

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 19-112**

**PENNICHUCK EAST UTILITY, INC.**

**Petition for Waiver of Short-Term Debt Limit**

**Order Approving Waiver and Increase of Short-Term Debt Limit**

**ORDER NO. 26,311**

**November 27, 2019**

This order permits Pennichuck East Utility to incur short-term debt up to 18 percent of its net fixed plant until June 30, 2023.

**I. PROCEDURAL HISTORY AND BACKGROUND**

Pennichuck East Utility, Inc. (PEU or the Company) is a regulated water utility owned by Pennichuck Corporation (Penn Corp). In Order No. 25,292 (November 23, 2011), the Commission approved the City of Nashua's acquisition of Penn Corp, as well as a modification of the ratemaking structure for Penn Corp's three regulated utilities, including PEU. *Id.* at 12, 44-45. The Commission approved further modifications to PEU's ratemaking structure in Order No. 26,179 (October 4, 2018), including the use of a Qualified Capital Project Annual Adjustment Charge (QCPAC). The QCPAC is an annual surcharge assessed between rate cases, based on capital projects completed by PEU each year, which helps PEU maintain adequate cash flow by compensating it for necessary capital investments between rate cases. *Id.* at 10-11, 15-17.

As a municipally owned entity, Penn Corp is no longer publically traded. Penn Corp and the utilities it owns, including PEU, no longer have access to equity to finance capital improvement projects. *Id.* at 3-4; Order No. 25,820 at 1, n.1 (September 29, 2015). Instead, the Company's capital investments are financed entirely with debt. Order No. 26,179 at 4.

New Hampshire Administrative Rule Puc 608.05 provides that a utility's short-term debt cannot exceed 10 percent of its net fixed plant without prior Commission approval. N.H. Admin. R., Puc 608.05. The Commission has previously granted PEU's requests for waivers of Puc 608.05. *See, e.g.*, Order No. 25,326 (February 1, 2012) (approving temporary 15 percent short-term debt limit) and Order No. 25,482 (March 28, 2013) (approving temporary 18 percent short-term debt limit). Most recently, in Order No. 25,820 (September 29, 2015), the Commission authorized an 18 percent short-term debt limit for PEU, subject to two reporting conditions. The Commission required PEU to state monthly short-term debt levels in its annual reports and to file written notice to Staff and the Office of the Consumer Advocate (OCA) in any month in which the Company's short-term debt exceeded 15 percent. *Id.* at 4-5.

On June 20, 2019, PEU filed a petition for a permanent waiver of Puc 608.05, requesting a short-term debt limit of 18 percent. In support of its petition, PEU filed the direct testimony and attachments of Larry D. Goodhue, PEU's chief executive officer. PEU also filed a motion for temporary extension of Order No. 25,280 until the Commission ruled on its petition. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2019/19-112.html>.

Based on Commission Staff's (Staff) recommendation, the Commission granted PEU's motion for a temporary waiver of Puc 608.05 by secretarial letter dated July 3, 2019, until the Commission concluded its investigation of PEU's request to permanently waive its short-term debt limit.

Staff filed its recommendation regarding permanent waiver of the rule on September 26, 2019.

## II. POSITIONS

### A. PEU

According to PEU, permanently increasing its short-term debt limit to 18 percent would provide the Company with the financial flexibility it needs based on its small size and limited financing options. Mr. Goodhue testified that PEU usually funds capital projects using short-term debt, and its short-term debt levels continuously increase throughout the year based on the Company's capital project funding needs. Pennichuck East Utility, Inc., Direct Testimony of Larry D. Goodhue, June 20, 2019, at 10. Mr. Goodhue noted that PEU's short-term debt levels decrease annually once the annual QCPAC is approved and the Company converts its short-term debt into long-term debt. *Id.* at 10, 12. Given its reliance on short-term debt, Mr. Goodhue stated that PEU is unable to sustain a 10 percent short-term debt level on a consistent basis. *Id.* at 9-12.

PEU asserted that a permanent waiver of Puc 608.05 with a short-term debt limit of 18 percent would allow the Company to reinvest in long term capital projects and infrastructure at debt funding rates instead of debt-equity rates and to pursue favorable borrowing rates associated with the State Revolving Fund loan program and other commercial loan products. PEU argued that, because this would reduce overall costs to ratepayers, the waiver would be in the public interest. PEU maintained that a permanent waiver of the 10 percent debt limit would stabilize its revenue levels and permit it to fully incorporate the ratemaking methodology the Commission previously approved. PEU added that the reporting requirements established by Order No. 25,820 would allow the Commission to quickly identify any issues that could arise from the Company's increased short-term debt limit.

**B. Staff**

In its September 26, 2019, recommendation, Staff agreed that PEU's reliance on short-term debt makes it difficult for the Company to maintain a short-term debt limit of 10 percent of net fixed plant. Staff found that increasing PEU's short-term debt limit to 18 percent would serve the public interest, in that it would result in greater financial flexibility and efficiency for the Company. Staff recommended that the Commission grant PEU's request for a waiver of Puc 608.05, subject to the condition that it continue to notify Staff and the OCA in any month its short-term debt level exceeds 15 percent.

Staff, however, objected to a permanent waiver. Staff stated that more time is needed to determine how the QCPAC mechanism affects the level of PEU's short-term debt. Staff recommended that Puc 608.05 be waived for a four-year period, or until June 30, 2023, to permit an evaluation of the QCPAC's impact on the Company's short-term debt requirements.

**III. COMMISSION ANALYSIS**

Pursuant to Puc 201.05, the Commission shall waive provisions of its rules when the waiver would serve the public interest and would not disrupt the orderly and efficient resolution of the matters before it. N.H. Admin. R., Puc 201.05. A waiver serves the public interest if compliance with the rule would be onerous or inapplicable under the circumstances, or the rule's purpose would be satisfied by a proposed alternative method.

The purpose of Puc 608.05 and RSA 369:7, the statute it implements, is to ensure that a utility's level of short-term debt is appropriate. Short-term debt, for example, may be more costly than long-term debt, and those costs could be passed on to ratepayers. RSA 369:7 authorizes the Commission to consider "the size, circumstances, and other characteristics of each

utility,” in determining the appropriate short-term debt limit, which it may establish by administrative rules or “by specific order ... in an individual case.”

Based on Staff’s recommendation and Mr. Goodhue’s testimony, we find that it would be onerous for PEU to comply with the 10 percent short-term debt limit contained in Puc 608.05 because, unlike other utilities with access to equity and a variety of financing options, PEU relies on short-term debt to finance its capital projects. Allowing PEU the flexibility of a greater short-term debt limit would likely increase PEU’s financing options and lower its cost of debt, consistent with the purpose of RSA 369:7. Therefore, we find that waiving the 10 percent short-term debt limit in Puc 608.05 and increasing it to 18 percent, as requested by PEU, would serve the public good in this instance. We also find that waiver of Puc 608.05 will not disrupt the orderly and efficient resolution of matters before the Commission.

We find that a permanent waiver of Puc 608.05 is not warranted at this time because more time is needed to evaluate the impact of the QCPAC mechanism on PEU’s short-term debt requirements. Accordingly, we grant PEU’s request for a waiver of Puc 608.05 and an increase of its short-term debt limit to 18 percent of net fixed plant until June 30, 2023. We condition the waiver on the same two reporting requirements previously established in Order No. 25,820:

- (1) PEU shall continue to report its monthly short-term debt levels in its annual reports; and
- (2) PEU shall file written notice with Staff and the OCA in any month in which its short-term debt exceeds 15 percent of net fixed capital.

**Based upon the foregoing, it is hereby**

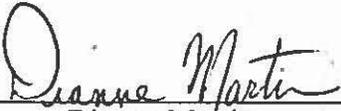
**ORDERED**, that the request of PEU for a waiver of Puc 608.05 is GRANTED until June 30, 2023; and it is

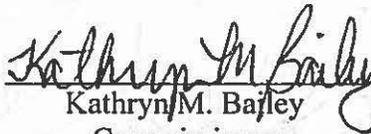
**FURTHER ORDERED**, that the request of PEU for a short-term debt limit of 18 percent is GRANTED until June 30, 2023; and it is

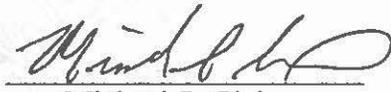
**FURTHER ORDERED**, that PEU shall report monthly short-term debt levels in its annual reports during the period of the waiver and increased debt limit; and it is

**FURTHER ORDERED**, that PEU shall file written notice to Staff and the OCA in any month in which its short-term debt exceeds 15 percent during the period of the waiver and increased debt limit.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of November, 2019.

  
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Dianne Martin  
Chairwoman

  
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Kathryn M. Bailey  
Commissioner

  
\_\_\_\_\_  
Michael S. Giaimo  
Commissioner

Attested by:

  
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