

**DW 04-171**

**PENNICHUCK WATER WORKS, INC.  
PENNICHUCK EAST UTILITY, INC.**

**Petition for Authority to Issue Long Term Debt**

**Order Nisi Approving Petition**

**ORDER NO. 24,395**

**November 5, 2004**

**I. PROCEDURAL HISTORY AND BACKGROUND**

On September 17, 2004, Pennichuck Water Works, Inc. (PWW) and Pennichuck East Utility, Inc. (PEU), filed a petition with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 369, requesting authorization to borrow funds through the issuance of tax-exempt bonds through the New Hampshire Business Finance Authority (BFA). The petition was accompanied by pre-filed testimony and supporting schedules. PWW and PEU are both New Hampshire public utilities as defined in RSA 362:2 and 362:4. The parent company of both utilities is Pennichuck Corporation. PWW serves approximately 24,500 customers within the City of Nashua as well as limited areas of the Towns of Amherst, Merrimack, Milford, Hollis, Bedford, Derry, Plaistow, Epping, Salem and Newmarket, New Hampshire. PEU serves approximately 4,500 customers within the Towns of Litchfield, Pelham, Windham, Londonderry, Derry, Hooksett, Sandown, Raymond, Plaistow, Bow and Atkinson.

In support of their petition, PWW and PEU aver that the proposed financings are in the public interest and consistent with the public good because they will allow PWW and PEU to continue to provide an adequate supply of safe drinking water to their customers on a reliable basis at a reasonable cost. PWW and PEU state that the projects being financed and the costs

incurred for those projects are reasonably necessary to provide such service to the utilities' respective customers. Finally, PWW and PEU indicate that to the extent the financing proceeds are proposed to be used to refinance existing obligations, the proposed borrowings will enable PWW to reduce the cost of its long term debt and will enable both PWW and PEU to reduce the level of their short term indebtedness at a reasonable cost, thereby freeing up funds for use for other ongoing and anticipated projects and operations.

**A. Pennichuck Water Works, Inc.**

PWW's request involves borrowing up to \$5.63 million in order to finance two capital projects and to refinance existing short term and long term debt. PWW will use \$1.83 million of the \$5.63 million to fund two capital projects as described below. The remaining portion of PWW's proposed financing, or \$3.8 million, will be used to refinance existing long term debt incurred in 1994 (the 1994 Series) at more favorable rates.

With respect to the capital projects, the first involves the reconstruction of PWW's Supply Pond dam in Nashua. This project was undertaken in response to a letter of deficiency received in 2002 from the New Hampshire Department of Environmental Services (NHDES) indicating that repairs were necessary to the earthen embankment and dam spillway. Petition at 13. Reconstruction began in the second quarter of 2004 and is expected to be completed in November 2004 with an anticipated total cost of \$962,000. Expenditures for this project have been financed thus far through short term advances received from Pennichuck Corporation. As of September 1, 2004, approximately \$322,000 had been incurred. PWW intends to repay Pennichuck Corporation a portion of this \$322,000 from the financing proceeds. Petition at 15.

The second of PWW's capital projects involves the replacement of approximately 4,250 feet of 6" and 4" unlined, cast iron water main located on Ledge Street in Nashua. Petition at 13. This replacement will be undertaken in coordination with the City of Nashua's storm water separation project in that immediate area. The estimated cost of this project is \$824,000, with a construction period beginning in the fourth quarter of 2004 and lasting through the end of October 2005. Petition at 13. As of September 1, 2004, no significant amounts had been expended for the Ledge Street project.

On March 15, 2004, the BFA granted preliminary approval of the capital addition portion of PWW's total financing request. The BFA granted final approval on September 20, 2004. The Governor and Executive Council approved the BFA bond issuance for the capital projects on October 20, 2004. Letter from Staff to Commission of November 1, 2004 at 17.

With respect to refinancing existing long term debt, the 1994 Series comprises \$2.48 million of 6.35% Series A bonds maturing on December 1, 2019, and \$1.32 million of 6.45% Series B bonds maturing on December 1, 2016. Under the terms of the 1994 Series bond agreement, the bonds may be voluntarily redeemed in whole or in part on or after December 1, 2004, at a 2% premium of the outstanding principal. Because this remaining portion of PWW's financing request is solely to refinance existing long term debt, it does not require the approval by either the BFA or the Governor and Executive Council.

**B. Pennichuck East Utilities, Inc.**

PEU's request is to borrow up to \$1.17 million to repay short term financing received from Pennichuck Corporation for the construction of a 1 million gallon concrete water storage facility in the Town of Litchfield. Petition at 15. This project was completed in

November 2003 at a cost of approximately \$1.17 million. This project was undertaken to meet the increased demand caused by the growing number of customers in the northern section of Litchfield. *Id.* The BFA granted preliminary approval of PEU's financing request on May 19, 2003. The BFA granted final approval on September 20, 2004. Approval of PEU's portion of the bond issuance was also granted by the Governor and Executive Council on October 20, 2004. Letter from Staff to Commission of November 1, 2004 at 17.

**C. Business Finance Authority Bonds**

If the proposed transactions are consummated, the BFA will issue tax-exempt bonds in the aggregate amount of \$6.8 million and will in turn lend the proceeds of that bond issuance to PWW and PEU, respectively, in the amounts indicated above. The loans to the two companies will not be secured by any assets of the utilities, but Pennichuck Corporation will provide a guarantee of the amount borrowed by PEU. Petition at 9. By borrowing these funds through a BFA bond issuance, PWW and PEU will be able to obtain these funds at a lower interest rate than they could through taxable debt.

In addition to the tax-exempt status of the bond issue, the favorable interest rate anticipated by PWW and PEU will be further enhanced by a commitment has been obtained from Ambac Assurance Corporation to provide third party insurance for the total debt service of the bond issue. Petition at 11. This will result in a Standard & Poor's debt rating of AAA. *Id.* As such, the bonds are expected to carry a coupon rate of approximately 50 basis points lower than non-rated, or uninsured, bonds and the marketability of these bonds to investors is expected to be significantly increased.

The national investment banking firm, Edward Jones, which specializes in raising debt and equity capital for gas and water utilities, has agreed to underwrite all of the bonds, which it then intends to sell on a retail basis to its clients. Petition at 10. PWW and PEU anticipate the bonds will be for staggered terms of 20, 25 and 30 years, each at a fixed interest rate paid semi-annually. Petition at 10. There will be no annual principal payments but instead a balloon payment at maturity. The proposed issuance will be divided into Series A, B, C and D in order to distinguish between (i) the bonds' different maturity dates, (ii) those bonds applicable to PWW and those applicable to PEU, and (iii) those bonds that are subject to the alternative minimum tax (AMT). The Series A bonds totaling \$1.83 million will pertain to PWW, carry a 30 year maturity and be subject to AMT. The Series B bonds totaling \$2.48 million will pertain to PWW, carry a 25-year maturity and will not be subject to AMT. The Series C bonds totaling \$1.32 million, pertaining to PWW and the Series D bonds totaling \$1.17 million, pertaining to PEU, will each carry a 20-year maturity and be subject to AMT.

The final interest rates will not be determined until shortly before the pricing date, and will be affected by the prevailing interest environment at that time. Staff noted in its recommendation, however, that the final coupon rates are expected to be approximately 30 to 50 basis points below the prevailing Bond Buyer Revenue Index (BBRI), which was 5.07% shortly prior to PWW and PEU's filing. Based on this, Staff expected a coupon rate of approximately 4.55%, 4.65% and 4.75% for the 20, 25 and 30 year maturities, respectively. Staff also stated that, once the loan documents are finalized, copies will be submitted to the Commission.

**D. Staff Recommendation**

On November 1, 2004, Staff filed a letter with the Commission recommending the Commission approve PWW and PEU's petition. Staff indicated that it conducted discovery with regard to the filing and, based on that inquiry concluded that the terms of the financing are reasonable, and that the proposed use of the funds is prudent. Staff attached to its letter a copy of PWW and PEU's data responses. Staff also attached documentation that the Governor and Executive Council had approved the BFA bond issuance on October 20, 2004.

**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 (1984).

In the case at hand, PWW and PEU have requested authorization to borrow funds in the respective amounts of \$5.63 million and \$1.17 million in order to finance certain capital projects as well as to refinance certain short term and long term debt obligations. The borrowed funds shall be raised through the issuance of tax-exempt bonds through the BFA.

The capital projects that are to be financed through the proposed debt include: the repair of PWW's Supply Pond Dam at a cost of \$962,000; PWW's replacement of approximately 4,250 feet of 6" and 4" unlined, cast iron water main on Ledge Street in Nashua at a cost of \$824,000; and PEU's construction of a 1 million gallon concrete water storage facility in the

Town of Litchfield at a cost of \$1.17 million. The repair of the Supply Pond Dam was precipitated by a letter of deficiency received from NHDES regarding necessary repairs to the earthen embankment and dam spillway of that facility. Substantial progress has already been made on this project through the use of short term advances received from Pennichuck Corporation. The Ledge Street project is in response to both the deteriorating nature of the main that is to be replaced coupled with the logical efficiency of doing such a replacement in conjunction with the City of Nashua's ongoing storm water separation project. The Litchfield Tank project, which has already been completed through the use of short term indebtedness received from Pennichuck Corporation, was brought about in order to meet the increased demand for water in the northern section of the Town of Litchfield due the substantial growth recently experienced in that area. Staff indicated in its November 1, 2004 letter that PWW and PEU have been in consultation with Staff with regard to the necessity of each project as well as the subsequent progress that has been made in the design and construction of each. Based upon our review of the petition and other filings in this docket, we approve the amount and the purpose of the financing and find it consistent with the public good.

Our review of the petition also considers the possible effect that the proposed financing may have on the overall cost of capital to the ratepayers. The proposed use of the funds also includes the refinancing of PWW's 1994 bond series, which carries an interest rate of 6.35% and 6.45%. PWW and PEU anticipate that the interest rate of the proposed bond series will range between 4.55% and 4.75%. In testimony submitted with the petition, it was indicated that PWW's embedded cost of long term debt in its last completed rate case (DW 01-081) was 7.39%. Since then, PWW's actual embedded cost of long term debt has been reduced to 7.32%

through a series of state revolving loans which we have recently approved. As a result of the proposed financing, it is estimated that PWW's embedded cost of long term debt would decline even further to approximately 6.88%. PWW and PEU's testimony also stated that the refinancing of PWW's existing 1994 Series would alone result in an annual interest savings of approximately \$67,240. With respect to PEU, it was estimated that the proposed financing would reduce its embedded cost of debt from 6.44% as of June 30, 2004 to approximately 6.16%. These expected savings will positively affect the overall cost of capital and be beneficial to ratepayers.

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

**ORDERED *NISI***, that authority to undertake the financings proposed by PWW and PEU, upon the terms and conditions proposed in their petition, is hereby APPROVED; and it is

**FURTHER ORDERED**, that the PWW and PEU 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 November 15, 2004 and to be documented by affidavit filed with this office on or before December 6, 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 November 22, 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 November 29, 2004; and it is



**FURTHER ORDERED**, that this Order *Nisi* shall be effective December 6, 2004, unless the PWW and PEU fail 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 PWW and PEU shall file true copies of the loan documents executed or otherwise finally issued in connection with the closing of the transactions contemplated hereby.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 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