STATE OF NEW HAMPSHIRE

Inter-Department Communication

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DATE: October 26, 2017
AT (OFFICE): NHPUC

FROM: Stephen Frink S/F
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SUBJECT: DG 17-132
Liberty Utilities (EnergyNorth)
Petition for Approval to Issue Long-term Debt

TO: Commissioners
Docket File
Service List

SUMMARY OF STAFF RECOMMENDATION

The Commission should approve Liberty issuing an intercompany promissory note for up to $87,800,000 with a 15 year maturity and interest rate of the U.S. Treasury rate at the time the debt instruments are priced plus 160 basis points (indicative rate of 4.12%) and grant the waiver request for certain filing requirements. Approval should be by order *Nisi* with an effective date of November 30, 2017.

BACKGROUND - LIBERTY PETITION & TESTIMONY

Liberty's last long-term debt instrument issuance was in December 2012 when it issued $90 million of promissory notes to LUCo, approved by Commission Order 25,370 issued May 30, 2012 (Docket DG 11-040).

On February 1, 2017, Liberty Utilities (EnergyNorth) Corp. d/b/a Liberty Utilities Liberty Utilities, Inc. (Liberty or Company) filed a petition pursuant to RSA chapter 369 and Puc 509.03 for 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 Liberty's parent company, Liberty Utilities Corp. (LUCo). Liberty had approximately $83.8 million of outstanding short-term debt instruments as of June 30, 2017. The petition included the direct testimony of Mark Timpe, Treasury Director for LUCo.

Liberty is seeking Commission approval to issue up to $87.8 million of long-term debt instruments by issuing two 15 year promissory notes 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 notes are for $18,181,818.18 and $69,600,000.00. 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 LUCo on March 24, 2017. The 15 year term is the weighted average maturity of the six tranches issued by LUCo 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 instrument issuance as the net proceeds of the offering will be used to repay existing debt instruments. The current capital structure is 50.5% debt and 49.5% equity and following the issuance of the proposed debt instruments, will then be 50.8% debt and 49.2% equity.

Liberty has been using short-term debt to finance ongoing construction needs such as Cast Iron/Bare Steel replacement, distribution system growth and system upgrades. In addition to replacing existing long-term debt instruments that mature on December 20, 2017, Liberty intends to replace short-debt instruments used to fund construction activities that produced long-lived assets.

Liberty requested a waiver of Puc 509.03(b)(7), which requires a copy of "the mortgage indenture," and Puc 509.03(b)(8), which requires a copy of the "terms of new common or preferred stock." The petition states that the provisions are inapplicable as there will be no mortgage or stock issuance, LUCo will issue the debt instruments, and Liberty will abide by the terms and conditions of the promissory notes included in the filing.

INVESTIGATION

In addition to reviewing the filed petition, testimony and schedules, Staff issued two sets of discovery, participated in technical discussions with the Company, and reviewed Commission orders and dockets related to prior debt instrument issuances and Liberty's capital spending.

FINDINGS

Liberty is proposing to issue two intercompany promissory notes to LUCo that total $87,800,000 and mature in 15 years, LUCo will provide the funds and Liberty will pay an annual interest rate that is set at the U.S. Treasury rate at the time the debt instruments are priced plus 160 basis points (indicative interest rate of 4.12% based on June 30, 2017 U.S. Treasury rate of 2.52%). Liberty has also requested a waiver of certain filing requirements and a Commission order with an effective date of November 1, 2017.

Liberty has proposed issuing two promissory notes, for $18,181,818.18 and $69,600,000.00, for ease of internal tracking and ease of presentation in the petition but is not opposed to issuing a single, lump sum promissory note.

The proposed financing issuance is consistent with that approved by the Commission for Liberty's 2012 financing issuance. The interest rate for the prior financing issuance was also tied to U.S. Treasury rates plus basis points related to the LUCo credit spread at the time. LUCo's credit standing has improved markedly since that time and the credit spread/basis points differentials are approximately half of what they were at the time of the 2012 LUCo debt issuance, 1.60% compared to 3.15%.

The proposed financing issuance of promissory note(s) is consistent with the Northern Utilities, Inc. (Northern) financing issuance approved by Commission Order No. 26,003 issued April 17, 2017 (Docket DG 17-019), in which Northern was authorized to issue up to $75 million in long-term debt instruments to pay off short-term debt instruments issued to complete capital projects and maturing long-term debt instrument requirements. Northern proposed to issue promissory notes with terms of 10 and 30 years with projected financing costs of $537,000. On April 27, 2017 Northern filed update pricing information indicating that it would be funding a price offering for two tranches totaling $50 million with a weighted average interest rate of 4.00%.

Liberty uses internally generated funds and short-term borrowing to fund capital expenditures and when the Company's short-term balance builds to sufficient levels it seeks a long-term financing instrument issuance to reduce short-term debt levels and to appropriately match the long-term utility asset lives with long-term financing vehicles. The proceeds from the proposed issuance will be used to refinance long-term debt instruments of $18.2 million and short-term debt of $69.6 (short-term debt outstanding as of June 30, 2017 was $83.8 million of which $69.6 million was used to pay for capital assets). Since the start of 2015 Liberty has spent over $109 million on capital assets (through September 2017), primarily mains and services.

STAFF POSITIONS

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, as evidenced by the recent Northern financing issuance. There should be minimal impact on Liberty's capital structure, which is a very balanced debt to equity ratio and consistent with the capital structure used for rate recovery in the Cast Iron/Bare Steel Replacement Program (50:50 debt to equity ratio) approved by Commission Order 24,777 issued July 12. 2007 (Docket DG 06-107).

Liberty should issue one promissory note for the proposed debt issuance since the two drafts 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 LUCo and there will be no mortgage or stock issuance.

Staff and the Company agree that an Order *Nisi* with an effective date prior to December 8, 2017 should provide sufficient time to prepare a note, obtain appropriate board approvals for the issuance of the note and obtain signatures of officers on the note to enable Liberty to use the proceeds from the issuance to repay the long-term debt instruments maturing on December 20, 2017.

STAFF RECOMMENDATIONS

Staff recommends that the Commission approve Liberty's petition to issue up to $87.6 million of long-term debt instrument(s) [promissory note(s)] and grant Liberty's waiver request by Order *Nisi* with an effective date of November 30, 2017. The issuance should be accomplished by issuing a single promissory note.

In addition to approving the issuance request, Staff recommends that the Commission require Liberty to file the board approvals and signed promissory notes within 30 days of their execution.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

a) **Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
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b) **Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

c) **Serve a written copy on each person on the service list not able to receive electronic mail.**