

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 17-157

PENNICHUCK EAST UTILITY, INC.

Petition for Approval of Financings and Refinancing of Intercompany Loans

Order Approving Financings

ORDER NO. 26,117

March 30, 2018

This order approves Pennichuck East Utility, Inc.'s, petition to obtain a loan and line of credit from CoBank, ACB and to refinance existing intercompany loans from its parent company, Pennichuck Corporation. The Commission approves the proposed financings finding them consistent with the public good.

I. PROCEDURAL HISTORY

Pennichuck East Utility, Inc. (PEU), is a water utility serving communities in central and southern New Hampshire. PEU is a subsidiary of Pennichuck Corporation (Pennichuck), a corporation wholly-owned by the City of Nashua.

On October 19, 2017, PEU filed a petition pursuant to RSA 369:1, seeking approval of two proposed financings from CoBank, ACB (CoBank): a term loan of up to \$500,000 (CoBank Loan); and a 3-year, \$3 million fixed asset line of credit (CoBank FALOC). PEU also requested permission to convert three intercompany loans totaling \$2,858,919 into two 30-year loans. The first loan would encompass two previous loans totaling \$1,701,516. The second loan, relating to capital improvements made at PEU's North Country Systems,¹ would be for \$1,157,403.

¹ The North Country systems were transferred from PEU's affiliate, Pittsfield Aqueduct Company, Inc., as part of a Settlement Agreement approved by Commission Order No. 25,051 (December 11, 2009) in Dockets DW 08-052

On December 13, 2017, the Commission Staff (Staff) recommended approval of PEU's requested financings. PEU's petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.state.nh.us/Regulatory/Docketbk/2017/17-157.html>.

II. POSITIONS OF PEU AND STAFF

A. PEU

Supported by its petition and testimony, PEU maintained the proposed financings are consistent with the public good and requested the Commission's approval pursuant to RSA Ch. 369.

1. CoBank Loan

Approximately \$368,844 of the \$500,000 CoBank Loan would finance 2017 capital improvements for a number of specific projects, routine maintenance capital projects, and non-recurring capital expenditures ineligible for State Revolving Fund (SRF) financing. PEU would apply the loan funds to a number of projects: replacements of and/or upgrades to water treatment facilities to comply with state and federal drinking water regulations, replacement of aging infrastructure, and water supply and quality improvement projects for PEU's stand-alone community water systems. The remaining \$131,156 of the loan would provide contingency funds for unforeseen capital projects in 2017.² The loan amount would be reduced by \$131,156 if not required.

Although specific CoBank Loan terms and conditions had not been determined at the time PEU filed its petition, PEU expected a \$500,000 term loan from CoBank, a "Government Sponsored Enterprise" that is owned by its customers and provides loans at lower rates than

and DW 09-051. These systems consist of Birch Hill in North Conway, Sunrise Estates in Middleton, and Locke Lake in Barnstead.

² The Commission has not received final 2017 capital improvements information from PEU.

other financial institutions. PEU anticipated a loan with a 25-year amortization and level monthly principal and interest payments at an interest rate based on market conditions, estimated at 3.25 percent per annum at the time of filing.

The CoBank Loan would be secured by Pennichuck's unconditional guaranty dated February 9, 2010,³ and PEU's equity interest in CoBank. CoBank agreed to reduce the Debt Service Coverage (DSC) ratio requirement on all of PEU's outstanding loans with CoBank from 1.25 to 1.1.⁴ The reduction in the DSC ratio would bring this covenant into conformity with the debt service revenue requirement and revenue components that PEU has requested in Docket No. DW 17-128.⁵

2. CoBank Fixed Asset Line of Credit

PEU would use the 3-year, \$3 million CoBank FALOC to provide short-term financing for capital projects planned in the 2018-2020 time-frame. The anticipated projects include an interconnection with PWW, improvements to the Commerce Park Station in Atkinson, and the addition of a new 1.1 million gallon tank to serve the Londonderry core water system. PEU would be able to borrow and repay funds at any time during the 3-year term.

The CoBank FALOC became available on January 1, 2018, and the initial term will expire on September 30, 2020. The interest rate will be determined weekly based on market conditions. In conjunction with a request to modify the rate structure in Docket No. DW 17-128, PEU sought implementation of a Qualified Capital Project Adjustment Charge (QCPAC), an

³ A copy of Pennichuck's February 9, 2010 "Guarantee of Payment" in favor of CoBank was filed in Docket No. DW 09-134.

⁴ Debt Service Coverage (DSC) is defined as "the amount of revenue required over and above other operating expenses (excluding depreciation) to pay the combined interest and principal which is due on the debt. DSC is not a determinant of common equity but a check against which the rate base/rate of return methodology can be compared." *Pennsylvania Public Utility Commission v. City of Lancaster*, 171 P.U.R. 4th 156, 167 (1999).

⁵ In Docket No. DW 17-128, PEU requested an increase in permanent rates, as well as a new ratemaking structure, asserting that it "has lender covenants in place that it cannot satisfy and still cover its cash flow obligations." *Pennichuck East Utility, Inc.*, Order No. 26,074, at 1-2 (November 16, 2017).

annual surcharge mechanism that would allow it to fund assets placed in service during each fiscal year between general rate proceedings. PEU intends to pay all of the CoBank FALOC debt incurred once a year by converting the outstanding balance to term loans pursuant to the QCPAC process. The security terms for the CoBank FALOC mirror those of the CoBank Loan.

3. Refinance of Intercompany Loans

PEU requested refinancing approval for three intercompany loans. The first two, detailed in its original petition, sought to refinance two 10-year intercompany loans with Pennichuck totaling \$1,701,516, and convert them into a 30-year loan at an interest rate of 3.2 percent. The rate reflected the then-current interest rate available to PEU through either CoBank or the SRF. This rate will reduce PEU's revenue requirement request in its current rate case, Docket No. 17-128, by approximately \$188,000.

The third loan, inadvertently omitted by PEU and subsequently disclosed in response to a Staff data request, totals \$1,157,403. This loan is specific to North Country capital improvements. PEU sought to convert this into a 30-year loan at the 3.2 percent interest rate as well. The savings from refinancing would be applied directly to the North Country Capital Recovery Surcharge,⁶ providing reduced rates for PEU's Birch Hill and Locke Lake customers.

4. Public Good

PEU contends there are several reasons why the proposed financings are consistent with the public good. The financings will permit PEU to complete necessary capital projects that will enable PEU to provide safe, adequate, and reliable water service to its customers. The terms of the CoBank financings are favorable to PEU because they will result in lower financing costs than other options. Refinancing the intercompany loans would also benefit PEU customers by

⁶ The North Country Capital Recovery Surcharge was approved in Commission Order No. 25,051. This surcharge is exclusive to customers of PEU's three North Country systems and pertains to substantial capital improvements made to those systems.

reducing both the revenue requirement request in Docket No. DW 17-128 and the North Country Capital Recovery Surcharge.

B. Staff

Staff recommended approval of PEU's requests. Commission approval will allow PEU to finance necessary capital projects at a lower cost to its customers. Staff also noted that, by refinancing the three intercompany loans, PEU will realize savings that it proposes passing directly to its customers. Staff believes PEU will make appropriate use of the funds from the proposed financings consistent with its duty under RSA 374:1 to provide reasonably safe and adequate, as well as just and reasonable, service to its customers.

III. COMMISSION ANALYSIS

RSA 369:1 states that a utility "may, with the approval of the commission but not otherwise, issue and sell ... notes and other evidences of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes." The Commission must conduct a "hearing or investigation as it may deem proper," then authorize the financing "if in its judgment the issue of such securities upon the terms proposed is consistent with the public good." RSA 369:4. The Commission reviews the amount to be financed, the reasonableness of the terms and conditions, the proposed use of the proceeds, and the effect on rates. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). The rigor of an *Easton* inquiry varies depending upon the circumstances of the request.

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." *Public Service Co. of N.H.*, Order

No. 25,050 at 14 (December 8, 2009), *cited in Lakes Region Water Company, Inc.*, Order No. 25,391 at 20-21 (July 13, 2012). We engage in a more limited review for routine financing requests. *Public Service Co. of N.H.*, Order No. 25,050 at 13-14. A routine request is one “that will have no discernible impact on rates or deleterious effect on capitalization, [and] in which the funds are to enable numerous investments appropriate in the ordinary course of utility operations.” *Id.* at 13.

PEU requests a term loan, a line of credit, and refinancing of three intercompany loans. The Commission finds this request to be routine. None of the proposals will have a discernible impact on rates other than to decrease customer rates by reducing the revenue requirement and the North Country Capital Recovery Surcharge. There is no evidence on the record that suggests the financing will have a deleterious effect on capitalization. In addition, the numerous facility and infrastructure improvement projects anticipated with the financings appear to be the types that will be made in the ordinary course of PEU’s business.

Because the request is routine, the Commission will use the more limited examination of whether the “use of financing proceeds [is] in the public good without further review of possible alternative uses of the funds.” *Id.* at 16. The underlying standard to be applied is whether the use of the financing proceeds is in the public good pursuant to RSA 369:4.

The CoBank Loan and CoBank FALOC will be used to fund various improvement projects at reasonable financing costs. The capital projects will enable PEU to provide safe, adequate, and reliable water service to its customers. By refinancing the three intercompany loans, increasing the time period for repayment from 10 to 30 years, PEU’s customers will realize a lower requested revenue requirement and lower resulting rates. Furthermore, the lower

payments associated with the refinancing will be directly applied to the North Country Capitol Recovery Surcharge, reducing rates for Birch Hill and Locke Lack customers.

Therefore, we find the proposed financings and refinancing of intercompany loans consistent with the public good. They represent an appropriate balancing of Company and customer interests, and we approve PEU's proposal as filed. We note the financings are consistent with the principles of the Commission's orders approving the City's acquisition of PEU's parent and Pennichuck's Integrated Capital Finance Plan.⁷

Our approval of PEU's financings does not foreclose or limit our review in a future rate case of the prudence, use, and usefulness of any specific project financed (directly or indirectly), by these transactions. *See* RSA 378:28. The Commission and its Staff also retain the authority under RSA 374:4 to keep informed regarding PEU's use of the proceeds of these financings, independently and apart from any review under RSA 378:28. Such information may be used to consider PEU's capital improvements within the framework of RSA 378:28, and to assist in ongoing monitoring of PEU's financial health and physical plant status. Notwithstanding this financing approval, PEU must continue to manage its capital structure and physical plant prudently.

Based upon the foregoing, it is hereby

ORDERED, that authority to undertake the proposed financings, under the terms and conditions contained in PEU's petition, and for the purposes as outlined herein, is hereby

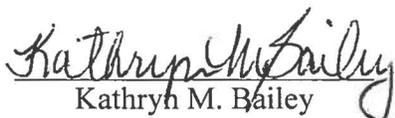
APPROVED.

⁷ *See* Order No. 25,292 (November 23, 2011) (Order approving the City of Nashua's acquisition of Pennichuck Corporation); Order No. 25,734 (November 7, 2014) (Order approving PWW's 2014 financing petition); Order No. 26,070 (November 7, 2017) (Order approving PWW's modified rate structure); Order No. 26,101 (February 1, 2018) (Order approving PWW's bond financing and fixed line of credit).

By order of the Public Utilities Commission of New Hampshire this thirtieth day of
March, 2018.



Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES- DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**