DE 05-140

NEW ENGLAND POWER COMPANY

Petition for Approval of Credit Agreement Amendment

Order *Nisi* Granting Petition

O R D E R N O. 24,533

October 21, 2005

I. PROCEDURAL BACKGROUND

On August 26, 2005, New England Power Company (NEP) filed a Petition with the New Hampshire Public Utilities Commission (Commission) pursuant to New Hampshire RSA 369:1 to extend the term of the Credit Agreement from 364 days to five years. With its Petition, NEP filed a statement of costs associated with the Credit Agreement Amendment as required by RSA 369:3.

In its Petition, NEP states that it has maintained for many years a succession of revolving credit facilities with a group of banks and other financial institutions to provide liquidity support for $410,000,000 in pollution control revenue refunding bonds (Bonds). NEP states that these Bonds are unsecured.[1] NEP avers that each prior revolving credit facility arrangement had a term of 364 days or less, and did not require the Commission's approval. However, the proposed extension of the Credit Agreement to five years requires the Commission's approval pursuant to RSA 369:1.

The Petition states that NEP and certain of its affiliates are currently parties to a Credit Agreement[2] dated November 29, 2004 with Citicorp USA, Inc. as administrative agent,

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[1] NEP supports $210 million of the Bonds through a standby bond purchase facility, which is not the subject of NEP's Petition.
[2] In response to data request 1-1, the company stated that "NEP is the only party permitted to borrow under the revolving credit facility."

and other various banks, financial institutions and institutional lenders. Under the Credit Agreement, NEP may borrow, for general corporate purposes, up to an aggregate amount of $230 million on a revolving credit basis. NEP attests that it maintains the revolving credit facility primarily as a means of providing liquidity support for the Bonds. Borrowings under the Credit Agreement, at NEP's option, bear interest either at Citibank, N.A.'s "Base Rate", or at the "Eurodollar Rate" plus a margin, as in effect for interest periods selected by NEP of one, two, three, or six months.

NEP states that it has never borrowed funds under the prior credit facilities and that it has no current plans to borrow funds pursuant to the Credit Agreement. However, NEP points out that the existence of these credit facilities has enabled NEP to maintain a higher credit rating on the Bonds and to secure favorable interest rates on the Bonds. NEP points out that recent market trends have substantially reduced or eliminated the interest rate differential between short-term and longer-term facilities and therefore an extension of the Credit Agreement to a term of five years will permit NEP to save costs.

With its Petition, NEP filed testimony of Mr. Robert G. Seega, Assistant Treasurer of NEP and Assistant Treasurer and Director of Treasury Services for National Grid USA Service Company, Inc., both of which are wholly owned subsidiaries of National Grid USA. On October 13, 2005, NEP filed the amended testimony of Mr. Seega. In his written statement, Mr. Seega asserts that the extension of the Credit Agreement until 2009 will result in considerable savings of time and effort on the part of NEP, which would otherwise have to enter into a new credit facility every 364 days. Mr. Seega further states that "NEP will receive the benefit of locking in favorable long-term rates and NEP's exposure to volatility in the pricing of credit facilities will be reduced." Exhibit NEP-1 at 4 Lines 1-6. In his amended testimony, Mr. Seega estimated the cost savings in administrative fees to be approximately $128,800 per year, with an additional reduced legal expense of $4,000 per year, bringing the total savings over the five-year period to approximately $664,000.

NEP points out that the existing Credit Agreement will terminate on November 28, 2005 unless, prior to such date, NEP notifies the lenders that (a) NEP wishes to extend the termination date to November 29, 2009, and (b) NEP has obtained all regulatory approvals that may be required for such extension. NEP seeks permission to extend the termination date of the Credit Agreement to November 29, 2009 and to make borrowings which may remain outstanding for longer than one year. The aggregate outstanding principal amount of borrowings under the Credit Agreement will not exceed $230 million at any time. NEP also requests the Commission to approve the execution and delivery by NEP of such documents and agreements as may be reasonably necessary in the view of NEP in connection with the extension of such Credit Agreement, and to grant such other approvals as the Commission may deem proper in the circumstances. NEP avers that the Amendment to the Credit Agreement is in the public good and subject to reasonable terms and conditions, consistent with the public interest requirements of RSA 369:1.

II. STAFF RECOMMENDATION

Commission Staff (Staff) reviewed the Petition and submitted data requests on September 26, 2005, to which NEP filed responses on October 7, 2005. In addition, Staff held a technical session with NEP on October 13, 2005 to discuss the Petition. Staff submitted a recommendation to the Commission by memorandum dated October 20, 2005.

Staff states that it focused its review on 1) the merits of holding unsecured instead of secured bonds; 2) the reasonableness of the extension in the Amendment; 3) the variability of the interest rate applicable to the extension; and 4) the degree to which savings would result from the extension of the Credit Agreement.

With respect to the Bonds, Staff notes that the Bonds have been unsecured since NEP sold its power plants in 1998 and that NEP is obligated to repurchase the bonds under certain circumstances and therefore requires a credit agreement with sufficient liquidity to support the Bonds. In response to Staff's questions about the merits of securing the Bonds, NEP stated that one means of securing the Bonds would be to secure them with a mortgage, and because the formalities accompanying the discharge of a mortgage necessarily take time, NEP would incur higher costs in any transaction to repurchase secured Bonds. NEP noted that the liquidity offered by the Credit Agreement eliminates the transactional costs associated with a mortgage.

Staff agrees with NEP that this liquidity allows NEP to maintain a higher credit rating for the Bonds than would otherwise apply in the absence of such a revolving credit facility. Staff also agrees with NEP that the use of a revolving credit facility instead of secured bonds saves transaction and other costs for NEP, thus making the revolving credit facility a cost-effective way to afford NEP liquidity in the event it was called upon to repurchase the Bonds.

With respect to the length of the time for which NEP seeks to extend the Credit Agreement, Staff questioned why NEP was not seeking a term of more than five years, given the substantially reduced interest rate differential between short-term and longer-term facilities. NEP responded that any bank in the credit facility would charge a premium for a 10-year facility, but that a five-year facility could be secured for approximately the same rate as a 364-day loan. Staff agrees with NEP's assessment.

Staff states that it had inquired as to whether NEP had considered hedging against a drop in interest rates in the event that it would need to borrow funds under the Credit Agreement. In response, NEP attested that it is not currently borrowing under the Credit Agreement and has no intention of doing so in the future. Also, NEP averred that the Eurodollar rates are set at the time of borrowing and remain fixed for the relevant interest period selected by NEP (one, two, three or six months). At the expiration of the interest period relating to any Eurodollar Rate Advance, NEP has the right to convert the borrowing to a Base Rate Advance, which is a floating interest rate. Moreover, all of NEP's tax-exempt bonds are remarketed in a Commercial Paper mode, which means that the rates are for short-term periods of one to 270 days. Given that interest rates for both the borrowed funds and the bonds are short term rates, NEP opined that a hedge against decreasing interest rates is not necessary. Staff supports the Credit Agreement's utilization of this flexible interest rate mechanism because NEP would be able to choose the most economic rates available at the time for any planned borrowing.

Finally, Staff examined the savings associated with extending the Credit Agreement. Staff indicated that it requested NEP to provide data regarding the closing costs for the last three credit facilities. In response, NEP stated that the costs it incurred were as follows: \$123,000 for the facility in place during calendar year 2003, \$234,000 for the facility in place during calendar year 2004, and \$235,000 for the facility in place during calendar year 2005. NEP explained that these costs represented approximately 5 basis points on the total facility in 2002, and approximately 10 basis points on the total facilities in 2003 and 2004. NEP stated that it calculated savings using the 2002 rate because the higher rates of 2003 and 2004 reflected general wariness of banks to loan money to energy companies after the accounting malfeasance of Enron and others, and that banks now have ceased looking at all energy companies as presenting the same risk as Enron.

In his corrected testimony and Exhibit RGS-2, Mr. Seega recalculated the proposed savings using an annual facility fee of 6.5 basis points instead of 8 basis points. The proposed net savings from extending the termination date of the Credit Agreement in administrative fees are on the order of 5.6 basis points instead of 4.1 basis points which, along with the estimated savings in legal fees of $4,000 per year, results in an annual savings of $132,800 instead of $98,300, and a total savings over the five year term of the facility of $664,000 instead of $491,500. However, when asked by Staff to consider the cost of the lost investment opportunity by paying the weighted average fee of 14.5 basis points facility fee at the beginning of the five year term as opposed to paying a fee of 2.9 basis points every year, NEP estimated overall net savings for extending the Credit Agreement for five years at approximately $620,000. Based on NEP’s responses to Staff’s concerns, Staff recommended that the Commission approve the Petition.

III. COMMISSION ANALYSIS

NEP filed this Petition pursuant to RSA 369:1, which requires a utility to obtain Commission approval before issuing or selling stock, bonds, notes and other evidence of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes. RSA 369:1 also provides that the Commission will approve the issuance and sale provided it finds that the same is consistent with the public good. We note that the Petition was accompanied by a statement showing the actual costs already incurred and the estimated costs to be incurred for any of the purposes for which such securities are to be issued, and the actual cost already incurred and the estimated costs to be incurred for such payments as required by RSA 369:3.

We agree with NEP and Staff that extending the Credit Agreement from a term of 364 days to five years will result in adequate security for the Bonds while at the same time yielding savings that will reduce costs to NEP and its ratepayers. The Commission notes that the Credit Agreement, as amended by this Petition, would allow NEP to choose the most economic interest rate available in the event it has to borrow from the revolving credit facilities. We find that this flexibility and the net savings of $620,000 derived from extending the Credit Agreement to five years from the existing 364 days or less arrangement is in the public interest pursuant to RSA 369:1. Further, the credit arrangements are economically justified, as required by *Appeal of Easton*, 125 N.H. 205 (1984). We will, therefore, grant the Petition on a *nisi* basis.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, New England Power Company's Petition for Approval of Credit Agreement Amendment is hereby GRANTED; and its is

FURTHER ORDERED, that NEP shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than October 31, 2005 and to be documented by affidavit filed with this office on or before November 21, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than November 7, 2005 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 November 14, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 21, 2005, unless NEP fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of October, 2005.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Michael D. Harrington Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary