

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 09-276

PENNICHUCK EAST UTILITY, INC.

**Petition for Authority to Provide Water Service and Charge Rates to the Winnisquam
Village Condominiums in Tilton**

Order *Nisi* Granting Petition

ORDER NO. 25,086

March 29, 2010

I. BACKGROUND

Pennichuck East Utility, Inc. (PEU) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and serves customers in 18 municipalities in New Hampshire. On December 23, 2009, PEU filed a petition for authority to provide water service to Winnisquam Village Condominiums (WVC), in the town of Tilton. The petition was accompanied by the prefiled testimony of Bernard J. Rousseau, Vice President of Pennichuck Water Services Corporation, an affiliate of PEU and present operator of the water system. WVC is located immediately northwest of Winnisquam Lake and Route 3 and is known as Tilton Tax Map R-7, Lot 11-100 and comprises 58.76 acres. RJ Moreau Communities, Inc. (RJ Moreau) is developing WVC and expects to construct a total of 86 units. Eight units are presently occupied and are taking service from the water system, also constructed by RJ Moreau. PEU states full build out is expected in three to five years.

PEU proposes to acquire the water system assets along with easements to ensure PEU's access to the water system. Agreements filed with the petition state the water system has been constructed in accordance with PEU's technical specifications. Other documents establish that

the water system satisfies applicable laws. In particular, PEU provided copies of approvals from the Department of Environmental Services (DES) for the two wells serving the water system as well as approvals for the water systems' design. PEU states that it is familiar with the operation of WVC since its affiliate, Pennichuck Water Services Corporation, has been operating the system for the developer since 2007. After it acquires the water system, PEU plans to install a Supervisory Control and Data Acquisition (SCADA) system, estimated to cost \$3,500, to allow it to remotely monitor system function. In consideration of the water system assets and easements, PEU agrees to pay RJ Moreau \$450 per installed customer meter, up to 86 meters.

PEU states no other water systems are near enough to make interconnection a reasonable alternative to the current stand-alone system. The Tilton-Northfield Water District provides water service in the area and supports PEU's petition. PEU provided a copy of the District's vote waiving its franchise interests in WVC for the purpose of allowing PEU to serve WVC.

PEU proposes to charge its existing general metered rates in WVC. PEU provided a detailed worksheet calculating the costs associated with operating the system and states the proposed rates will meet the stand-alone revenue requirement for the system. PEU estimates annual customer bills to average approximately \$610 per year, based on a usage of 150 gallons per day.

On March 24, 2010, Staff filed a letter recommending the Commission approve PEU's petition. Staff stated that it had reviewed PEU's filing and had conducted discovery, which is attached to its recommendation. Staff agreed that charging the existing PEU rate was appropriate. Staff noted that the approvals from DES demonstrate the WVC water system satisfies RSA 374:22, III and the requirement that proposed water utilities "satisfy any requirements of [DES] concerning the suitability and availability of water" prior to operating as a

public utility. Staff stated that PEU has the requisite technical, managerial, and financial capability to operate the system since it successfully operates other water systems in the state.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, “[n]o person or business entity shall commence business as a public utility within this state . . . without first having obtained the permission and approval of the commission.” The Commission grants requests for franchise authority upon a finding that it is for the public good pursuant to RSA 374:26. In determining whether a franchise is for the public good, the Commission assesses the managerial, technical, and financial abilities of the petitioner. *See, Lower Bartlett Water Precinct*, Order No. 23,562, 85 NH PUC 635, 641 (2000). Pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether rates, fares, charges, or prices a utility proposes to put into force are just and reasonable.

Having reviewed PEU’s filing and Staff’s recommendation, we find that PEU’s acquisition of assets and its request to provide water service to customers in WVC are for the public good. The record demonstrates that PEU has the requisite managerial, technical, and financial abilities to obtain the requested franchise. PEU will secure the proper easements and access to the water system. PEU has successfully operated water utilities in this state since 1998, *see, Consumers New Hampshire Water Co.*, Order No. 22,880, 83 NH PUC 191 (1998), and a PEU affiliate currently operates the WVC system. The WVC water system also meets the suitability and availability requirements of DES as required by RSA 374:22, III. PEU has determined its rates will cover WVC’s revenue requirement and Staff agrees. We find that application of PEU’s rates to WVC is just and reasonable. PEU did not request a specific date by which to implement rates and therefore, consistent with N.H. Code Admin. R. Puc 1203.05, we will approve the rate on a service-rendered basis as of the effective date of this order.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.” Here, Staff, PEU, RJ Moreau, and the Tilton-Northfield Water District are in agreement that PEU should operate the WVC water system. Notwithstanding this apparent agreement, we will approve PEU’s petition on a *nisi* basis in order to ensure that all interested parties receive notice of the proposed franchise and rates and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, PEU is authorized to operate as a public water utility in the area known as Winnisquam Village Condominiums located in Tilton; and it is

FURTHER ORDERED, that PEU file copies of the executed easements and closing documents with the Commission within 30 days of the date of the transfer of the water system assets from RJ Moreau Communities, Inc. to PEU; and it is

FURTHER ORDERED, that PEU is authorized to charge its tariff rates in WVC, on a service-rendered basis, effective as of the date of this order, or the date of the transfer of the water system, whichever is later; and it is

FURTHER ORDERED, that 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 April 8, 2010 and be sent by first class mail, no later than April 8, 2010, to all current and known prospective water customers in WVC, the Tilton-Northfield Water District, and the Tilton Town Clerk, and the publication and mailing be documented by affidavit filed with this office on or before April 28, 2010; and it is

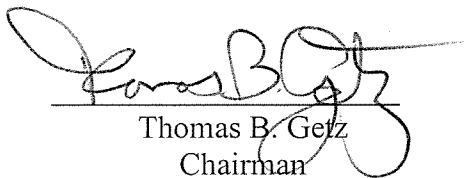
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than April 15, 2010 for the Commission's consideration; and it is

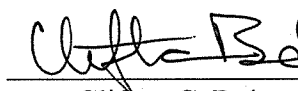
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 22, 2010; and it is

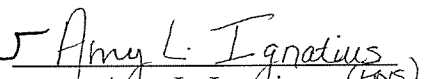
FURTHER ORDERED, that this Order *Nisi* shall be effective April 28, 2010, unless PEU fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that PEU shall file a compliance tariff with the Commission on or before May 5, 2010, in accordance with N.H. Admin. Rules Puc 1603.02(b).

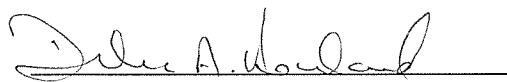
By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 2010.


Thomas B. Gerz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius (KNS)
Commissioner

Attested by:


Debra A. Howland
Executive Director

SCOTT D MCGUFFIN
67 WATER ST #107
LACONIA NH 03246

JOHN T PENDLETON
DWYER DONOVAN & PENDLETON
461 MIDDLE STREET
PORTSMOUTH NH 03801

Docket #: 09-276 Printed: March 29, 2010

FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),
WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:
DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 SOUTH FRUIT STREET, SUITE 10
CONCORD NH 03301-2429