

DE 06-103

UNITIL ENERGY SYSTEMS, INC.

Petition for Authority to Issue Securities

Order *Nisi* Approving the Issuance of Securities

O R D E R N O. 24,658

August 25, 2006

I. BACKGROUND

On July 28, 2006, Unitil Energy Systems, Inc. (UES or the Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking authorization to issue securities. The Petition requested approval to issue and sell up to \$15 million aggregate principal amount of First Mortgage Bonds, Series O (“the Bonds”) pursuant to RSA 369:1, 369:2 and 369:4. UES further requested that the Commission grant approval of the petition no later than August 25, 2006.

The Bonds will be sold at par by private sale for cash to an institutional investor(s) for a term not to exceed thirty years, at an interest rate not to exceed 6.32 percent. The Company proposes to use the net proceeds derived from this proposed issuance and sale of Bonds: (1) to repay outstanding short-term indebtedness incurred for additions, extensions and betterments to the Company’s property, plant and equipment; (2) to finance future expenditures for additions, extensions and betterments to the Company’s property plant and equipment; and, (3) to defray the costs and expense of the financing contemplated by this Petition or for lawful corporate purposes. The Company has also requested that the Commission authorize that the costs associated with the long-term debt issuance, expected to be approximately \$250,000, be

incorporated as a portion of the cost of the new financing and amortized over the life of the proposed new issue.

II. STAFF RECOMMENDATION

Staff recommended that the Commission issue an Order Nisi approving UES' petition. Staff indicated that the rate was attractive in today's market and that the solicitation was fairly well received considering the size of the issuance. Although Staff recommended approval, it noted that, in Docket No. DE 03-086, UES' heavy reliance on debt was considered a significant issue. The issue was resolved in that proceeding by the Company's commitment to issue equity and increase its equity to total capitalization ratio.

Staff stated that it recognizes UES' need for financing but is again concerned that UES could become overly reliant on debt capital. Therefore, Staff recommends that the Commission require UES to file annual financing reports (confidential) showing UES' 5-year projections for sources of capital and capital structure. Such a requirement would be similar to a component of the Settlement Agreement approved by the Commission in Order No. 24,212 (September 25, 2003).

III. COMMISSION ANALYSIS

We have reviewed the Company's request for authorization to issue securities. We find that the coupon rate of this issuance is reasonable and that the issuance is necessary to pay down existing short term debt which is at variable rates. We are satisfied as well that the Company has valid needs to issue the securities and that the granting of the Petition is in the public interest. However, we share Staff's concern about the effect of increasing the debt-equity ratio of UES' capital structure, therefore, we will approve the Company's petition but direct it to file annual

financing reports. Specifically, the Company must submit an annual financing report, as stated in the Settlement Agreement in DE 03-086, by December 1 every year and it must contain the Company's expected capital structure with supporting data for the next five years.

Regarding its motion for confidentiality filed August 24, 2006, UES requests the Commission grant a protective order for certain confidential information, consistent with R.S.A. 91-A:5(IV) and N.H. Admin. Rules, Puc 204.06. Specifically, UES requested that the Commission issue an order requiring confidential treatment of the UES Long-term Financial Forecast for the period 2006-2008 provided to Commission Staff and the Office of Consumer Advocate in Attachment 1 to data request Staff No. 7. UES seeks protection from public disclosure of all of the information contained in Attachment 1 because it is confidential commercial and financial information that UES has not publicly disclosed in any other forum. UES further avers that disclosure of this information could compromise UES' financial position and affect UES stock performance and ability to obtain reasonable credit on reasonable terms, all to the detriment of UES and its customers.

R.S.A. 91-A:5(IV) expressly exempts from the public disclosure requirements the Right-to-Know law, R.S.A. 91-A, any records pertaining to "confidential, commercial or financial information." The Commission's rule on confidential treatment of public records, Puc 204.06, also recognizes that confidential, commercial or financial information may be protected from public disclosure pursuant to an order of the Commission. We find that the RSA 91-A:5, IV exemption from public disclosure applies and we will accord the documents protection as requested. We approved a similar motion of confidentiality in Docket DE 03-086 recognizing

the need of UES to maintain the confidentiality of its financial forecasts and forecasts of coverage ratios.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that Unitil Energy Systems, Inc. is hereby authorized, pursuant to RSA 369:1, 369:2 and 369:4, to issue and sell up to \$15 million of First Mortgage Bonds, Series O, at an interest rate not to exceed 6.32 percent, for a term not to exceed 30 years, such Bonds to be sold via private placement; and it is

FURTHER ORDERED, that UES is authorized to recover as a part of this new financing the costs of the associated transaction; and it is

FURTHER ORDERED, that the proceeds from the sale of said Bonds be used solely for the purposes described in this Order; and it is

FURTHER ORDERED, that on January 1 and July 1 of each year the Company shall file with this Commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of its financing activities until the whole of such proceeds have been fully accounted for; and it is

FURTHER ORDERED, that UES submit a final and red-lined Thirteenth Supplemental Indenture marked for changes as soon as possible; and it is

FURTHER ORDERED, that UES submit an annual financing report including expected capital structure, times interest earned, return on equity and supporting data by December 1 each year; and it is

FURTHER ORDERED, that the motion of UES for confidential treatment of certain information submitted to Staff in discovery is GRANTED; and it is

FURTHER ORDERED, that the Petitioner 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 September 5, 2006 and to be documented by affidavit filed with this office on or before September 25, 2006; 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 September 12, 2006 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 September 19, 2006; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 25, 2006, unless the Company 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

FURTHER ORDERED, that the Company shall file with this Commission executed copies of all documents pertaining to this financing no later than 14 days subsequent to the closing of the transaction.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary