

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 23-____

Pennichuck East Utility, Inc.

**Petition of Pennichuck East Utility, Inc. for Financing Approval
to Renew and Extend its Fixed Asset Line of Credit with CoBank, ACB**

Pennichuck East Utility, Inc. (“PEU”), 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”), hereby petitions the Commission for approval and authority under RSA 369:1-4 to renew and extend the Fixed Asset Line of Credit (“FALOC”) in place with CoBank, ACB, set to expire on September 30, 2023 for three (3) years, and to increase the capacity of that FALOC from \$3 million to \$4 million. 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.

FALOC Request

2. The Company proposes this financing request for approval of a renewal of its FALOC with CoBank, ACB, for three (3) years and increase the capacity of the FALOC from \$3 million to \$4 million. The Commission previously approved the FALOC by Order No. 26,117 (March 30, 2018) in Docket No. DW 17-157, and a renewal until September 30, 2023, by Order

No. 26,418 (October 29, 2020) in Docket No. DW 20-081. The proposed three (3) year renewal and extension of the FALOC would have an expiration date of September 30, 2026.

3. The Company seeks an increase in the capacity of the FALOC from \$3 million to \$4 million to account for increases in project costs that the Company has experienced as a result of COVID, including supply chain disruptions and other factors have impacted overall project procurement costs. These factors have caused a backlog of essential project needs on the horizon for the next 12-24 months, before things hopefully shakeout and return to more predictable levels and abilities to complete projects timely. The overall capacity of the line is needed for these factors, as well as inflation and the inclusion of capitalized interest on the FALOC itself, to remain within the capacity under the line. See Direct Testimony of George Torres at 6. The Company does not seek to change any other terms of the existing FALOC facility with CoBank, ACB for the renewal and extension of three (3) years.

4. The Company will continue to utilize the FALOC to fund the cash flow needs associated with capital projects during the calendar year. Although this facility does not have an annual “clean-out” provision required by the Bank, as it has done in the past the Company intends to repay it every year, by converting the balance to term loans tied to annual used and useful projects completed for the preceding calendar year.

5. The proposed FALOC renewal will be secured by (i) a security interest in the Company’s equity interest in CoBank, and (ii) the unconditional guarantee of the Company’s obligations to CoBank by Pennichuck pursuant to the Guarantee of Payment, by Pennichuck in favor of CoBank dated as of February 9, 2010 (the “Guaranty”), a copy of which was also filed with the Commission in Docket No. DW 09-134. The FALOC renewal will have covenants equivalent to the existing FALOC terms. The Company anticipates issuance costs total less than

\$5,000 and relates primarily to legal costs which will be incurred to (i) review and revise the necessary documentation prepared by CoBank, and (ii) obtain Commission approval for the facility. The issuance costs will be amortized over the life of the CoBank FALOC. The annual amortization expense of \$1,667 associated with the issuance costs, has not been reflected in Schedules GT-1 though due to its immateriality with respect to the overall analysis and impact of this proposed financing.

6. In accordance with Puc 609.03 and Form F-4, Mr. Torres's testimony describes the estimated costs of the proposed financing, and includes the following attachments:¹

- Schedule GT-1, pages 1 and 2, presents the actual financial position of the Company as of December 31, 2022, and the pro forma financial position impact of the FALOC renewal. Schedule GT-1, page 1, reflects the pro forma adjustments to record the additional interest expenses (net of the income tax impact) associated with renewing the FALOC. This schedule also reflects the net income impact on retained earnings related to costs associated with the FALOC renewal, as reflected in Schedule GT-1, page 2 and Schedule GT-2.
- Schedule GT-2, pages 1 and 2, presents the Company's Operating Income Statement for the Twelve Months Ended December 31, 2022. Schedule GT-2, page 1, presents the pro forma impact of this financing on the Company's income statement for the twelve-month period ended December 31, 2022.
- Schedule GT-3, the Company's Pro Forma Capital Structure for Ratemaking Purposes for the Twelve Months Ended December 31, 2022, demonstrating the

¹ As has been noted in previous finance dockets, due to PEU's unique ownership and financing structure, the Company has not included a schedule showing PEU's capital structure with pro forma adjustments.

impact on the Company's pro forma total capitalization as of December 31, 2022.

Schedule GT-3 is consistent with the Statement of Capitalization Ratios filed as Exhibit 5 to the Form F-4 pursuant to PUC Rule 609.03(b)(6).

- Schedule GT-4A, the Company's Projected Rate Impact on Single Family Residential Homes illustrates the Company's pro forma impact from this financing on the average single-family residential home's water bill which is no impact, as it pertains to the rates that were approved under Order No. 26,425 (November 24, 2020) in Docket No. DW 19-084.
- Schedule GT-4B, the Company's Weighted Average Cost of Long-Term Debt, demonstrates the Company's pro forma impact from this financing on its overall annual weighted average cost of Long-Term debt, inclusive of loans already in existing on the Company's books as of December 31, 2022. This schedule is consistent with Exhibit 6 of Form F-4 pursuant to PUC Rule 609.03(b)(7).

7. Mr. Torres further explains that the Commission can authorize PEU to obtain the FALOC renewal under RSA Chapter 369 for the purposes set forth in this petition and the financings are consistent with the public good because the proposed FALOC will allow for the short-term financing of necessary construction or capital projects, which in-turn will then be replaced with long-term debt financing, with market based interest rates and maturities that are aligned with the useful lives of the funded capital assets, to the long-term benefit of PEU's ratepayers. Additionally, the FALOC facilitates the Company's ongoing responsibilities to its customers to maintain its systems, fully comply with regulations set by the NHDES, and properly maintain and/or replace existing infrastructure to the ongoing and long-term benefit of its customers. See *Direct Testimony of George Torres* at 9.

8. If the Company obtains authority from the Commission to borrow from CoBank for the renewed and increased FALOC, loan documents will be prepared for the transactions, setting forth the exact terms and conditions for borrowing the funds. A copy of the FALOC Term Sheet with CoBank is attached as Exhibit GT-5.

9. As is described in Mr. Torres' testimony, the FALOC renewal was given preliminary approval by PEU's and Pennichuck Corporation's Board of Directors which have authorized management to pursue all steps necessary to complete the transactions. *See* Exhibits GT-6 and GT-7, attached to Mr. Torres' testimony. As is stated in Mr. Torres' testimony, PEU has submitted a request for approval to the City of Nashua on April 7, 2023 (*see* Exhibit GT-8 attached to Mr. Torres' testimony). As is described in more detail in Mr. Torres' testimony, the Company currently expects final approval from the Board of Aldermen at a regularly scheduled meeting in mid to later April 2023. Finally, the Company provided notice of this financing to its senior corporate lender, TD Bank which is attached as Exhibit GT-9. Upon receiving written verification of that approval from the City of Nashua and receipt of the notice from TD Bank, this Company will provide the approvals and supplement this petition. *See Direct Testimony of George Torres* at 8, 9.

10. For the reasons described in Mr. Torres' testimony, PEU is requesting Commission approval of the FALOC increase and renewal in time to it to close on the FALOC prior to September 30, 2023, including an allowance for any time that the Commission may require for public notice. The Company avers that it is vitally important to have the renewal of the FALOC approved and in place, without interruption. As the current facility expires on September 30, 2023, approval prior to that date will allow a seamless transition to an already offered renewal and extension of this credit facility, available to immediately take its place. This

is extremely important as this is the only mechanism, on a short-term basis, that the Company currently has at its disposal to fund its current-year capital expenditures on an annual basis. The FALOC is the mechanism that the Company uses to fund those projects during the year, leading up to the repayment of the line and conversion to long term debt in conformity with the QCPAC process as approved by the Commission. It is also important to note that, if the renewal and extension is not approved timely, all amounts due on the existing line of credit would become immediately due and payable to the bank, for which the Company would be hard-pressed to be able to fund out of its available cash resources. Additionally, it would cause the Company to immediately cease any capital budget projects in process or committed to, along with any penalties associated with such an action. See *Direct Testimony of George Torres* at 5.

11. Finally, the Company avers that it is entitled to issue promissory notes and renewal of the FALOC 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). The Company asserts that the renewal of the FALOC is consistent with the public good because it will allow for the short-term financing of necessary capital construction projects, which in-turn will then be replaced with long-term debt financing, with favorable interest rates and maturities that are aligned with the useful lives of the funded capital assets, to the long-term benefit of PEU's ratepayers. Additionally, the FALOC facilitates the Company's ongoing responsibilities to its customers to maintain its systems, fully comply with regulations set by the NHDES, and properly maintain and/or replace existing infrastructure to the ongoing and long-term benefit of its customers. The short-term funding of capital projects through the line of credit and payment

annually by a bond issuance is also in conformity with the approved Qualified Capital Project Adjustment Charge (“QCPAC”) mechanism. See *Direct Testimony of George Torres* at 9

12. Furthermore, the Company asserts that this petition qualifies as a routine financing consistent with the Commission’s decision *In re PSNH*, Order No. 25,050, 94 NH PUC 691,699 (December 8, 2009) and in Docket DW 18-133, regarding Pennichuck Water Works, Inc. See Order No. 26,197 (December 3, 2018). 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 numerous investments appropriate in the ordinary course of utility operations.” See *In re PSNH*, Order No. 25,050 at 13 (December 8, 2009). Here the Company avers that the proposed financing will not have a significant impact on rates as demonstrated in Schedule GT-4A, and the proposed loan will not be fully utilized but in-turn will be replaced with long-term debt financing, with market-based interest rates and maturities that are aligned with the useful lives of the funded capital assets, to the long-term benefit of PEU’s ratepayers. Finally, this financing is an integral part of the Company’s ability to request annual recovery through the QCPAC mechanism, and it allows the Company to fulfill its duty under RSA 374:1 to provide safe and adequate water service with the short-term proceeds used for necessary capital investments and account for inflationary cost pressures and unanticipated contingencies. Finally, the Commission previously found the Company’s request for renewal of the FALOC facility as routine and in the public good in Order No. 26,418 (October 29, 2020) in Docket No. DW 20-081. See *Order 26,418* at 10,11.

WHEREFORE, by this petition, PEU requests that the Commission:

(a) Find that the renewal of the FALOC in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with the public good;

(b) Find that the renewal of the FALOC with CoBank, ACB in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with a routine financing.

(c) Pursuant to RSA 369:1, 3 and 4, grant PEU the authority to renew the FALOC in place with CoBank, NA, set to expire on September 30, 2023 for three (3) years, with the increased \$4 million annual borrowing capacity on the existing terms and purposes described herein;

(d) 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 FALOC renewal in accordance with the proposed financing;

(e) Approve the financing request with sufficient time for PEU to complete the steps necessary to close on the FALOC renewal on or before September 15, 2023 by finding the request: (1) is routine and in the public good; (2) by Order *Nisi issued by* August 15, 2023 (with a 30-day public comment period), or (3) 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 or prior to September 15, 2023;

(f) 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: April 13, 2023

By:



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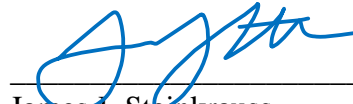
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Certificate of Service

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: April 13, 2023



James J. Steinkrauss