

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 13-017

PENNICHUCK EAST UTILITY, INC.

Petition for Authority to Issue Long Term Loans

Order *Nisi* Approving Long Term Loans

ORDER NO. 25,480

March 27, 2013

I. BACKGROUND

On January 16, 2013, Pennichuck East Utility, Inc. (PEU) filed a petition seeking authority, pursuant to RSA 369, to issue three new long term loans. PEU is a regulated water utility pursuant to RSA 362:2 and 362:4 and is wholly owned by Pennichuck Corporation (Pennichuck), which in turn is wholly owned by the City of Nashua. Two of the loans replace existing short term debt in the aggregate amount of \$3,925,000; the third loan refinances existing long term debt with Pennichuck in the amount of \$1,723,150. PEU also requests approval to issue a security interest in utility property pursuant to RSA 369:2. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2013/13-017.html>.

The first proposed loan is with CoBank, ACB (CoBank) in the principal amount of \$925,000. CoBank is a government sponsored enterprise (GSE) owned by its customers which include agricultural cooperatives, rural energy, communications and water companies, and other businesses that serve rural areas of the United States. As a GSE, CoBank issues debt securities with the implicit full faith and credit of the U.S. Government and uses these low cost funds to

make loans to companies like PEU that meet its charter requirements. PEU has previously entered into a Master Loan Agreement which provides the framework for CoBank to make loans to the company. This Master Loan Agreement was filed with the Commission in Docket No. DW 09-134. *See Pennichuck East Utility, Inc.*, Order No. 25,041, 94 NH PUC 636 (2009) (Order approving PEU's financing request.) Pursuant to this agreement, PEU proposes to enter into a new Promissory Note and Supplement for this \$925,000 loan, requiring level monthly payments and an amortization period of 20 years. The annual interest rate will be finally determined based on market conditions, and is currently estimated at 4.35%. The proceeds of this loan will be used to refinance intercompany short term debt from PEU's parent, Pennichuck Corporation (Pennichuck).

The second loan is also with CoBank, in the principal amount of \$1,723,150. This loan calls for level monthly payments and an amortization period of 10 years. The interest rate of this new financing will be based on market conditions, currently estimated at 3.75%. The proceeds of this loan will be used to refinance existing intercompany long term debt currently carrying an interest rate of 7.0%. Both CoBank loans will be secured by a security interest in PEU's equity interest in CoBank (consisting of the company's \$1,000 equity investment in CoBank and the company's right to receive patronage dividends), and by the unconditional guarantee of PEU's obligations to CoBank by Pennichuck, pursuant to the Guarantee of Payment (Continuing) by Pennichuck in favor of CoBank dated February 9, 2010.

The third long term loan is a proposed \$3,000,000 loan with Pennichuck, to be used to replace a like amount of existing short term debt. PEU states this short term debt was used for capital improvements in its water systems. This loan calls for level monthly payments, an

amortization period of 10 years, and an annual interest rate of 2.65%. Under the terms of its agreements with CoBank, this indebtedness to Pennichuck will be subordinate to the indebtedness to CoBank.

On March 12, 2013, Staff filed a letter recommending approval of PEU's requests. Staff indicated that it had consulted with the Office of the Consumer Advocate (OCA) and PEU about both this petition and PEU's request for continued waiver of its short term debt limit in Docket No. DW 12-349. Staff stated that the issues in the two dockets are intertwined, in that the reduction in the amount of short term debt carried by PEU if the loans in the instant docket are approved would lead to PEU modifying its request in Docket No. DW 12-349. Staff further stated that beginning with the City of Nashua's acquisition of Pennichuck, the capital structure of PEU will henceforth be comprised solely of debt capital, and that PEU has been working to explore its long term financing options. Staff stated that the three loans that are the subject of this petition are the first long term issues since the acquisition, and that PEU continues to explore long term debt options for its capital improvements going forward. Staff recommended approval of the three loans as well as the granting of a security interest in PEU's equity interest in CoBank. Staff stated that the terms of the loans are reasonable and the use of the proceeds is appropriate. OCA concurred in this recommendation. Staff further stated that approval of these three loans would lead PEU to modify its waiver request in DW 12-349, to seek authority to issue short term debt up to a level equal to 12% of its net fixed plant, for the remainder of 2013.

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.” Analysis of 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 to insure the public good is protected. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). As we have previously noted, “certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing.” *In re PSNH*, Order No. 25,050, 94 NH PUC 691, 699 (2009).

PEU seeks to borrow up to a total of \$5,648,150 to refinance existing long term debt and to replace short term debt. PEU has indicated that it has been working since the City of Nashua’s acquisition of Pennichuck to secure new sources of long term financing because PEU, and its sister entities Pennichuck Water Works, Inc. and Pittsfield Aqueduct, Inc. will henceforth be capitalized solely with debt financing. The proposed loans in the instant docket will replace \$3,925,000 of existing short term debt and bring PEU substantially closer to compliance with the requirement in our administrative rules Puc 608.05 that short term debt issued by a water utility be no higher than 10% of its net fixed plant. An additional \$1,723,150 of existing intercompany debt will be replaced by a ten year loan with CoBank. PEU states that it continues to explore sources of new long term debt for the future, in order to avoid dependence on short term debt. Staff has reviewed the loan requests and states that it believes the terms are reasonable, the use of the proceeds is appropriate, and the impact on future customer rates is negligible. Staff has consulted with the OCA and OCA concurs in the Staff recommendation that this request to borrow long term loans should be approved.

We have reviewed the proposed terms of the financings as well as PEU's intended use of the funds and find that PEU has demonstrated that these proposed refinancings are appropriate and represent prudent utility management. We deem them to be at the routine end of the spectrum of financings. Accordingly, we conclude that the financings are consistent with the public good and we will approve the amounts and purposes of the three loans. We further provide our approval for the security interest in PEU's equity interest in CoBank, as requested, in order to effectuate the loans with CoBank. Additionally, we will approve the financing authority requested on the condition that the final terms are not substantially different from those proposed in PEU's filing. If such terms vary significantly, we will require PEU to seek additional Commission approval.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, authority to undertake the financings proposed by PEU, upon the terms and conditions proposed in its petition, is hereby approved; and it is

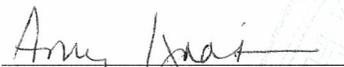
FURTHER ORDERED, that the PEU shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than April 8, 2013 and to be documented by affidavit filed with this office on or before April 24, 2013; 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 April 15, 2013 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 April 22, 2013; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective April 26, 2013, unless PEU 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 twenty-seventh day of March, 2013.



Amy D. Ignatius
Chairman



Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director