

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 35-28016; 70-10310)**

**Unitil Corporation, et al.**

**Order Authorizing Interest Rate Hedging Transactions**

**August 12, 2005**

Unitil Corporation ("Unitil"), a registered holding company under the Public Utility Holding Company Act of 1935, as amended ("Act"); and its wholly-owned public-utility subsidiaries, Fitchburg Gas and Electric Light Company ("Fitchburg") and Unitil Energy Systems, Inc. ("Unitil Energy"); and its wholly-owned non-utility subsidiaries, Unitil Power Corp. ("Unitil Power"), Unitil Realty Corp. ("Unitil Realty"), Unitil Resources, Inc. ("Unitil Resources") and Unitil Service Corp. ("Unitil Service" and, together with Fitchburg, Unitil Energy, Unitil Power, Unitil Realty and Unitil Resources, the "Subsidiaries") (and the Subsidiaries together with Unitil, the "Declarants"), all of Hampton, New Hampshire, have filed an application-declaration ("Declaration") under Sections 6(a), 7 and 12(b) of the Act and Rules 45 and 54 under the Act. Declarants seek authority through June 30, 2006 (the "Authorization Period") for certain hedging transactions with respect to existing indebtedness in order to manage and minimize interest rate costs, and certain hedging transactions with respect to anticipatory debt issuances in order to lock-in current interest rates and/or manage interest rate risk exposure. On July 6, 2005, the Commission issued a notice of the Declaration (HCAR No. 27996).

**I. Background**

The Unitil system distributes electricity in the southeastern seacoast and capital city areas of New Hampshire and distributes both electricity and natural gas in the greater

Fitchburg area of north central Massachusetts through its two subsidiaries that are "public utility companies" within the meaning of Section 2(a)(5) of the Act (Fitchburg and Unitil Energy). Unitil's public utilities serve approximately 97,500 electric customers and 15,000 natural gas customers in their franchise areas. Unitil Service provides, at cost, a variety of administrative and professional services on a centralized basis to its affiliated Unitil companies in accordance with a service agreement approved by the Commission. Unitil Realty owns and manages the Unitil's corporate office in Hampton, New Hampshire and leases this facility to Unitil Service under a long-term lease arrangement. Unitil Resources provides energy related consulting and management services to customers outside of the Unitil system of affiliates. Unitil Power formerly functioned as the full requirements wholesale power supply provider for Unitil Energy. In connection with the implementation of electric industry restructuring in New Hampshire, Unitil Power ceased being the wholesale supplier of Unitil Energy on May 1, 2003 and divested its long-term power supply contracts through the sale of the entitlements to the electricity associated with those contracts.

By order dated June 30, 2003 (HCAR No. 27691, (the "Short Term Debt Order")), the Declarants are currently authorized to make unsecured short-term borrowings in the amount of \$55 million for Unitil and \$35 million for Fitchburg, and to operate a Money Pool.

## II. Requested Authority

A. Interest Rate Hedges. Unitil, and to the extent not exempt pursuant to Rule 52, the Subsidiaries, request authorization to enter into interest rate hedging transactions with

respect to existing indebtedness ("Interest Rate Hedges"), subject to certain limitations and restrictions.<sup>1</sup>

Interest Rate Hedges will be used as a means of prudently managing the risk associated with outstanding debt issued pursuant to, and subject to the limitations of, financing authority granted to the Declarants by the Commission under the Act or an applicable exemption by, in effect, synthetically (i) converting variable-rate debt to fixed-rate debt, (ii) converting fixed-rate debt to variable-rate debt, and (iii) limiting the impact of changes in interest rates resulting from variable-rate debt. In no case will the notional principal amount of any interest rate hedge exceed the face value of the underlying debt instrument and related interest rate exposure. Transactions will be entered into for a fixed or determinable period. Thus, the Declarants will not engage in leveraged or speculative derivative hedging transactions. Interest Rate Hedges (other than exchange-traded Interest Rate Hedges) will only be entered into with counterparties ("Approved Counterparties") whose senior unsecured debt ratings, or the senior unsecured debt ratings of the parent companies providing a guarantee of the counterparties, as published by Standard & Poors Rating Services, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service or Fitch Inc.

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<sup>1</sup> Declarants represent that hedging transactions by Fitchburg and Until Energy may not be exempt under Rule 52 because the relevant public utility commissions may not have jurisdiction over the issuance. For example, the Massachusetts Department of Telecommunications and Energy does not have jurisdiction over short-term securities issuances by public utilities. On the other hand, Declarants state that Until Energy's entry into Interest Rate Hedges and Anticipatory Hedges will require approval of the New Hampshire Public Service Commission and therefore may be exempt from Commission approval under Rule 52.

Interest Rate Hedges will involve the use of financial instruments commonly used in today's capital markets, such as exchange-traded interest rate futures contracts and over-the-counter interest rate swaps, caps, collars, floors, options, forwards, and structured notes (i.e., a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury Securities or U.S. government agency (e.g., Fannie Mae) obligations, or London Interbank Offered Rate- ("LIBOR")-based swap instruments and similar products designed to manage interest rate or credit risks. The transactions will be for fixed periods and stated notional amounts.

B. Anticipatory Hedges. In addition, Unitil and the Subsidiaries request authorization to enter into interest rate hedging transactions with respect to anticipated debt offerings (the "Anticipatory Hedges"), subject to certain limitations and restrictions. Such Anticipatory Hedges (other than exchange-traded Anticipatory Hedges) will only be entered into with Approved Counterparties, and will be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury Securities and/or a forward-dated swap (each a "Forward Sale"), (ii) the purchase of put options on U.S. Treasury Securities (a "Put Options Purchase"), (iii) a Put Options Purchase in combination with the sale of call options on U.S. Treasury Securities (a "Zero Cost Collar"), (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury Securities, or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges.

Anticipatory Hedges will be executed on-exchange ("On-Exchange Trades") with brokers through (i) the opening of futures and/or options positions traded on the Chicago Board of Trade, the New York Mercantile Exchange or other financial exchange, (ii) the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or (iii) a combination of On-Exchange Trades and Off-Exchange Trades. Unitil will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution.

C. General. The Declarants will comply with Statement of Financial Accounting Standards ("SFAS") 133 ("Accounting for Derivative Instruments and Hedging Activities"), SFAS 138 ("Accounting for Certain Derivative Instruments and Certain Hedging Activities") and SFAS 149 ("Amendment of Statement 133 on Derivative Instruments and Hedging Activities") or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board ("FASB"). The Declarants represent that each Interest Rate Hedge and each Anticipatory Hedge will qualify for hedge accounting treatment under the current FASB standards in effect and as determined as of the date such Interest Rate Hedge or Anticipatory Hedge is entered into. The Declarants will also comply with any future FASB financial disclosure requirements associated with hedging transactions.

Fees, commissions and other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an interest rate risk management arrangement will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

Declarants state that the requested authorization shall be conditioned upon Unitil, Fitchburg and Unitil Energy maintaining a common equity level of at least 30% of its consolidated capitalization during the Authorization Period.<sup>2</sup> As of March 31, 2005, 40% of Unitil's consolidated capitalization was common equity, 42% of Unitil Energy's capitalization was common equity, and 35% of Fitchburg's consolidated capitalization was common equity.

### III. Rule 54

Unitil states, for purposes of Rule 54, that the conditions specified in Rule 53(a) are satisfied and that none of the adverse conditions specified in Rule 53(b) exist. As a result, the Commission will not consider the effect on the Unitil system of the capitalization or earnings of any Unitil subsidiary that is an EWG or FUCO, as each is defined in sections 32 and 33 of the Act, respectively, in determining whether to approve the proposed transactions.

### IV. Fees, Expenses and Reporting Requirements

Declarants state that the expenses to be incurred in connection with the preparation and filing of the Declaration are estimated to be approximately \$8,000.

In accordance with the terms of the Short Term Debt Order, the Declarants file, and will continue to file, with the Commission reports on short-term borrowings and Money Pool transactions on a quarterly basis within 30 days after the end of each calendar quarter, which contain, for each company, (i) the maximum principal amount of

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<sup>2</sup> Consolidated Capitalization is defined to include, where applicable, all common stock equity (comprised of common stock, additional paid-in capital, retained earnings, treasury stock and other comprehensive income), minority interests, preferred stock, preferred securities, equity-linked securities, long-term debt, short-term debt and current maturities.

short-term borrowings outstanding, (ii) the average interest rate for the Money Pool borrowings for the period, (iii) the maximum amount outstanding during the period for each source of outside borrowings and (iv) the common equity capital as a percent of total capitalization (composed of common equity, preferred stock, long-term and short-term debt) for each of Unitil (on a consolidated basis), and Fitchburg and Unitil Energy . The Declarants further undertake, following the issuance of this order, to also include in such rule 24 certificates information as to the notional amount and principal terms of any Interest Rate Hedges or Anticipatory Hedges entered into during the quarter and the identify of the other parties to the transaction which shall also separately show the outstanding amount of Interest Rate Hedges or Anticipatory Hedges previously reported.

#### V. Conclusion

As previously noted, Declarants state that Unitil's entry into Interest Rate Hedges and Anticipatory Hedges will require the approval of the New Hampshire Public Service Commission and therefore may be exempt from Commission approval under Rule 52. Other than the New Hampshire Public Service Commission and this Commission, no state or federal commission has jurisdiction over the proposed transactions.

Due notice of the filing of the Declaration has been given in the manner prescribed by Rule 23 under the Act, and no hearing has been requested of, or ordered by, the Commission. Based on the facts in the record, the Commission finds that the applicable standards of the Act are satisfied and no adverse findings are necessary.

IT IS ORDERED, under the applicable provisions of the Act and rules under the

Act, that the Declaration, as amended, is permitted to become effective immediately, subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland  
Deputy Secretary