

EXHIBIT A
Proof of Website Publication

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**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 23-024

PENNICHUCK EAST UTILITY, INC.

Petition for Approval of Refinancing a CoBank ACB Balloon Maturity Note

Order *Nisi* Approving Refinancing

ORDER NO. 26,824

May 18, 2023

Pennichuck East Utility, Inc. (PEU, or the Company) requests approval to refinance an expiring balloon maturity obligation through CoBank, ACB (CoBank). The Commission authorizes PEU to borrow up to \$1,025,000 through a new 10-year loan.

I. BACKGROUND AND PROCEDURAL HISTORY

PEU provides water service to customers in communities throughout central and southern New Hampshire. On March 8, 2023, PEU filed a petition for approval to refinance an expiring balloon maturity obligation from CoBank. The proposed new loan would be used to refinance an intercompany loan from Pennichuck Corporation (Penn Corp.) approved by Order No. 24,480 on March 27, 2013 in Docket No. DW 13-017. The existing loan funds have been used to pay for capital improvements in PEU's Locke Lake water system in Barnstead and its Birch Hill system in North Conway.

DOE filed a technical statement recommending approval of the petition on April 20, 2023, and a supplement to that statement on April 21, 2023. The Office of the Consumer Advocate did not submit an appearance in this docket, and no petitions to intervene were filed.

The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at www.puc.nh.gov/Regulatory/Docketbk/2023/23-024.html.

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II. POSITIONS OF THE PARTIES

A. PEU

1. Refinancing

PEU seeks to enter into a new 10-year loan with CoBank up to \$1,025,000 with level monthly principal and interest payments at an interest rate to be determined and “locked” as of closing (currently estimated at 7.20% interest per year). Petition at BP 3, ¶¶ 5-6, and BP 5, ¶10. The new loan will be secured by: (1) a security interest in PEU’s equity investment in CoBank, currently calculated at \$312,618, plus the right to receive patronage dividends; and (2) the unconditional guarantee of PEU’s obligations to CoBank by PEU’s parent company, Pennichuck Corporation (Penn Corp), a holding company with five wholly-owned operating subsidiaries, including PEU, and a sole shareholder, the City of Nashua. PEU anticipates the impact of the new loan on the Company’s annual revenue requirement to be \$27,915, or 0.28 percent, with a net impact on single-family residential rates estimated to be \$0.24 per month. Petition at BP 29 (Schedule GT-4A).

According to PEU, the proposed refinancing has been approved by the Board of Directors of both PEU and Penn Corp. On April 19, 2023, PEU submitted documentation of the City of Nashua’s Board of Aldermen approval of the proposed refinancing. PEU stated that the new financing will have a term of 10 years, which is less than the overall aggregate useful lives of the capital projects funded by the original loan approved in Docket No. DW 13-017 with a 25-year term of amortization. Testimony of George Torres at BP 14, lines 8-13. That original loan was incurred to finance capital improvements in PEU’s Locke Lake and Birch Hill systems; those improvements were completed in 2007. Testimony of George Torres at BP 14, lines 3-6.

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PEU emphasized that the proposed refinancing must be in place prior to June 23, 2023, since the expiring loan has a balloon maturity obligation of approximately \$1.025 million dollars due on that date. Absent a term loan to refinance and re-term its current obligation, the Company will not have funds available to pay that obligation. Testimony of George Torres at BP 14, lines 16-23. The Company noted that it had explored options with several potential funding agencies over the past ten-plus years, including the NH Department of Environmental Services, but determined that CoBank has become the only viable option currently available to the Company to finance its current capital funding needs. Testimony of George Torres at BP 19, and at BP 20, lines 3-4.

2. Motion for Protective Order and Confidential Treatment

PEU asserted that the terms and conditions of its proposed financing through CoBank, as provided in Exhibit GT-8 to its petition, are confidential, commercial, or financial information under RSA 91-A:5, IV, because they remain subject to satisfactory review and completion of documentation, due diligence, and approval by PEU and CoBank. Motion at BP 48, ¶5. PEU further stated that the terms and conditions remain subject to negotiation, the terms have not been finalized, and CoBank provided the documentation to PEU with a request that they remain confidential. Motion at BP 48, ¶7.

B. DOE

1. Refinancing

Based on its review of PEU's filings, including responses to discovery requests, DOE concluded that the proposed refinancing of the existing obligation on June 23, 2023, is an appropriate use of funds. DOE further determined that the proposed refinancing will have no discernible impact on PEU's current debt-to-equity ratio or

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2. Motion for Protective Order and Confidential Treatment

III. COMMISSION ANALYSIS

The rigor of an *Easton* inquiry varies depending on the circumstances of the request. As the Commission has noted in prior decisions, “certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing.” *Public Service Company of New Hampshire*, Order No. 25,050 at 14 (December 8, 2009). We engage in a more limited review for routine financing requests. *Id.* at 13-14. A routine request is one that will have no discernible “impact on rates or deleterious effect on capitalization, [and] in which the funds are to enable



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numerous investments appropriate in the ordinary course of utility operations.” *Id.* at 13.

PEU stated that the proposed refinancing of up to \$1,025,000 will be used to pay the balloon maturity obligation due on June 23, 2023, and to replace that obligation with a new loan. The new loan will have a fully amortizing term of repayment. PEU anticipates the impact of the new loan on its annual revenue requirement will be an increase of \$27,915, or 0.28 percent, with a projected net impact on an average single-family residential bill anticipated to be \$0.24 per month.

Based on the Company’s petition and DOE’s analysis and recommendation, we find that the intended use of the proposed financing falls within the course of the Company’s ordinary utility operations. We further concur with DOE’s assessment that the proposed financing will have little to no impact on PEU’s current debt-to-equity ratio or overall capital structure, and that the projected net impact on the average single-family residential bill will be negligible. Accordingly, based on the record, the Commission finds the proposed refinancing to be reasonable.

We therefore conclude that approval of the proposed refinancing will permit PEU to provide safe and adequate service to its customers, as required by RSA 374:1, and that the financing is consistent with the public good, pursuant to RSA 369:1 and RSA 369:4. Accordingly, based on the Company’s petition and on DOE’s technical statement and recommendation, we find the financing request to be consistent with the public good. We further find that additional investigation is not required and approve the proposed financing on a *nisi* basis.

Our approval of PEU’s financing does not limit or preclude the Commission from reviewing in a future case, directly or indirectly, the prudence, use, and usefulness of any specific project financed by the borrowed funds pursuant to RSA

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378:28. The Commission retains its authority under RSA 374:4 to be kept informed of PEU's use of the financing and any efforts to refinance under more favorable interest rates, separate and apart from any future review under RSA 378:28.

B. Motion for Protective Order and Confidential Treatment

In its Motion, PEU argued that the proposed term sheets included in the Non-Binding Summary of Terms and Conditions submitted as Exhibit GT-8 to PEU's petition fall within the RSA 91-A:5, IV exemption. According to PEU, the term sheets are confidential commercial or financial information that reveal terms that remain subject to satisfactory review and completion of documentation, due diligence, and approval by PEU and CoBank. Motion at BP 48, para. 5. PEU noted that the terms and conditions remain subject to negotiation and have not been finalized, and that CoBank had provided the loan documentation to PEU with a request that they remain confidential and "may not be released to or discussed with any third party without the prior written consent of CoBank." Motion at BP 49, para 7. PEU posits that it is in the public interest to allow such negotiations to occur in a manner consistent with the lender's procedure and practice. *Id.*

RSA Chapter 91-A ensures public access to information relative to the conduct and activities of governmental agencies or "public bodies" such as the Commission. Disclosure of records may be required unless the information is exempt from disclosure under RSA 91-A:5. Specifically, RSA 91-A:5, IV exempts several categories of information, including records pertaining confidential, commercial, or financial information. The party seeking protection of the information in question has the burden of showing that a privacy interest exists, and that its interest in confidentiality outweighs the public's interest in disclosure. *Union Leader Corp. v. Town of Salem*, 173 N.H. 345, 355 (2020) (citing *Prof'l Firefighters of N.H. v. Local Gov't Ctr.*, 159 N.H. 699,



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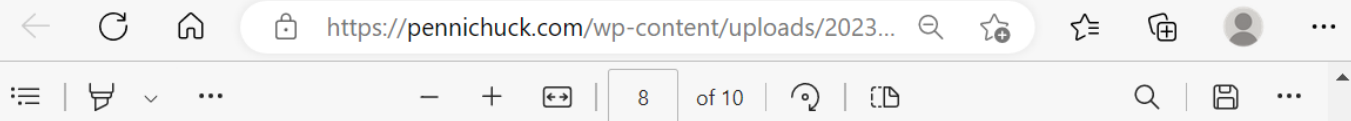
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707 (2010)).

The New Hampshire Supreme Court and the Commission each apply a three-step balancing test to determine whether a document, or the information contained within it, falls within the scope of RSA 91-A:5, IV. *Lambert v. Belknap County Convention*, 157 NH 375, 382–83 (2008); *Abenaki Water Company, Inc.*, Order No. 25,840 (November 13, 2015) at 2. Under the balancing test, the Commission first inquires whether the information involves a privacy interest and then asks if there is a public interest in disclosure. *See, e.g.*, Order No. 25,840 at 2 (citing *Pennichuck East Utility, Inc.*, Order No. 25,758 at 4 (January 21, 2015)). The Commission then balances those competing interests and decides whether disclosure is appropriate. *Id.* When the information involves a privacy interest, disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.*

We agree with PEU that the proposed term sheets included in the Non-Binding Summary of Terms and Conditions fall within the RSA 91-A:5, IV exemption, because they constitute confidential and sensitive commercial or financial information. We therefore conclude that the interest in nondisclosure of the information identified in PEU's Motion outweighs the public's interest in disclosure of that information. Although the public may have an interest in the information to aid in understanding the Commission's analysis of the issues presented in this proceeding, we find that the public's interest is outweighed by PEU's privacy interest in information that, if disclosed, could pose legitimate financial harm or privacy risk to PEU, including the obtention of favorable financing terms in the future.

Accordingly, pursuant to Puc 203.08(a), we grant PEU's motion for protective order and confidential treatment. Consistent with past practice and Puc 203.08(k), the



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protective treatment provisions of this order are subject to the ongoing authority of the Commission, on its own motion or on the motion of any party or member of the public, to reconsider this protective order under RSA 91-A, should circumstances so warrant.

Based upon the foregoing, it is hereby

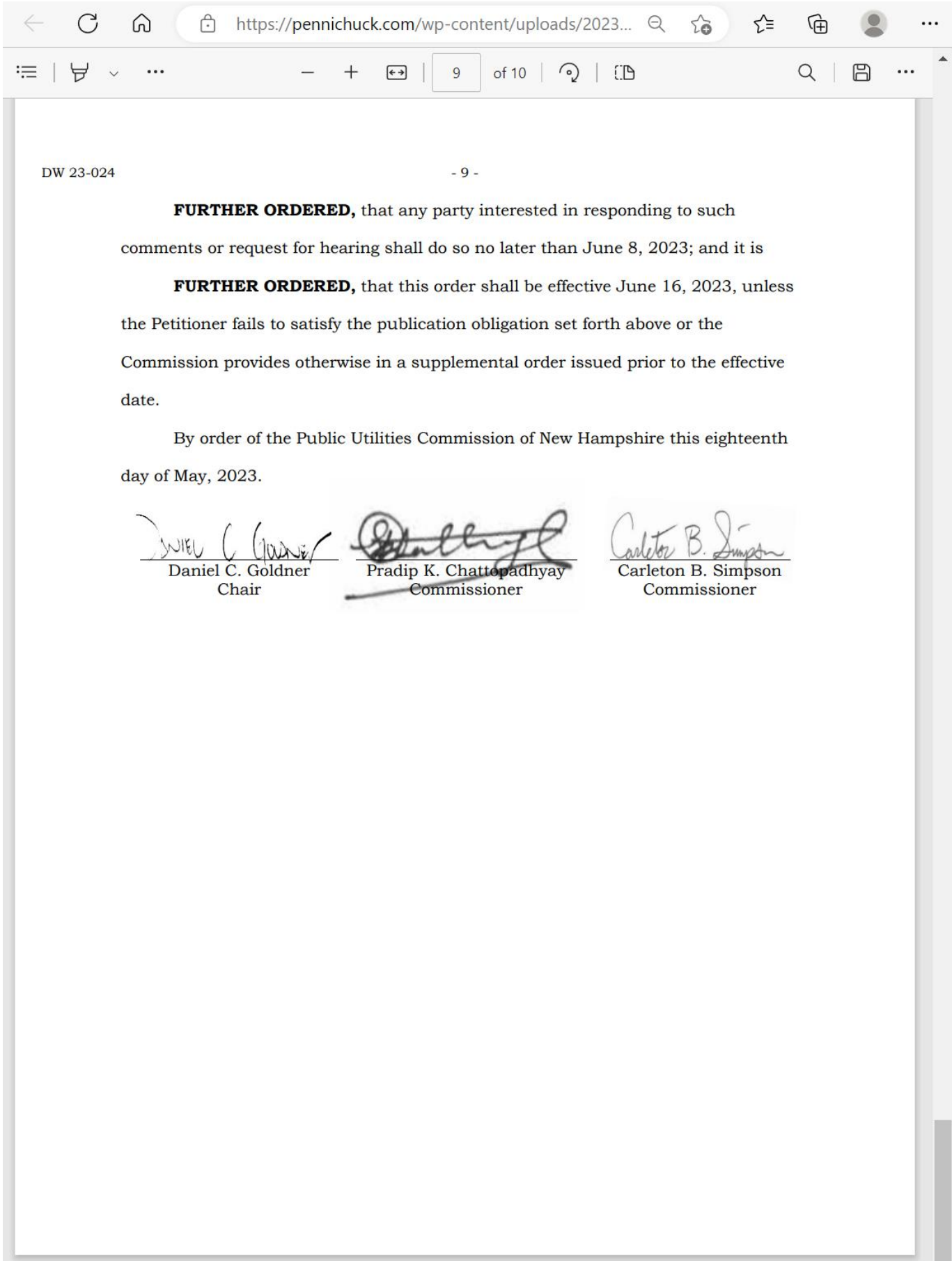
ORDERED *NISI*, that the request of Pennichuck East Utility, Inc. for approval to refinance up to \$1,025,000 through a 10-year loan with a 10-year amortization, at a fixed interest rate to be determined by CoBank at the time of closing, is hereby GRANTED; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc. file with DOE and the Commission evidence of the financing and the applicable interest rate within 15 days of the close of the financing; and it is

FURTHER ORDERED, that the Motion for Protective Order and Confidential Treatment of refinancing term sheets and associated documents is GRANTED; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc. shall cause a copy of this order to be published on its website by no later than the close of business on May 19, 2023; and through bill inserts in the next billing cycle after the issuance of this order, and 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 May 24, 2023, and to be documented by affidavit filed with this office on or before June 13, 2023; and it is

FURTHER ORDERED, that all persons interested in responding to this order 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 June 1, 2023, for the Commission's consideration; and it is





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Service List - Docket Related

Docket#: 23-024

Printed: 5/18/2023

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EXHIBIT B

Letter and Email regarding Union Leader Publication



James J. Steinkrauss
Attorney-at-Law
jjs@rathlaw.com
(603) 410-4314
Please reply to: Concord Office

May 18, 2023

VIA ELECTRONIC MAIL
rgonzalez@unionleader.com

Rosa Gonzalez | Ad Services Manager
Union Leader Corporation
PO Box 9555
Manchester, NH 03108-9555

**Re: DW 23-024 Nisi Order 26,824
Pennichuck East Utility
Legal Notice Publication**

Dear Rosa:

Our firm represents Pennichuck East Utility, Inc. ("Pennichuck") before the New Hampshire Public Utilities Commission ("Commission"). Pennichuck has been ordered by the Commission to have the attached Nisi Order 26,824 published as a Legal Notice no later than May 24, 2023. We kindly request that you publish the attached order in your printed newspaper and on your on-line website by that deadline. If you are unable to do so, please contact me immediately.

Once the order is published, please provide me with an affidavit of publication and a copy of the article no later than May 24, 2023 so that I may file the affidavit with the Commission no later than June 13, 2023.

Thank you in advance for your assistance with the publication of the attached Summary Order. Kindly remit the bill for this service to my attention at the Concord address below.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Steinkrauss".

James J. Steinkrauss

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James J. Steinkrauss

From: Rosa Gonzalez <rgonzalez@unionleader.com>
Sent: Friday, May 19, 2023 9:21 AM
To: Susan M. Walker
Cc: James J. Steinkrauss
Subject: Re: Pennichuck East Utilities - DW 23-024 - Order Nisi 26,824 Publication
Attachments: UD146959 4x18.5.pdf

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Susan and James,

The notice is scheduled to be published on Monday, 5/22/2023.
Attached is a copy of the notice as it will appear in the paper.
The total cost to publish is \$2,878.60.
Please let me know by noon today if you need to make any changes.

Thank you,
Rosa Gonzalez | Ad Services Manager
New Hampshire Union Leader | 100 William Loeb Drive, Manchester, NH 03109
(main) 603-668-4321 ext. 263 | rgonzalez@unionleader.com
www.unionleader.com | www.facebook.com/unionleader
"Open Up New Hampshire"



On Thu, May 18, 2023 at 2:31 PM Susan M. Walker <smw@rathlaw.com> wrote:

Hi Rosa - Please see attached cover letter from Attorney Jim Steinkrauss and the word version of the 2024 5-18 NHPUC Nisi Order 26,824 granting Petition for Refinance.

Please feel free to contact Jim with any questions. Thank you.

Susan M. Walker
Environmental Practice Group Administrator

Administrator to RYP Granite Strategies



Rath, Young and Pignatelli, PC

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STATE OF NEW HAMPSHIRE
PUBLIC UTILITY COMMISSON
Docket DW 23-024

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PENNICHUCK EAST UTILITY, INC.)
)
Petition of Pennichuck East Utility, Inc. for)
Approval of Refinancing of a CoBank, ACB)
Balloon Maturity (T4) Note)
_____)

Affidavit of Tara C. King

I, Tara C. King, being duly sworn, depose and state the following to be true of my own personal knowledge:

1. ☐ I make this affidavit in support of the Pennichuck East Utility, Inc. (“PEU”) Motion to Amend the Order *Nisi* No. 26,824 in Docket No. DW 23-024 by the New Hampshire Public Utility Commission on May 18, 2023.
2. ☐ I am a citizen of the State of New Hampshire residing at 8 Windsor Drive, Merrimack, , New Hampshire 03054.
3. ☐ I am currently employed as the Director of Revenue & Customer Operations with Pennichuck Water Works, Inc. and serve that same capacity with Pennichuck East Utility, Inc. I have held this position with Pennichuck Water Works, Inc. and PEU for one (1) year but have worked with the Company for 25 years.
4. ☐ On May 18, 2023, I was requested to calculate the time upon which a billing insert of Order Nisi No. 26,824 could be printed and mailed with the next billing cycle to all PEU customers.
5. ☐ On May 18, 2023, based upon the print-house timing to print the five (5) page insert, it would not be available for insertion in the May 25, 2023 bills, but could be available for insertion in the June 9, 2023, June 16, 2023, June 23 and completed with the June 29, 2023 billing cycle. The billing insert could not be mailed to all customers prior to June 13, 2023.

6. ☐ I estimated that the five (5) page order as a billing insert would cost approximately \$3,600.00 to print and include in customer bills.
7. ☐ I estimate the total additional cost of including the Order *Nisi* No. 26,824 as a billing insert would cost the Company approximately \$3,600.00.

Signed under the pains and penalties of perjury this the 19 day of May 2023.

By: Tara C. King
Tara C. King
Director of Revenue & Customer Operations