

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 20-076

UNITIL ENERGY SYSTEMS, INC.

Petition for Authority to Issue Securities

Order Approving Financing Petition

ORDER NO. 26,391

August 6, 2020

This order approves a request by Unitil Energy Systems, Inc., to borrow up to \$35 million, and to issue corresponding long-term debt in the form of first mortgage bonds. Unitil Energy Systems intends to use the money to pay off short-term debt incurred to complete capital projects and to fund 2020 capital expenditures.

I. BACKGROUND

Unitil Energy Systems, Inc., (UES or the Company), is a public utility that supplies electric service to approximately 77,000 customers in the capital district and seacoast region of New Hampshire. The Company filed a petition on May 20, 2020, pursuant to RSA 369 seeking Commission approval to borrow up to \$35 million from institutional investors. UES proposed issuance of long-term debt in the form of first mortgage bonds with a long-term maturity of 1 to 30 years and a coupon rate not to exceed two hundred eighty basis points (2.80 percent) above the then applicable U.S. Treasury Bond Rate, to be determined at the time of closing. In no event would the coupon rate exceed 5.25 percent. If the Company borrows the entire \$35 million, UES projects the financing costs to be approximately \$500,000. UES proposed to issue the securities from the date of this order through December 31, 2020.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at

<http://www.puc.nh.gov/Regulatory/Docketbk/2020/20-076.html>.

II. POSITIONS

A. UES

1. Finance

UES supported its petition with the pre-filed testimony of Todd R. Diggins, the Treasurer and Director of Finance for Unitil Service Corp (USC). Like UES, USC is a subsidiary of Unitil Corporation (Unitil); it provides services to Unitil's subsidiaries. *See* Petition (May 20, 2020), Testimony of Diggins at Bates 10. UES also supported its petition with information required by the applicable parts of N.H. Admin R., Puc 308; and with a description of UES's authorized and outstanding long-term debt, capital stock, and short-term debt. The Company also investigated credit ratings from *S&P*, and *Moody's*, and reviewed the National Association of Insurance Commissioners (NAIC) rating, NAIC-1.¹

UES said it will use the loan proceeds to: (i) refinance existing short-term debt; (ii) fund, in part, planned capital expenditures for 2020; and (iii) fund issuance costs. Remaining funds, if any, shall be used for appropriate general corporate expenses. UES also attached its proposed 2020 construction budget to the petition totaling \$30.56 million. The Company asserted that the purpose of the financing is in the public good and, therefore, should be authorized under RSA 369.

To implement the financing, UES proposes to sell up to \$35 million in aggregate principal amount of long-term debt in the form of first mortgage bonds (Bonds), with a maturity

¹ *See* Petition (May 20, 2020), Diggins' Testimony at Bates 16.

ranging from 1 to 30 years, during the period from the date of the Commission's order through December 31, 2020. Approximately \$25 million of the proposed debt securities issuance would be used to refinance existing debt and approximately \$10 million (including approximately \$500,000 in estimated issuance costs) would represent new indebtedness.

To achieve favorable financing terms, UES seeks flexibility. The Company requested authority to use the private debt market, with the following parameters: (1) the aggregate principle amount of long-term debt issued during the authorization period will not exceed \$35 million; (ii) the long-term debt will be in the form of secured Bonds; (iii) debt maturity will range from 1 to 30 years; and (iv) the coupon rate will be consistent with market rates for an instrument of similar maturity and risk at the time of the issuance, limited to no more than a fixed coupon of 5.25 percent.

The Company proposed to price the Bonds at a fixed rate to be determined at the time of closing, based on either the 10- or 30-year U.S. Treasury Rate plus the proposed credit spread of two hundred eighty basis points (2.80 percent). UES said that the proposed maximum fixed coupon rate of 5.25 percent would provide the Company with sufficient flexibility in the event of an unanticipated increase in rates due to uncertainty or volatility in the capital market. Consequently, UES said that the final terms and conditions, amounts, documentation, and rate would be determined at the time of issuance.

UES calculated, on a pro forma basis, that the new debt of approximately \$10 million (including approximately \$500,000 in estimated issuance costs), plus the refinance of the current \$25 million in short-term debt as of a target date of September 15, 2020, would result in an increase in annual interest expense.²

² The pro forma \$25 million short-term debt amount is based on Unitil's March 31, 2020, results. Testimony of Todd R. Diggins at Bates 12. The amount of the interest expense increase can be found in Exhibit UES-5.

UES asserted that the proposed financing would not have a significant impact on the Company's current capital structure. UES's current capital structure is 53 percent debt and 47 percent equity. After the financing, the capital structure will be 55 percent debt and 45 percent equity. UES expects a favorable reception by the private placement market for its proposed debt issuance. *See* Petition (May 20, 2020) Testimony of Diggins at Bates 20.

The Company also asserted that the proposed transaction is consistent with the public good and is therefore authorized under the provisions of Chapter 369. Petition at 4 (May 20, 2020).

2. Motions for Confidential Treatment

UES requested confidential treatment for several Company exhibits and responses to Staff data requests pursuant to RSA 91-A and N.H. Admin R., Puc 203.08. The Company contends that the documents at issue constitute confidential, and in some cases commercial, financial, or proprietary, information.

In its first motion for confidential treatment, UES requested confidential treatment for Exhibit UES-4, the Company's unaudited balance sheet as of March 31, 2020, and Exhibit UES-5, the Company's unaudited income statement for the twelve months ending March 31, 2020, because the documents have not been audited. *See* Petition (May 20, 2020) [First] Motion for Confidential Treatment.

UES argued that making the unaudited financial information public could have a negative impact on the markets in which the Company's securities are traded. UES asserted that keeping the information confidential until such time as the statements are audited and released to all Company debt-holders will protect the integrity and proper functioning of markets in which UES's offerings compete. The Company stated that the public will have full access to the exhibits at issue no later than March 31, 2021.

In its second motion for confidential treatment, the Company requested confidential treatment for the letter of agreement between the Company and the placement agent selected to participate in the securities offering. *See* [Second] Motion for Confidential Treatment (July 1, 2020). The letter of agreement was provided to Staff as Confidential Attachment 1 in response to Staff Data Request 2-1. UES represented that the placement agent was selected through a competitive process and stated that the letter provides details of the terms under which the placement agent provides various functions. UES asserted that disclosure of the letter would put the placement agent at a competitive disadvantage by divulging the terms and conditions for the work it was awarded. UES further argued that the Company itself would be adversely affected because placement agents would be discouraged from working with the Company if doing so would result in the release of confidential business information in future financings.

In its second motion for confidential treatment, the Company also sought confidential treatment for *S&P* and *Moody's* credit reports, including the analyses and credit ratings in both documents. Those reports were provided to Staff as Confidential Attachment 1 (*S&P*) and Confidential Attachment 2 (*Moody's*) to the Company's response to Staff Data Request 1-4. UES claimed that disclosure of the credit reports, including the analyses and credit ratings, will not provide the public with information about the conduct or activities of the Commission. UES also claimed that the credit reports, including the analyses and credit ratings, are confidential, commercial, financial, and proprietary documents, exempt from disclosure because the reports constitute copyrighted information.

The Company asserted that the reports, in their entirety, are "provided only on a paid subscription basis and are not otherwise made publically available." [Second] Motion for Confidential Treatment at 2. The Company noted that:

[w]hile the overall credit ratings for the Unutil companies may be public, the underlying analyses supporting the ratings are not....Were the Company to disclose the reports publicly, parties that would otherwise have to pay a fee to the ratings agencies to receive the reports would instead have free and unrestricted access to them. Such disclosure would render the reports essentially valueless to the [credit] agencies. The agencies have a clear privacy interest in these reports.

Id. at 2-3. UES also argued that it does not have permission or the discretion to disclose the credit reports and that *S&P* and *Moody's* provided the reports to UES with the understanding that the documents would not be made public. *Id.* at 3.

B. Commission Staff

1. Finance

Commission Staff (Staff) filed a memorandum, recommending that the Commission approve UES's request to finance up to \$35 million. *See* Memorandum of Jay E. Dudley, Utilities Analyst IV dated July 14, 2020 (Staff Recommendation). After review of UES's filing and responses to data requests, and some further investigation, including review of UES's *S&P* credit rating and *Moody's* credit rating at company websites, Staff recommended that the Commission approve the proposed financing. Staff supported UES' proposed provision of an update of the final pricing parameters, including the final coupon rate once the Bonds have been priced. Staff also recommended that the Commission require UES to provide an updated response to Staff Data Response 2-2, including Attachment 1, the Bond Purchase Agreement, and Exhibit UES-7 (in both PDF and Excel) the "Weighted Average Cost of Debt," with all updates to be provided following the final closing and funding and no later than March 31, 2021.

III. COMMISSION ANALYSIS

1. Finance

RSA 369:1 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 may conduct a “hearing or investigation as it may deem proper,” and 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. 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).

The rigor of an *Easton* inquiry varies depending on the circumstances of the request. We engage in a more limited review for routine financing requests. See *Hampstead Area Water Co. Inc.*, Order 26,281, at 9 (July 1, 2020). 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.* (quotations and citations omitted). A routine request calls for a more limited examination of whether the use of financing proceeds is in the public good without further review of possible alternative uses of the funds. *Id.* (quotations and citations omitted).

We find the Company’s request to be routine. Based on Staff’s investigation, we find that the financing will have no discernable impact on rates and will not adversely affect capitalization. At the maximum coupon rate of 5.25 percent, the Company expects to lower its weighted cost of long-term debt from a rate of 6.30 percent to 6.02 percent. See Diggins Testimony at Bates 10. We find that the terms and conditions are reasonable.

The purpose of UES’s proposed financing is to refinance its short-term debt, finance 2020 capital expenditures, pay issuance costs, and fund working capital needs. The financing will enable investments in the ordinary course of utility operations. Replacing short-term debt with the proposed long-term financing will provide benefits to UES and its customers. UES’s balance sheet will improve, funding will be available for 2020 capital expenditures, and

customers will see essentially no change in rates. We find UES's intended use of the financing proceeds to be in the public good.

Our approval does not limit or preclude the Commission from reviewing in a future rate case, directly or indirectly, the prudence, use, and usefulness of any specific project funded with the financing proceeds. RSA 378:28. The Commission and Staff also retain the authority under RSA 374:4 to be kept informed of the Company's use of the financing independently and apart from any review under RSA 378:28.

2. Motions for Confidential Treatment

In *Northern Utilities, Inc.*, Order No. 26,385 (July 28, 2020) the Commission considered the confidential treatment of the same information that UES seeks confidential treatment for here. *Compare id.* at 3-13. We take administrative notice of the record in Docket No. DE 20-078, and we grant UES's request in part and deny in part for the reasons stated in Order No. 26,358 at 8-12.

Consistent with Puc 203.08(k), our grant of the Company's motions is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination in light of RSA 91-A, should circumstances so warrant.

Based upon the foregoing, it is hereby

ORDERED, that Unitil Energy System Inc.'s request for approval of its proposed financing transactions, specifically borrowing up to \$35 million through the issuance of long-term debt securities at a maximum interest rate of 5.25 percent is **APPROVED**; and it is

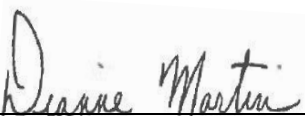
FURTHER ORDERED, that Unitil Energy System Inc.'s [First] Motion for Confidential Treatment seeking confidential treatment of unaudited financial statements (Exhibits. UES-4 and UES-5), is **GRANTED**, until March 31, 2021; and it is

FURTHER ORDERED, that Unutil Energy Systems Inc., shall file audited information equivalent to Exhibits UES-4, and UES-5, and an updated Weighted Average Cost of Debt (Exhibit UES-7 in PDF and Excel) with the Commission upon final closing and funding and no later than March 31, 2021; and it is

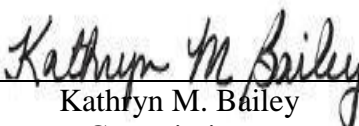
FURTHER ORDERED, that Unutil Energy System Inc.'s [Second] Motion for Confidential Treatment is **GRANTED, in part**, in particular with reference to the letter of agreement (Attachment to the Company's Data Response 2-1) the *S&P* credit report analysis (Attachment 1) and the *Moody's* credit report analysis (Attachment 2) to the Company's Data Response 1-4; and it is

FURTHER ORDERED, that Unutil Energy System Inc.'s [Second] Motion for Confidential Treatment is **DENIED, in part**, in particular with reference to UES's *S&P* and *Moody's* credit ratings.


By order of the Public Utilities Commission of New Hampshire this sixth day of August, 2020.



Dianne Martin
Chairwoman

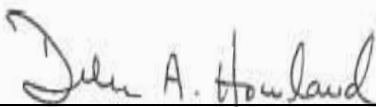


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
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Attested by:



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Service List - Docket Related

Docket# : 20-076

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