

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 25-005

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.

**Petition for Authority to Issue Long-Term Debt and
to Waive Portions of Puc 308.12(b)**

Order *Nisi* Approving Petition

ORDER NO. 28,132

April 16, 2025

On January 27, 2025, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty) filed a petition under RSA 369 for authority to issue up to \$100,000,000 in long-term debt to an affiliated company, Liberty Utilities Co. (LUCo). In addition, Liberty seeks waiver from several provisions of New Hampshire Code of Administrative Rules, Puc 305.06, which require electric utilities to file certain financial information with any request to issue long-term debt.¹ The New Hampshire Department of Energy (DOE) supports Liberty's petition and also supports its request for waiver. For the following reasons, the Commission GRANTS Liberty's petition on a *nisi* basis consistent with the ordering clauses below.

I. BACKGROUND AND PROCEDURAL HISTORY

Unless otherwise noted, 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 analysts, Michael J. Cronin and Jay E. Dudley. Liberty is a public utility that provides electric service within the state of New Hampshire. In

¹ In its petition Liberty requested waiver from certain provisions of the Puc 308.12 rules. In its filings, the DOE noted that this request appears to have been based on the older version of the Puc 300 rules which have since been replaced, and that the company is thus seeking waiver from the analogous provisions in the new rules. Liberty did not correct this representation. Accordingly, the Commission assumes that Liberty is seeking waiver of the Puc 305.06 rules consistent with the DOE's filing.

this docket, Liberty seeks authority to enter into three separate intercompany promissory notes with LUCo that total \$100 million. Both Liberty and LUCo are subsidiaries of Algonquin Power and Utilities Corp. Liberty intends to use the loans for two separate purposes. Liberty will use the first loan, which will consist of \$17,898,9000, to refinance existing long-term debt that has either already matured or that will mature in July 2025. This debt will have a ten-year maturation period. Mr. Mosindy testified that this new refinancing of matured long-term debt through a ten-year loan is an appropriate means of managing the company's long-term debt.

Liberty will use the second two loans to repurchase equity provided by LUCo in the amount of \$82 million in order to rebalance Liberty's capital structure consistent with prior Commission orders. Specifically, in Order No. 26,376 (June 30, 2020) in Docket No. DE 19-064, the Commission approved a rate increase for Liberty that, among other things, sought to establish a capital structure for the company that was 52 percent equity and 48 percent debt. Despite this intent, Liberty's current capital structure is only 10.12 percent debt. According to Mr. Mosindy's testimony, this new debt would bring the capital structure to 54.3 percent equity and 45.7 percent debt, which would be closer to the approved capital structure. This new debt would be accumulated through two separate promissory notes. The first tranche would be for \$32,101,010 and have a term of ten years. The second would be \$50 million and have a term of twenty years. Mr. Mosindy testified that separating the total into two loans with ten- and twenty-year terms is an appropriate manner of managing the company's long-term debt.

Mr. Mosindy testified that Liberty and LUCo had not established a fixed cost for the loans prior to filing the petition. Rather, Mr. Mosindy testified that the interest LUCo would charge on the loans would be based off the respective United States

Treasury rates for ten- and twenty-year bonds at the time the financing is finalized plus the applicable credit spread, i.e., the difference between the Treasury rate and the actual financing rates available to LUCo from third-party lenders. Although these exact rates cannot be determined at this time, Mr. Mosindy testified that, given current Treasury rates and credit spreads available to LUCo, the estimated interest rates would be 5.92 percent for the ten-year loans and 6.29 percent for the twenty-year loans.

According to Mr. Mosindy, Liberty will not incur any costs for the refinancing of the matured intercompany debt. However, Liberty will incur about \$87,850 for the refinancing of the maturing debt. Mr. Mosindy further testified that Liberty will incur \$777,507 for the loans for repurchasing equity to rebalance its capital structure. These costs would include fees paid to placement agents, ratings agencies, and other miscellaneous fees, such as fees for legal, auditor, and trustee services.

In their technical statement, Mr. Cronin and Mr. Dudley, having reviewed Liberty's petition and supporting documents, found that the proposed financing "will have a positive impact on Liberty's capitalization debt-to-equity structure by rebalancing the structure to one that is less dependent on equity and more aligned with the capital structure of an actual electric distribution utility" Cronin and Dudley Technical Statement at 3. Mr. Cronin and Mr. Dudley further found that the proposed interest rates, as well as the other terms of the loans, appeared reasonable. Finally, Mr. Cronin and Mr. Dudley represented that the new debt will have a negligible impact on Liberty's rates because, although it represents an increase in debt, it is consistent with the capital structure that served as the basis for Liberty's permanent distribution rates in DE 19-064.

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 308.12. 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, although the DOE maintains that the Commission should also require Liberty to file the final interest rate LUCo charges for the intercompany loans as a condition of its approval. 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. Cronin and Mr. Dudley, the Commission finds that the proposed financing is routine in nature because it will not have a discernable impact on rates and will bring Liberty closer to its approved capital structure. 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. Cronin and Mr. Dudley’s technical statement, the Commission finds that the proposed loans would be in the public good. Specifically, we find that the method Liberty has

proposed to determine the interest rates is reasonable, that the loans will bring Liberty closer to its approved capitalization structure, and that the impact to residential customers' monthly bills will be negligible. Accordingly, we find that the proposed transactions are consistent with the public good and therefore authorize Liberty to proceed with the financing transactions. See RSA 369:1, 4. In addition, we find that Liberty's petition and supporting attachments and the DOE's review and findings in the technical statement sufficiently support the petition and that no further investigation is required. We thus grant this petition through order *nisi*. See Order No. 26,287, *supra*. That said, and consistent with the DOE's recommendation, Liberty should file the final interest rate that LUCo charges for the loans after the two companies have finalized the financial transactions.

B. Waiver of Puc 305.06 Rules

In addition to its request for authorization to enter into the financing agreement, Liberty also seeks waiver from several provisions of Puc 305.06, which requires electric utilities to include certain information with any petition to issue securities. Specifically, Liberty seeks waiver from: (1) Puc 305.06(b)(3), which requires a utility to provide a copy of the private placement memorandum for long term financing including any letter of commitment from a lender stating the details of financing; (2) Puc 305.06(b)(4), which requires a utility to include a copy of the promissory note and mortgage; and (3) Puc 305.06(b)(5), 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 private placement memorandum from a lender, 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 305.06(b)(4)(5), and (6) 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 *NSI*, that subject to the effective date below, the Liberty' petition is **GRANTED**; and it is

FURTHER ORDERED, that Liberty shall file notice of the final interest rate that LUCo charges for the intercompany loans authorized in this order within fifteen days of the finalization of the financing transactions between the two companies; and it is

FURTHER ORDERED, that Liberty's request for waiver from certain provisions of the Puc 305.06 rules is **GRANTED**; and it is



FURTHER ORDERED, that the Liberty shall post a copy of this order on the Company's website within two business days of the date of this order, with an affidavit of publication to be filed with this office on or before April 24, 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 21, 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 May 5, 2025; and it is

FURTHER ORDERED, that this order shall be effective May 16, 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 sixteenth day of April, 2025.


Daniel C. Goldner
Chairman
Pradip K. Chattopadhyay
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Mark W. Dell'Orfano
Commissioner

Service List - Docket Related

Docket#: 25-005

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