

**DW 04-138**

**PENNICHUCK EAST UTILITIES, INC.**

**Petition for Authority to Issue Debt**

**Order Nisi Approving Request to Issue Debt**

**ORDER NO. 24,375**

**September 30, 2004**

**I. PROCEDURAL HISTORY AND BACKGROUND**

On August 6, 2004, Pennichuck East Utilities, Inc. (PEU) filed a petition with the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 369 seeking authorization to borrow \$750,000 in long-term debt. PEU is a regulated public utility serving approximately 4,200 customers in various municipalities in southern New Hampshire. PEU's petition was accompanied by supporting schedules and testimony of Charles J. Staab, PEU's Treasurer.

PEU proposes to borrow funds from the State Revolving Loan Fund (SRF), administered in New Hampshire by the Department of Environmental Services (DES). PEU indicates that it proposes to borrow these funds on a 20-year term at an interest rate of 3.728%. Monthly payments of principal and interest would be made in order to amortize the loan over the 20-year period. PEU also indicates in its petition that the loan documents for this transaction will be prepared by DES once Commission approval is obtained. PEU expects the terms and conditions of the SRF loan to be substantially the same as in prior SRF loans which the Commission has previously reviewed for other regulated water utilities.

PEU intends to use the funds to construct improvements at its Williamsburg/Stonegate system located in the Town of Pelham. PEU estimates the total cost of

the project to be \$994,000. Specifically, PEU intends to design and construct a 350,000 gallon gravity water storage tank to replace six existing 10,000 gallon atmospheric tanks. The project will necessitate the acquisition of additional land for the new tank, as well as certain changes to the existing pumping stations that will feed the new tank. PEU intends to finance the amount in excess of the proposed loan from internally generated funds.

PEU explains that the tank is needed to comply with applicable water quality standards and to accommodate the projected growth of the water system. The Williamsburg/Stonegate system currently serves 205 homes, two schools, the Pelham Municipal Building, and several commercial businesses. The system is supplied with water from two gravel packed wells with a combined capacity of 287 gallons per minute. The Town of Pelham has approved an additional 48 homes in the service territory of PEU's Williamsburg/Stonegate system. Under existing standards, the system should have 210,300 gallons of storage capacity, and that requirement is anticipated to increase to 342,500 gallons over the next forty years. PEU intends to conduct surveying and soil boring work this fall, undertake design work and seek bids for the project over the winter, and then begin construction in the spring of 2005.

Under the anticipated terms of the SRF loan, PEU would pay 1% interest on amounts advanced and outstanding during construction. Once construction is completed, PEU will be required to make monthly payments of interest plus 1/240<sup>th</sup> of the total amount borrowed. PEU has indicated that it will provide loan documents to the Commission for review as soon as they are finalized.

On September 27, 2004, Commission Staff filed a letter recommending approval of PEU's financing request. Staff indicated that it had reviewed the petition, propounded

discovery requests, and reviewed the responses from PEU. Attached to Staff's letter were the discovery responses received from PEU. Staff indicated that it understood the need for the project and is satisfied it is necessary. Staff further supported the terms of the financing, indicating that more advantageous financing terms are simply unavailable elsewhere.

## **II. COMMISSION ANALYSIS**

Pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidences 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 to insure the public good is protected. See *Appeal of Easton*, 125 N.H. 205 (1984).

In the case at hand, Pennichuck East Utilities, Inc. has requested authorization to borrow an amount of \$750,000 from the State Revolving Loan Fund in order to finance the construction of a water storage tank, the acquisition of land, and associated improvements at its Williamsburg/Stonegate system in Pelham. After reviewing the petition, Staff's recommendation, and PEU's discovery responses, we are satisfied that PEU substantiated the need for this new tank. PEU anticipates additional growth in this system over the coming years and is aware of the standards for storage capacity, given the anticipated growth. The use of SRF funds to partially finance this project is prudent, given the attractive terms of SRF financing.

We find that the terms of the loan as proposed to be reasonable and we accept PEU's representations that the final terms and conditions will be substantially similar with past financing terms as administered by DES for the SRF program. We further find that the proposed use of the proceeds is prudent and that the financing is consistent with the public good.

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

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

**FURTHER ORDERED**, that the Petitioner 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 October 11, 2004 and to be documented by affidavit filed with this office on or before October 25, 2004; and it is

**FURTHER ORDERED**, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 18, 2004; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than October 25, 2004; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective November 1, 2004, 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 transactions contemplated herein.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of September, 2004.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary