

DW 05-152

PENNICHUCK WATER WORKS, INC.

Petition for Authority to Issue Long Term Debt

Order *Nisi* Approving Petition

ORDER NO. 24,548

November 18, 2005

I. BACKGROUND

On September 15, 2005, Pennichuck Water Works, Inc. (PWW) submitted to the New Hampshire Public Utilities Commission (Commission) a Petition for Authority to Issue up to \$3,000,000 in Long Term Debt. PWW is a New Hampshire public utility as defined in RSA 362:2 and 362:4, and serves more than 24,000 customers in Nashua and a number of municipalities in southern New Hampshire. Accompanying the Petition was the testimony of William D. Patterson, Vice President, Treasurer and CFO of Pennichuck Corporation, the parent company of PWW.

PWW seeks authority to borrow \$3,000,000 from the State Revolving Loan Fund (SRF) administered by the New Hampshire Department of Environmental Services (DES). PWW intends to use these funds as part of the current upgrade of its water treatment facility in order to comply with regulations promulgated under the federal Safe Drinking Water Act. That upgrade was also the subject of a financing considered by the Commission in Docket No. DW 05-094, in which the Commission approved a \$50,000,000 financing through the New Hampshire Business Finance Authority (BFA). In particular, PWW intends to devote the \$3,000,000 from the SRF loan to Contract No. 4, which is estimated to cost a total of \$15,200,000 and includes engineering, contract administration, and resident inspection services.

The SRF loan would be for a term of 20 years and bear interest at an annual rate currently estimated not to exceed 3.688%. Repayment of principal on the DES loan is expected to begin six months after substantial completion of the project. During construction, DES will make disbursements to PWW based on invoices submitted by contractors engaged by PWW. Interest will accrue at an annual rate of 1% on all disbursements under the loan.

PWW estimates that issuance costs for this financing will not exceed \$10,000, and PWW intends to amortize this cost over the life of the loan. Actual loan documents from DES are not yet available, but PWW indicates that it will file executed loan documents with the Commission once the transaction has been completed.

On November 17, 2005, Staff of the Commission (Staff) filed a letter recommending approval of PWW's request in this docket. Staff points out that the Commission took considerable testimony on the need for the treatment plant upgrade at the August 2, 2005 hearing on PWW's BFA financing in DW 05-094. At that time, Mr. Patterson testified that the SRF funds had recently become available to PWW because another project by a potential SRF borrower had not materialized. In addition, Staff pointed out that Mr. Patterson had testified that, since May of this year, the total estimated cost of PWW's treatment plant project had increased by some \$3,000,000. Staff also pointed out that financings through the SRF are on extremely favorable terms, and Staff recommended that the Commission approve PWW's request in this docket.

II. COMMISSION ANALYSIS

Pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidence of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be “consistent with the public good.” The New Hampshire Supreme Court has further provided that the public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates, in order to ensure the public good is protected. See *Appeal of Easton*, 125 N.H. 205, 211 (1984).

In the instant docket, PWW is requesting authority to borrow \$3,000,000 from the SRF for use as a part of its treatment plant upgrade project. We heard considerable testimony in DW 05-094 regarding the treatment plant project, as well as indications from Mr. Patterson of PWW that this additional \$3,000,000 was available through the SRF. Our order approving the BFA financing contained our finding that the proposed use of the funds was consistent with the public interest, and we continue to believe that is the case. In addition, as this is not the first SRF financing request to come before us, we note again that the terms of the borrowing are extremely favorable. PWW expects the interest rate on the funds to be no greater than 3.688% over its twenty year term. PWW will pay 1% interest on construction advances until such time as the project is completed. Payments of principal and interest will commence six months after substantial completion of the project. For these reasons, we find the proposed financing to be consistent with the public good.

Our review of the petition must also consider the possible effect the proposed financing may have on the overall cost of capital to ratepayers. SRF financing is among the lowest rate financing our water utilities can access. PWW has indicated that its treatment plant

upgrade is being financed by a combination of equity from its parent, internally generated funds, and the BFA financing, in addition to this SRF financing. The SRF portion of those funds has the lowest cost to PWW's ratepayers, and thus will serve to assist in keeping PWW's overall cost of capital as low as possible. We are thus satisfied that this financing benefits PWW's ratepayers.

As with other financings, we will direct PWW to file executed copies of its loan documents when the loan is consummated. Additionally, we will approve the financing authority requested on the condition that the final terms be substantially similar to those proposed in PWW's filing. If such terms vary significantly, we will require PWW to seek additional Commission approval.

Based upon the foregoing, it is hereby

ORDERED, NISI, that the request to undertake the financing proposed, under the terms and conditions contained in PWW's petition and as finally set forth by DES in the final loan documents, and for the purpose as outlined herein, is hereby **APPROVED**; and it is

FURTHER ORDERED, that PWW 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 November 28, 2005 and to be documented by affidavit filed with this office on or before December 19, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* 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 December 5, 2005 for the Commission's

consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than December 12, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective December 19, 2005, 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; and it is

FURTHER ORDERED, that the Petitioner shall file with the Commission true copies of the loan documents executed or otherwise finally issued in connection with the closing of the transaction contemplated herein.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of November, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary