

DW 05-169

PENNICHUCK EAST UTILITY, INC.

**Petition for Authority to Engage in Business as a Public Utility in a Limited Area of the
Town of Bow and for Approval of Rate Schedules**

Order *Nisi* Approving Franchise Rights and Rate Schedules

ORDER NO. 24,620

April 28, 2006

I. BACKGROUND

Pennichuck East Utility, Inc. (PEU) is a regulated utility pursuant to RSA 362:2 and RSA 362:4 and serves customers in 14 southern New Hampshire towns, including Bow. The New Hampshire Public Utilities Commission (Commission) first authorized PEU to provide water service in 1998. *See, Consumers New Hampshire Water Co.*, 83 NH PUC 191 (1998). On October 5, 2005, PEU filed a petition to acquire new franchise territory in Bow. PEU seeks to provide water service to 42 residential units in a development known as Bow Highlands. Construction is planned to begin in the spring of 2006 with full build-out anticipated by the end of 2008.

On April 19, 2006, Staff of the Commission (Staff) filed a letter recommending the Commission approve the petition. After reviewing the filing and conducting discovery, Staff agreed that PEU possessed the requisite managerial, technical, and financial capability to operate the Bow Highlands water system. Staff recommended that the Commission allow PEU to charge the new customers its present consolidated PEU-A rate.

PEU proposes to supply Bow Highlands with water it purchases from Hooksett Village Water Precinct (HVWP) pursuant to an existing agreement. The agreement was signed in 1999, has a ten-year term and is renewable by PEU in two five-year increments. The

agreement allows PEU to take up to 57,600 gallons per day, with a peak withdrawal rate of up to 50 gallons per minute. PEU obtains water from HVWP and uses a state-owned main to transport the water to a utility affiliate, WESCO, in Hooksett. PEU plans to extend a main from the WESCO system to Bow Highlands.

In response to a Staff query, PEU stated it had no reason to believe that HVWP would not sign a new agreement at the end of the current one. PEU also represented that it has adequate water to supply the Bow Highlands development, relying on a March 7, 2006 letter from the New Hampshire Department of Environmental Services (DES), indicating the availability and suitability of the proposed supply for the Bow Highlands development, which was provided to satisfy the requirements of RSA 374:22, III.

PEU currently uses the state-owned main pursuant to a ten-year agreement entered into in 1999 with the Department of Transportation (DOT). PEU plans to purchase the main for \$67,000.

PEU has also entered into an agreement with the developer of the subdivision at issue in this proceeding, Bow Highlands LLC, that calls for Bow Highlands to pay the cost of the main extension from WESCO. The developer also agreed to contribute \$47,000 toward the cost of acquiring the DOT main and to pay for certain upgrades to the existing WESCO facilities. PEU agreed to make the remaining investments necessary to provide the service. According to the petition, acquiring the main and sharing the cost with Bow Highlands would be less expensive than other supply options available for WESCO, when the cost is spread among the 71 customers in the WESCO service territory and the Bow Highlands development.

The petition proposed applying the utility's PEU-A rate. In Docket No. DW 05-072, the Commission consolidated all PEU rates to provide for monthly fixed charge of \$15.58 per 5/8-inch residential meter and a consumption charge of \$4.75 per hundred cubic feet of water. See *Pennichuck East Utilities, Inc.*, Order No. 24,591 (February 24, 2006). Staff concluded that the new consolidated rate would cover the revenue requirement of the combined WESCO/Bow Highlands system, after the associated improvements and contributions by the developer.

Staff recommended that PEU book the difference between the original cost of the assets and the purchase price as Contributions in Aid of Construction so as not to include developer contributions in rates. Lastly, Staff reported that the Town of Bow had interposed no objection to the franchise request after being placed on notice of it.

II. COMMISSION ANALYSIS

We grant requests for franchise authority upon a finding that it is for the public good pursuant to RSA 374:26. This requires assessment of the managerial, technical, and financial abilities of the petitioner. *Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000). Pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether rates, fares, charges or prices a utility proposes to put into force are just and reasonable.

We conclude that PEU has the requisite managerial, technical and financial abilities to obtain the requested franchise. PEU has been in the water utility business in New Hampshire since 1998 and has successfully operated water utilities in this state. The various agreements into which PEU has entered will secure a reliable water supply for the existing and proposed developments as well as the facilities and easements necessary to operate the water

system. DES has indicated that the water supply for the proposed development meets the suitability and availability requirements of RSA 374:22, III.

We also find that application of the consolidated PEU-A tariff rate to the Bow Highlands franchise is just and reasonable. Although PEU did not specifically request a date by which to implement rates, we find it reasonable to approve them on a service rendered basis, consistent with N.H. Code Admin. R. Puc 1203.05, as of the effective date of this order.

We agree that, because PEU plans to obtain the water system at less than original cost, the excess value should be booked as a Contribution in Aid of Construction. This assures that the Company will not recover any investments it did not actually make.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.” We approve the petition on a *Nisi* basis to ensure that all interested parties receive notice of the proposed franchise and rates and have an opportunity to request a hearing

Based upon the foregoing, it is hereby

ORDERED *NISI*, that Pennichuck East Utility, Inc. is authorized to operate as a public water utility in the Bow Highlands subdivision located in Bow, New Hampshire; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc. is granted authority, pursuant to RSA 378, to charge customers of the Bow Highlands water system the consolidated PEU-A tariff rate currently in effect, on a service rendered basis, effective as of the date of this order, unless and until the Commission orders otherwise; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc shall cause a copy of this Order *Nisi* to be mailed to the Town Clerk in the Town of Bow and 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 May 8, 2006 and to be documented by affidavit filed with this office on or before May 29, 2006; 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 May 15, 2006 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 May 22, 2006; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 29, 2006, unless Pennichuck East Utility, Inc. 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 a compliance tariff with the Commission on or before May 29, 2006, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this twenty-
eighth day of April, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

ChristiAne G. Mason
Assistant Executive Director & Secretary