

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 21-___

Pennichuck East Utility, Inc.

**Petition of Pennichuck East Utility, Inc. for Approval of
Financing from CoBank**

Pennichuck East Utility, Inc. (“PEU” or “Company”), a corporation duly organized and existing under the laws of the State of New Hampshire and operating therein as a public utility subject to the jurisdiction of the New Hampshire Public Utilities Commission (the “Commission”), petitions the Commission for approval and authority under RSA 369:1-4 to (1) to enter into a loan of \$2,546,632 from CoBank, ACB (“CoBank”) to fund the “one time” refill and replenishment of the Company’s Rate Stabilization Fund (“RSF”) funds to their imprest levels, specifically the Material Operating Expense Revenue Requirement (“MOERR”).

In support of its Petition, PEU respectfully represents as follows:

1. PEU is a New Hampshire public utility corporation providing retail water service to customers in the towns of Atkinson, Barnstead, Bow, Chester, Conway, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Middleton, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham. PEU is wholly-owned by Pennichuck Corporation (“Penn Corp”), which, in turn, is wholly-owned by the City of Nashua.

2. PEU is seeking authority to enter into a loan of \$2,2546,632 from CoBank to fund the “one time” refill and replenishment of the Company’s Rate Stabilization Fund (“RSF”) funds to their imprest levels, specifically the Material Operating Expense Revenue Requirement

(“MOERR”) in conjunction with the new permanent rates and modified rate structure that the Company seeks approval for in Docket DW 20-156, currently pending before the Commission.

3. PEU’s request is discussed in more detail below.

CoBank Loan

4. As is discussed in Mr. Goodhue’s testimony, this petition and request is directly tied to the open Docket DW 20-156, which if approved, is intended to insure that this is a “one time” replenishment of the MOERR RSF with a debt issuance because that open docket includes the establishment of a Material Operating Expense Factor (MOEF) as a part of the Company’s requested modified rate structure. That element was requested to provide the necessary operating revenues between rate cases to provide for reinforcement of the RSF funds at their near imprest levels, leading up to the next filed full rate case for permanent rate relief.

5. The financing with CoBank is needed as a “one time” funding to provide the needed cash to refill its fully depleted MOERR RSF, along with the reallocation of over-collected funds in the City Bond Fixed Revenue Requirement (“CBFRR”) RSF and Debt Service Revenue Requirement (“DSRR”) RSF accounts.

6. During the process of deliberations in the permanent rate case for the Company in Docket No. DW 20-156, the Company considered alternatives that might be available to provide for the needed cash to refill its fully depleted MOERR RSF, along with the reallocation of over-collected funds in the CBFRR RSF and DSRR RSF accounts. During those proceedings, it was demonstrated that the MOERR RSF has not only been fully depleted, but actually overdrawn with those amounts being funded and supported by borrowings from the Pennichuck Corporation Working Capital Line of Credit, thru its senior commercial lender. The alternative offered in the filing of that case and docket, was the replenishment of the MOERR RSF funds with a deferred

asset to be amortized into rates over a period of 10 years, including the implementation of the MOEF at a 6% factor level. Upon discovery and further discussion with the parties, alternatives were sought in lieu of that deferred asset methodology. The Company believes that the preferred alternative to that deferred asset methodology (if an alternative to that treatment is agreed upon between the parties to the case) is the ability to “one time” fund the RSF shortfall with external debt for a 25-year period of repayment.

7. This alternative would provide the ability to fund the shortfall funds needed to allow for the implementation of the MOEF in this case at a 4% level (with the full 6% level being sought in the Company’s next permanent rate case proceeding), with a term loan for 25 years. Pursuing this as an alternative to the deferred asset approach would result in savings in the new permanent rates being requested, of approximately 3.37% (an estimated increase of 16.47% vs an estimated increase of 19.84%), primarily due to the impact of a 25-year amortization versus a 10-year amortization. The Company is hopeful that a settlement agreement between the parties, including the potential inclusion of this financing request, will be formulated between the parties for consideration by the Commission in Docket No. DW 20-156. The fact that this financing is integral to that rate proceeding, should this be an integral element in that settlement agreement, it will be an important issue for the Commission’s notice of this instant proceeding.

8. While the final terms and interest rates are subject to change prior to the date of closing, the Company expects to obtain an \$2,546,632 term loan with a 25-year amortization, with level monthly principal and interest payments with an interest rate to be determined based on market conditions (currently estimated at 4.50% per annum). The proceeds from this new CoBank loan will be used to refill the Company’s MOERR RSF to its full imprest level and

repay the excess funds that were borrowed from Penn Corp's Working Capital Line of Credit, as fully described and included in schedules in support of the Company's rate case proceeding, as it pertains to this parallel activity to that proceeding.

9. The new CoBank loan will be secured by (i) a security interest in the Company's equity interest in CoBank (consisting of the Company's \$212,825.39 equity investment in CoBank and the Company's right to receive patronage dividends) and (ii) the unconditional guarantee of the Company's obligations to CoBank by Penn Corp pursuant to the Guarantee of Payment by Penn Corp in favor of CoBank dated as of February 9, 2010, a copy of which was also filed with the Commission in Docket No. DW 09-134. More details on the terms and conditions of the CoBank loan are described in Mr. Goodhue's testimony and a Non-Binding Summary of Terms and Conditions is attached as Exhibit LDG-4.

10. The anticipated issuance costs for the CoBank loan total less than \$10,000 and relates primarily to legal costs which will be incurred to (i) review and revise the necessary loan documentation prepared by CoBank, and (ii) obtain Commission approval of the loans. The issuance costs will be amortized over the life of the CoBank loans. The annual amortization expense of \$500, associated with the issuance costs, has not been reflected in schedules attached in Exhibits LDG-1 through 3 to Mr. Goodhue's testimony due to its immateriality with respect to the overall analysis and impact of this proposed financing.

11. The Company has explored alternative options for potential funding agencies over the past several years; however, the Company's borrowing levels do not meet minimum bonding thresholds for tax exempt debt bond financing through the Business Finance Authority of New Hampshire ("BFA") lending, even when aggregated over a three-year period. The Company does seek access to some funding from the State Revolving Fund (SRF) or the Drinking Water

and Groundwater Trust Fund (DWGTF), for certain eligible and qualifying capital projects; however, even though a few significant projects in 2020 did qualify for SRF funding, not all of the Company's capital projects for 2020 were eligible for either SRF or DWGTF financing. As a result, the options to finance the remainder of the Company's capital projects was limited to taxable debt from banks or other financial institutions.

12. With respect to alternative banking options, the Company has determined over the past several years that there are a limited number of truly eligible lenders due to considerations including the financial structure of the Company with respect to normal debt-equity ratios, the overall capital borrowing needs, meeting normal financial covenants, or due to acceptable credit ratings. CoBank has become the only viable option currently available to the Company to finance these current needs, especially with the nature of this instant request including a term loan to refill RSF funds. This is not a debt instrument that would typically be welcomed by another lender that doesn't already have a portfolio of credits with an entity such as PEU. CoBank is the best source of lending for PEU for this type of funding and has been evidenced by them preparing and providing a term sheet to the Company for this requested loan, see Exhibit LDG-4.

13. In accordance with Puc 609.03 and Form F-4, Mr. Goodhue's testimony describes the estimated costs of the proposed financing, and includes the following attachments:

- Schedule LDG-1, page 1, reflects the pro forma adjustments to record overall impact on the RSF funds section of the financial statements as it relates to the refinancing and financing of the debt instruments included in this transaction.
- Schedule LDG-1, page 2: This schedule reflects the impact on the Long-term Debt section of the balance sheet, and also reflects the net income impact on

retained earnings related to costs associated with the financings, as reflected on Schedule LDG-2. Schedule LDG-1, page 2, also records the repayment of intercompany funds to the extent they were used to support the MOERR RSF leading up to the current permanent rate case, and this financing request, based upon actual bank account balances as of 12/31/2020.

- Schedule LDG-2, Page 1 contains two adjustments. The first adjustment records the estimated increase in interest expense related to additional debt raised at interest rates of 4.5% per annum. The second adjustment records the income tax effect of the additional pro forma interest expense using an effective combined federal and state income tax rate of 27.08%.
- Schedule LDG-3 illustrates the Company's pro forma impact from this financing on the average single-family residential home's water bill, as it pertains to the rates that were approved under Docket No. DW 17-128, as well as the impact as known from the DW 20-156 docket, per the 1604.06 schedules pro-formed and supplemented into that case as of 8/10/2021.

14. The CoBank financing has been approved by the Company's and Penn Corp's Boards of Directors. Copies of the approvals are attached as Exhibits LDG-5 and LDG-6. The CoBank financing approval are being submitted contemporaneously with this filing, for approval by Penn Corp's sole shareholder, the City of Nashua. The Company will supplement its Petition with documentation showing the City's approvals when available.

15. The Company is providing prior written request to TD Bank for consent to incur new indebtedness pursuant to Section 6(c) of the Loan Agreement between Pennichuck and TD Bank, NA concurrently with this filing and the Company will supplement the petition once

available.

16. The Company respectfully requests that the Order be effective by October 31, 2021, if possible, such that the Order can be effective not later than the end of November 2021. This will allow the Company to close upon the term loan as a requirement in establishing the final permanent rates under the Company's permanent rate case in pendency in Docket No. DW 20-156. Timely closing on the CoBank term loan, will allow the Company to include the actual impact of this loan in its final approved rate in that case. Schedules provided in discovery under DW 20-156 pertaining to this financing and the impact it has in the permanent rate proceeding as attached as Exhibits LDG-7 through LDG-9.

17. The Company avers that it is entitled to the financings described above, for the purposes set forth herein, and that the issuance of such notes will be consistent with the public good as contemplated by the New Hampshire Supreme Court's ruling in *Appeal of Easton*, 125 N.H. 205, 211 (1984). Pursuing this funding alternative, as opposed to a deferred asset approach, would result in savings for ratepayers in the new permanent rates being requested, of approximately 3.37%, primarily due to the impact of a 25-year amortization versus a 10-year amortization.

WHEREFORE, by this petition, the attached testimony and exhibits, and pursuant to RSA 369, including RSA 369:1-4, PEU requests that the Commission:

(a) Find that the CoBank loan of \$2,546,632 to fund the "one time" refill and replenishment of the Company's Rate Stabilization Fund (RSF) funds to their imprest levels, specifically the Material Operating Expense Revenue Requirement (MOERR RSF), in conjunction with the new permanent rates and modified rate structure seeking approval for the

Company in Docket No. DW 20-156, such loan is in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with the public good;

(b) Authorize PEU to do all things, take all steps, and execute and deliver all documents necessary or desirable to consummate, implement and carry out the proposed financings;

(c) Approve the financing request by Order *Nisi* by October 31, 2021 to allow the Company to close upon the term loan as a requirement in establishing the final permanent rates under the Company's permanent rate case in Docket 20-156, or, in the alternative, issue an Order of Notice as soon as practicable that establishes a procedural schedule, including if required, a date for hearing in this matter, which would result in an Order that is effective by the end of November 2021; and

(d) Take such further action and make such other findings and orders as in its judgment may be just, reasonable, and in the public good.


Respectfully submitted,

PENNICHUCK EAST UTILITY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: September 2, 2021

By: 
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Certificate of Service

I hereby certify that a copy of this petition for approval of financings, including the pre-filed testimony referred to in the Petition, have this day been forwarded to the Office of Consumer Advocate via electronic mail at ocalitigation@oca.nh.gov.

Dated: September 2, 2021



James J. Steinkrauss