this correction, it has not filed any response to Mr. Alam’s technical statement. The Commission therefore assumes the higher figure is correct for the purposes of this order.

Petition at 6. Finally, Mr. Mosindy stated that the short-term debt Liberty is seeking to replace was issued primarily to fund construction activities, and replacing the short-term debt with long-term debt will more closely match the maturity of the debt with the useful lives of the assets.

Mr. Alam, an analyst with the DOE, reviewed Liberty's petition and submitted a technical statement outlining his findings. Based on his review of Liberty's filing, including the company's responses to discovery requests, Mr. Alam concluded that the proposed financing would not have a deleterious impact on the Company's current capital structure and there will be discernable effect on rates.

II. ISSUES AND ANALYSIS

In its petition, Liberty requests both authority to issue securities pursuant to RSA 369 and waiver from certain provisions of Puc 507.02. The Commission will consider each issue in turn.

A. Authority to Issue Securities Under RSA 369

Both Liberty and the DOE argue that the Commission should approve Liberty's petition pursuant to RSA 369:1. That statute states that a utility may, "with the approval of the commission but not otherwise, issue and sell ... notes and other evidences of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes." The Commission shall authorize the financing "if in its judgment the issue of such securities upon the terms proposed is consistent with the public good." RSA 369:4. In reviewing a petition under RSA 369:1, the first question is what standard of review the Commission should apply. Therefore, the Commission will first determine the appropriate standard of review and then analyze Liberty's petition in light of that standard.

i. Standard of Review

The first issue is what standard of review the Commission should apply in reviewing Liberty's petition. Both Liberty and the DOE argue that the Commission should apply a less stringent standard of review, consistent with *Appeal of Easton*, 125 N.H. 205, 211 (1984). Under *Easton*, the rigor of an inquiry into a proposed financing agreement varies depending on the circumstances of the request. As the Commission has noted in prior decisions, "certain financing related circumstances 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 Company of New Hampshire*, Order No. 25,050 at 14 (December 8, 2009). We engage in a more limited review for routine financing requests. *Id.* at 13–14. A routine request is one that will have no discernible "impact on rates or deleterious effect on capitalization, [and] in which the funds are to enable numerous investments appropriate in the ordinary course of utility operations." *Id.* at 13. Notably, the Commission has generally ruled on routine financing requests based on the filings through orders *nisi*. See *Pennichuck Water Works, Inc.*, Order No. 26,287, at 8 (May 25, 2023).

Based on the pre-filed testimony of Mr. Mosindy and the technical statement of Mr. Alam, the Commission finds that the proposed financing is routine in nature because it will not have a discernable impact on rates, will not have deleterious effect on capitalization, and because the funds will be used for construction activities in the ordinary course of Liberty's operations. Therefore, the Commission will engage in a more limited review of Liberty's petition.

ii. Review of Petition

Having determined the standard of review, the next question is whether Liberty has sufficiently shown that the proposed financing would be in the public good pursuant to RSA 369:1. In determining whether proposed financing is in the public good, the Commission reviews the amount to be financed, the reasonableness of the terms and conditions, the proposed use of proceeds, and the effect on rates. *Easton*, 125 N.H. at 211.

Here, based on the representations in Mr. Mosindy's pre-filed testimony and Mr. Alam's statement, the Commission finds that the proposed loans would be in the public good. Specifically, we find that the interest rates and costs appear to be reasonable, that the loans will not negatively impact Liberty's capitalization structure, and that the impact to residential customers' monthly bills will be minimal. Moreover, we find that the loans, which will replace short-term debt that Liberty has used to finance construction activities, will permit Liberty to provide safe and adequate service to its customers, as required by RSA 374:1. Accordingly, we find that the financing agreement is consistent with the public good and therefore authorize Liberty to proceed with the financing transaction. *See* RSA 369:1, 4. In addition, we find that Liberty and the DOE's findings sufficiently support the petition and that no further investigation is required, and thus grant this petition through order *nisi*. *See* Order No. 26,287, *supra*.

B. Waiver of Puc 507.02 Rules

In addition to its request for authorization to enter into the financing agreement, Liberty also seeks waiver from several provisions of Puc 507.02, which requires gas utilities to include certain information with any petition to issue securities. Specifically, Liberty seeks waiver from: (1) Puc 507.02(b)(6), which requires

a utility to provide a copy of the purchase and sale agreement for long term financing, including any letter of commitment from a lender stating details of financing; (2) Puc 507.02(b)(7), which requires a utility to include a copy of the mortgage indenture; and (3) Puc 507.02(b)(8), which requires utilities to include a copy of terms of new common or preferred stock. Liberty argues that waiver is appropriate in this case because the intercompany financing agreement it has proposed will not include a purchase and sale agreement, a mortgage indenture, or the issuance of new common or preferred stock. Therefore, Liberty maintains that the rule requiring the disclosure of these documents would not serve its intended purpose. The DOE supports Liberty's request for waiver of these rules.

Under Puc 203.01(a), the "commission . . . shall waive the provisions of any of the commission's administrative rules, except when precluded by statute, in response to a motion filed by an interested party . . . if it found that: (1) [t]he waiver serves the public interest; and (2) [t]he waiver will not disrupt the orderly and efficient resolution of matters before the commission." "In determining the public interest, the commission or the presiding officer shall find a request to be in the public interest if . . . [c]ompliance with the rule would be onerous or inapplicable given the circumstances." Puc 203.01.

The Commission finds that waiver of Puc 507.02(6)(7), and (8) is appropriate under the circumstances of this docket. In particular, the Commission accepts Liberty's representation that the documents at issue are not part of the contemplated transaction and thus a rule requiring their disclosure would be inapplicable. In addition, there is no apparent reason why waiver of this rule would disrupt the orderly and efficient resolution of this matter. Accordingly, the Commission GRANTS Liberty's request for waiver.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, Liberty's request for authority to issue long-term debt up to \$125,000,000 is APPROVED; and it is

FURTHER ORDERED, that Liberty's request for waiver of Puc 507.02(b)(6), (b)(7), and (b)(8) is GRANTED; and it is


FURTHER ORDERED, that Liberty shall post a copy of this order on the Company's website within two business days of the date of this order. **Liberty shall inform each of its customers of this order through written notice, such notice to be made no later than** April 18, 2025, with an affidavit of publication to be filed with this office on or before May 5, 2025; and it is

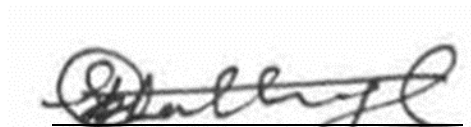
FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing, stating the reason and basis for a hearing, no later than April 15, 2025 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 22, 2025; and it is

FURTHER ORDERED, that this order shall be effective May 9, 2025, unless Liberty fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 2025.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Mark W. Dell'Orfano
Commissioner

Service List - Docket Related

Docket#: 25-004

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Email Addresses

amanda.o.noonan@energy.nh.gov
Ashraful.Alam@energy.nh.gov
ClerksOffice@puc.nh.gov
Energy-Litigation@energy.nh.gov
Erica.Menard@libertyutilities.com
Jacob.Roberts@LibertyUtilities.com
jralston@keeganwerlin.com
karen.sinville@libertyutilities.com
Michael.J.Cronin@energy.nh.gov
Michael.J.Crouse@energy.nh.gov
michael.mosindy@algonquinpower.com
michael.sheehan@libertyutilities.com
nhregulatory@eversource.com
ocalitigation@oca.nh.gov
paul.b.dexter@energy.nh.gov
Robert.Garcia@libertyutilities.com
Robyn.I.Sarette@energy.nh.gov
Tyler.Culbertson@libertyutilities.com