

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Pennichuck East Utility, Inc.

And

Pittsfield Aqueduct Company, Inc.

DW 23-066

**MOTION FOR TEMPORARY EXTENSION OF ORDER NO. 26,311 AND ORDER
NO. 26,823 GRANTING A SHORT-TERM DEBT LIMIT WAIVER AND
INCREASE**

Pennichuck East Utility, Inc. (“PEU” or “Company”) and Pittsfield Aqueduct Company, Inc. (“PAC” or collectively “Companies”), are both corporations 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 jointly file this motion for an extension of the waiver of short-term debt limit and increase previously granted in Order No. 26, 311 (September 26, 2019) in Docket No. DW 19-112 and Order No. 26,823 (May 16, 2023) in Docket No. DW 22-075. PEU and PAC file this motion following the filing of the joint petition to extend the waiver and increase the debt limit on June 26, 2023 for a waiver of the 10% limitation on its short-term debt limit and increase under N.H. Admin. Rule Puc 608.05 that was previously granted in Order No. 26,311 and 26,823. In support of this Motion, PEU and PAC respectfully represent as follows:

1. Puc 608.05 states: “No utility shall issue or renew any notes, bonds or

other evidence of indebtedness payable less than 12 months after the date thereof if said short term debt exceeds 10% of the utility's net fixed plant without prior commission approval pursuant to Puc 201.05.”

2. On July 23, 2015, in accordance with Puc 201.05, PEU and PAC jointly sought a waiver of Puc 608.05 based on the 2011 acquisition of Pennichuck Corporation by the City of Nashua, which included the indirect acquisition of PAC. *See* Order No. 25,292 (November 23, 2011). A critical feature of the acquisition involved the transition to a capital structure composed primarily of debt, as opposed to a traditional capital structure.

3. On September 29, 2015, the Commission granted both PAC and PEU a waiver and increase of the short-term debt limit from ten percent (10%) to eighteen percent (18%) until June 20, 2019. *See* Order No. 25,820 (September 29, 2015). In its Order, the Commission found “[t]he waiver and increased debt limits are consistent with the waivers and increases that we have approved since Nashua’s acquisition of the companies.” Order No. 25,820 at 3. The Commission also found reasonable the proposal to report monthly short-term debt levels in the annual report and to file written notice with the Department of Energy (“DOE”) and the Office of Consumer Advocate (“OCA”) in any month that short-term debt exceeds 15% of net fixed capital. *See* Order No. 25,820 at 4.

4. On October 4, 2018, the Commission granted PEU’s request to amend its ratemaking methodology. *See* Docket DW 17-128, Order No. 26,179. The underlying capital structure composed primarily of debt, however, remains in place and is reinforced under the new methodology.

5. By Order No. 25,820 (Docket DW 15-288), the Commission granted PEU’s 2015 petition and provided a waiver of Puc 608.05 through June 30, 2019. In its Order,

the Commission found “[t]he waiver and increased debt limits are consistent with the waivers and increases that we have approved since Nashua’s acquisition of the companies.” Order No. 25,820 at 3. The Commission also found reasonable the proposal to report monthly short term debt levels in the annual report and to file written notice with Staff and the OCA in any month that short term debt exceeds 15% of net fixed capital. Order No. 25,820 at 4.

6. On April 20, 2018, the Commission authorized the refinancing of the existing ten (10) year intercompany note and conversion of the \$409,150 of variable-rate short-term intercompany debt into a long-term note. *See* Order No. 26,125 (April 20, 2018). In the Order, the Commission found the refinancing and conversion of short-term debt to be routine in nature and in the public interest pursuant to RSA 369:1. *See* Order 26,125 at 4.

7. On May 1, 2018, PAC completed the refinancing of its long-term note and conversion of its short-term intercompany debt into long-term debt. This had the net effect of lowering PAC’s short-term debt below the statutory limit of 10%. 7. On June 20, 2019, PEU filed a petition for waiver of the short-term debt limit, which was set to expire on June 30, 2019, in Docket No. DW 19-112. The Commission by Order No. 26,311 granted PEU’s petition granting a waiver of the short-term debt limit setting it at 18% through June 30, 2023. *See* Order 26,311 (November 27, 2019) at 5. PAC did not join that petition because the refinance of intercompany debt approved in Order No. 26,125 and subsequent transaction lowered its short-term debt below the 10% threshold.

8. On November 9, 2021, the Commission approved a settlement and granted PAC’s request to amend its ratemaking methodology. *See* Order No. 26,544 (November 9, 2021) in Docket No. DW 20-153 at 8-9. P A C ’ s underlying capital structure composed primarily of debt; however, remains in place and is reinforced under the new ratemaking

methodology.

9. On November 3, 2022, PAC filed a petition for waiver of the short-term debt limit and increase which had expired, with a request that the Commission grant a waiver of the short-term debt limit setting it at 18% through June 30, 2023 in Docket No. DW 22-075. The petition anticipated filing this joint petition for waiver with PEU prior to June 30, 2023. On May 16, 2023, the Commission approved the temporary waiver and increase through June 30, 2023, as being in the public interest by Order No. 26,823. *See* Order No. 26, 823 (May 16, 2023) in Docket No. DW 22-075 at 4. The Commission's order also requested PAC to review alternative measures or options to lessen any rate impacts on customers with respect to debt service. *See* Order No. 26,823 at 5.

10. On June 12, 2023, PAC filed a petition for approval to convert short-term inter-company payables to a long-term loan with Pennichuck Corp. in Docket No. DW 23-061. The goal of this petition, in accordance with the Commission's recommendation in Order No. 26,823, is to reduce the impact of short-term debt by refinancing the payables over a long-term loan with Pennichuck Corp. to eliminate re-term the debt consistent with the underlying financed capital assets and make the loan recoverable under the PAC rate structure. This will assist in stabilizing PAC's revenues and is one of the options considered by PAC has to reduce the impacts of short-term debt on its customers.

11. In its Orders, the Commission limited the time for the waiver. As a result, the current waiver for both Companies expires on June 30, 2023. The Commission previously concluded that "[i]f [PEU] want[s] the waiver to continue beyond that date, [it] will need to file an appropriate request." Order No. 25,820 at 4.

12. On June 26, 2023, PEU and PAC filed a joint petition seeking a renewed waiver

of Puc 608.05 with the terms and conditions described in the petition. Mr. Torres' testimony filed with that petition for waiver is incorporated into this motion in full.

13. Because Order No. 26,311 and Order No. 26,823 expire at midnight on June 30, 2023, PEU and PAC requests a temporary extension of Order No. 26,311 and Order No. 26,823 until such time as the petition for waiver can be ruled upon. The requested extension would include an extension of all of the terms, conditions and limitations described in Order No. 26,311 and Order No. 26,823.

14. If the temporary extension is not granted, PEU and PAC would immediately be in violation of Puc 608.05 but would be able to remain in compliance with Order No. 26,311 and Order No. 26,823;

15. This request for an extension serves the public interest and will not disrupt the orderly and efficient resolution of matters before the Commission because it would, on a temporary basis only, keep in place Orders that has been functioning without concern since issuance. Extending the Orders would keep PEU and PAC in compliance with applicable rules and orders of the Commission. Extending the orders will simply leave in place the existing waivers that, at the time Order No. 26,311 and Order No. 26,823 were issued, the Commission deemed was in the public interest. It would also allow the Department of Energy, the Office of Consumer Advocate, PEU, PAC and the Commission time to evaluate the joint pending petition for a waiver while allowing PEU and PAC to remain in compliance with the Commission's statute, rules and orders. In addition, the reasons described in Mr. Torres's testimony filed with the joint petition for waiver are further incorporated into this motion.

16. PEU and PAC consulted with the Department of Energy ("Department") regarding its motion, and the Department does not object to this motion.

WHEREFORE, by this motion, PEU and PAC respectfully request that the

Commission:

A. Grant PEU's and PAC's joint request for a temporary extension of Order No. 26,311 and Order No. 26,823, to be issued before June 30, 2023 and extend the order until either October 31, 2023 or until PEU's and PAC' joint petition for waiver of Puc 608.05 is ruled upon;

B. Find the proposed extension serves the public interest;

C. Find the extension will not disrupt the orderly and efficient resolution of matters before the Commission;

D. Find the extension is routine; and

E. Grant such other relief that is just and reasonable.

Respectfully submitted,

PENNICHUCK EAST UTILITY, INC., and
PITTSFIELD AQUEDUCT COMPANY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: June 27, 2023

By:  _____

James J. Steinkrauss
NH Bar No. 273631
One Capital Plaza
Concord, NH 03302-1500
603-410-4314
jjs@rathlaw.com

Certificate of Service

I hereby certify that a copy of this motion was provided via electronic mail to the individuals included on the Commission's service list for this docket.

Dated: June 27, 2023


James C. Steinkrauss