

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 07-120

PITTSFIELD AQUEDUCT COMPANY

Petition for Authority to Issue Long Term Debt and Waiver of Short Term Debt Limit

Order *Nisi* Approving Renewed Petition

ORDER NO. 24,827

March 3, 2008

I. BACKGROUND

On November 9, 2007, Pittsfield Aqueduct Company, Inc. (PAC) filed a petition for authority to incur up to \$2,500,000 in long term debt, pursuant to RSA 369, and for a waiver of the short term debt limit reflected in N.H. Code Admin. Rules Puc 608.05. The Commission Staff (Staff) recommended approval of the petition and, accordingly, on January 11, 2008 the Commission entered Order No. 24,818 approving the petition on a nisi basis. Specifically, the Commission indicated that the approval granted in the order would be effective as of February 11, 2008, unless PAC failed to publish the Order. On February 26, 2008, counsel for PAC notified the Commission that, through inadvertence, PAC had not accomplished the publication required by Order No. 24,818. In these circumstances, we deem it appropriate to treat our previous Order nisi annulled, pursuant to our authority under RSA 365:28, as not having become effective, a condition precedent (publication) having not been satisfied by the petitioner.

Along with its petition, PAC submitted a copy of a proposed promissory note to be given to its parent company, Pennichuck Corporation (PC), in consideration of the loan of \$2,500,000. PAC intends to use the proceeds of this borrowing to repay short term debt incurred as a result of the substantial capital improvements at its Locke Lake and Birch Hill systems, which PAC

acquired in 2006. In 2007, PAC received Commission approval to borrow up to \$2,500,000 from the State Revolving Loan Fund (SRF) for improvements at both systems. *Pittsfield Aqueduct Company, Inc.*, Order No. 24,739 (April 13, 2007). Improvements at Locke Lake included a new storage tank, a new booster station, arsenic, iron and manganese treatment, and distribution system improvements. Improvements at Birch Hill included customer metering, a storage tank, distribution system improvements, and a new source of supply.

Executive Council approval of the SRF loan, obtained in September 2007, took longer than PAC expected. Rather than delay the projects, PAC used short term funds borrowed from PC. This caused PAC to exceed the short term debt limit, 10 percent of net fixed plant, imposed by Puc 608.05. PAC proposes to apply the proceeds of the long term debt with PC to eliminate its short term debt balance, and use the balance for ongoing capital improvements at both Locke Lake and Birch Hill. PAC therefore requests a waiver *nunc pro tunc* from the requirements of Puc 608.05, in accordance with Puc 201.05.

PAC's proposed financing arrangement requires interest to be paid monthly at an annual rate of 7 percent. The \$2,500,000 principal will be due in a single payment ten years from the date of the note. The note is unsecured. PAC estimates issuance costs of \$2,500.

On January 3, 2008, Commission Staff recommended approval of PAC's requests. Staff noted that PAC was moving ahead with an interconnection to the North Conway Water Precinct to bring a new source of water to customers at Birch Hill. According to Staff, the improvements at Locke Lake and Birch Hill were necessary to comply with state and federal water quality requirements – and waiting for SRF funds would have resulted in missing much of the summer construction season. Staff stated that PAC's estimates of the costs of the improvements have

increased and that PAC has been incurring substantial operating losses. Staff noted that the proposed financing would have no impact on PAC's capital structure since this debt largely replaces existing short term debt.

II. COMMISSION ANALYSIS

Pursuant to RSA 369:1, public utilities may incur debt of more than 12 months' duration only if the Commission finds the proposed issuance to be "consistent with the public good." The analysis involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates. *Appeal of Easton*, 125 N.H. 205 (1984).

We agree with Staff that given the need for the capital improvements the proposed use of the funds is reasonable. As to the possible effect on rates, we note that in the SRF financing docket, PAC indicated the projects would be financed by SRF funds, equity funds from its parent, or a combination of inter-company loans and equity from its parent. The instant request is consistent with that representation and has no impact on PAC's capital structure since it substantially replaces existing debt. The SRF debt funds have the lowest cost to PAC's ratepayers, and thus will assist in keeping PAC's overall cost of capital low. We therefore approve PAC's financing request as consistent with the public good.

As to the request for waiver of Puc 608.05 *nunc pro tunc*, we note our previous determination, in Order No. 24,739, that the relevant capital projects were reasonably necessary to provide safe and adequate service to customers. We are also aware that water quality problems at Birch Hill have been ongoing. *See Consolidated Water Co.*, 89 NH PUC 42 (2004). We agree that waiting until the SRF loan had closed in September before commencing construction could have adversely affected the system improvements. For these reasons, we will

approve PAC's waiver request. We note that the capital improvements will eventually be reviewed for prudence prior to their inclusion in rates.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Pittsfield Aqueduct Company's proposed financing is **APPROVED**; and it is

FURTHER ORDERED, that Pittsfield Aqueduct Company, Inc.'s request for a waiver of Puc 608.05, *nunc pro tunc*, is **APPROVED**; and it is

FURTHER ORDERED, that Pittsfield Aqueduct Company, Inc. 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 March 13, 2008 and to be documented by affidavit filed with this office on or before April 3, 2008; 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 March 20, 2008 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 March 27, 2008; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective April 3, 2008, unless the Petitioner 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 third day of March,
2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary