

DG 03-194

CONCORD STEAM CORPORATION

Petition for Commission Approval to Treat Certain
Outstanding Intra-Company Transfers as Long-Term and Short-Term
Debt and Petition for an Increase in Short-Term Borrowing
Authority

Order Nisi Approving the Treatment of Certain Outstanding
Intra-Company Transfers as Long-Term and Short-Term Debt and
Approving the Increase in Short-Term Borrowing Authority

O R D E R N O. 24,249

December 16, 2003

On October 10, 2003, the petitioner, Concord Steam Corporation, (Concord Steam or the Company), filed a petition with the New Hampshire Public Utilities Commission (Commission) requesting approval to treat \$500,000 of its total \$730,578 in outstanding intra-company transfers as long-term debt. In addition, the Company requests the balance of \$230,578 be treated as short-term debt. Concord Steam is a regulated steam utility serving about 125 commercial and institutional customers, and also operates an unregulated Cogeneration Division. The Cogeneration Division is also a part of the Concord Steam Corporation and is not a separate legal entity. For Commission reporting purposes, however, the Regulated Utility Division files separate financial statements with the Commission.

Since approximately 1985, Concord Steam has used retained earnings accumulated in the operations of the Cogeneration Division to meet the short-term cash flow needs of

the Regulated Utility Division. It has treated these retained earnings like a line of credit, using funds available from the Cogeneration Division on an as-needed basis and periodically paying down the outstanding balance. The Regulated Utility Division did not incur any charges for interest since the funds were provided by Concord Steam itself, not a third party.

From 1985 to 1990, the amount of Cogeneration Division funds used by the Regulated Utility Division varied at year end from \$0 to \$300,000. By December 31, 1990, the balance of Cogeneration Division funds utilized by the Regulated Utility Division stood at \$528,328 because it had utilized those funds in order to pay off the Regulated Utility Division's share of Concord Steam's long term bonds. From year to year thereafter, the Regulated Utility Division used the Cogeneration Division's funds instead of a bank line of credit for up to an additional \$300,000. As of December 31, 2002, the balance of Cogeneration Division funds drawn down by the Regulated Utility Division stood at \$730,578.

Because the Regulated Utility Division and the Cogeneration Division comprise one legal entity, Concord Steam does not consider use of the Cogeneration Division's retained earnings to be indebtedness as that term is typically contemplated under RSA 369:1. However, during the audit of Concord Steam during its most recent rate case, see Docket No. DW

02-125, the Staff of the Commission (Staff) took the position that the Regulated Utility Division's use of such funds was indebtedness as contemplated by RSA 369:1 and that Commission approval for the transaction should be obtained. Staff based its position on Concord Steam's practice of "repaying" the Cogeneration Division out of its regulated revenues whenever such funds were advanced. After extensive discussion among Staff, Concord Steam, and the Company's accountants, Concord Steam has agreed to seek Commission approval for the use of Cogeneration Division retained earnings by the Regulated Utility Division and, for the purpose of such approval, to treat the use of such funds as if it were debt. Its agreement to submit this petition is in the nature of a settlement and therefore is intended to be without prejudice to its right to take a different position in the future.

In accordance with RSA 369:1, RSA 369:3 and RSA 369:7, Concord Steam seeks Commission approval of the Regulated Utility Division's use of the Cogeneration Division's retained earnings as described above. Specifically, the Regulated Utility Division seeks Commission approval to treat \$500,000 of the outstanding intra-company transfer as long-term debt. Given the unique circumstances presented by this intra-company transfer of funds, Concord Steam and Staff have agreed for purposes of this petition to treat this long-term debt as being payable on demand, rather

than establishing a specific repayment schedule over a term of years.

In addition, Concord Steam requests a waiver of Puc Rule 1106.03¹ to increase its short-term borrowing by an additional \$300,000 over what had previously been approved, for a maximum amount after adding the intra-company amount of \$930,578. In DG 03-139, Concord Steam was authorized by Order No. 24,205 (September 5, 2003) to increase its bank line of credit to \$400,000; the additional short-term debt requested in the instant petition would increase Concord Steam's short-term debt as a percent of net assets to 23.5%. The additional \$300,000 in borrowing would be derived from the retained earnings of the Cogeneration Division (i.e., for purposes of this petition, Concord Steam and Staff have agreed to treat this portion of the Cogeneration Division retained earnings used by the Regulated Utility Division as short-term debt). Concord Steam anticipates using this short-term financing for working capital purposes. In particular, the need for this working capital arises from the fact that it must make substantial outlays for the purchase of fuel at the beginning of the heating season, but only recovers such costs from ratepayers in the form

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Puc Rule 1106.03 pertains to Short-Term Debt. It states that "no utility shall issue or renew any notes, bonds or other evidences of indebtedness payable less than 12 months after the date thereof if said short-term debt exceeds 10 percent of the utility's net fixed plant without prior commission approval pursuant to Puc 201.05."

of steam sales as the season progresses. It is beneficial to Concord Steam (and its customers) to access these intra-company funds because there are no interest charges associated with drawing on them, as there would be with a third party line of credit. Thus, Concord Steam requests the authority to access these funds up to a maximum of \$300,000 on an as-needed basis.

We have reviewed Concord Steam's petition and investigated the underlying assertions in support of its request to treat certain outstanding intra-company transfers as long-term debt and for an increase in short-term borrowing authority. Certain intra-company transfers utilized by Concord Steam to pay off long-term bonds have been carried on the utility's books since 1990. As there are no immediate plans to repay the balance, we find that those intra-company transfers should be recognized and reported as long-term debt. Likewise, Concord Steam has utilized intra-company transfers to fund working capital above and beyond the Commission approved banking lines of credit, which are typically repaid within 12 months. Accordingly, we find that these intra-company transfers should be recognized as short-term debt and so reported.

By appropriately reporting these intra-company transfers as debt, Concord Steam's books more accurately reflect the capital structure of the utility. With this approval, the equity is reduced from a reported 78% to 56%. This debt to

equity ratio is a much more reasonable capital structure given that the Company's cost of debt is less than its equity costs. In the event of a rate filing, this capital structure should result in a lower rate of return. Increasing short-term borrowing to allow for the use of intra-company transfers of up to \$300,000 to fund working capital enables Concord Steam to avoid incurring the additional issuance, interest and maintenance fees associated with a bank line of credit. Since any reduction in the working capital costs and in the cost of capital would directly benefit Concord Steam's ratepayers in a general rate case, we find that granting the petition is consistent with the public good.

Based upon the foregoing, it is hereby

ORDERED NISI, that the petition of Concord Steam for authorization to treat its intra-company transfers as debt, with \$500,000 of the outstanding intra-company transfer as long-term debt is hereby hereby APPROVED; and it is

FURTHER ORDERED, that the petition of Concord Steam requesting a waiver, pursuant to Puc Rule 201.05, of Puc Rule 1106.03 to increase its short-term borrowing hereby GRANTED; and it is

FURTHER ORDERED, that the Petitioner 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 December 26, 2003 and to be documented by affidavit filed with this office on or before January 9, 2004; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than January 2, 2004; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than January 8, 2004; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 15, 2004, 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 sixteenth day of December, 2003.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Graham J. Morrison
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary