

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Pennichuck East Utility, Inc.

DW19-

**PETITION FOR WAIVER
OF SHORT TERM DEBT LIMIT**

Pennichuck East Utility, Inc. (“PEU” or “Company”), a corporation duly organized and existing under the laws of the State of New Hampshire and operating therein as a public utility subject to the jurisdiction of the New Hampshire Public Utilities Commission (the “Commission”) files this petition for a waiver of the 10% limitation on its short term debt under N.H. Admin. Rule Puc 608.05 and as was previously granted in Order No. 25,820 (DW 15-288). In support of this Petition, PEU respectfully represents as follows:

Background

1. Puc 608.05 states: “No utility shall issue or renew any notes, bonds or other evidence of indebtedness payable less than 12 months after the date thereof if said short term debt exceeds 10% of the utility’s net fixed plant without prior commission approval pursuant to Puc 201.05.”

2. On July 23, 2015, in accordance with Puc 201.05, PEU¹ sought a waiver of Puc 608.05 based on the 2011 acquisition of Pennichuck Corporation by the City of Nashua, which included the indirect acquisition of PEU. *See* Order No. 25,292 (November

¹ Docket No. 15-288 and Order No. 25,820 applied to both PEU and Pittsfield Aqueduct Company (“PAC”). This petition is filed on behalf of PEU only, and PAC is not seeking a waiver at this time.

23, 2011). A critical feature of the acquisition involved the transition to a capital structure composed primarily of debt, as opposed to a traditional capital structure.

3. On October 4, 2018, the Commission granted PEU's request to amend its ratemaking methodology. *See* Docket DW 17-128, Order No. 26,179. The underlying capital structure composed primarily of debt, however, remains in place and is reinforced under the new methodology.

4. By Order No. 25,820 (Docket DW 15-288), the Commission granted PEU's 2015 petition and provided a waiver of Puc 608.05 through June 30, 2019. In its Order, the Commission found "[t]he waiver and increased debt limits are consistent with the waivers and increases that we have approved since Nashua's acquisition of the companies." Order No. 25,820 at 3. The Commission also found reasonable the proposal to report monthly short term debt levels in the annual report and to file written notice with Staff and the OCA in any month that short term debt exceeds 15% of net fixed capital. Order No. 25,820 at 4.

5. In its Order, the Commission limited the time for the waiver. As a result, the current waiver expires on June 30, 2019. The Commission concluded that "[i]f [PEU] want[s] the waiver to continue beyond that date, [it] will need to file an appropriate request." Order No. 25,820 at 4.

6. As required by the June 30, 2019 expiration of Order No. 25,820 and pursuant to Puc 201.05, with this petition, PEU seeks a waiver of Puc 608.05 with the terms and conditions described in this petition. Further, PEU requests that the waiver be issued on a permanent basis instead of four years or such other limit.

Waiver Request

7. Puc 608.05 implements, in part, RSA 369:7, which provides:

I. No public utility engaged in business within this state shall issue or renew any notes, bonds, or other evidences of indebtedness payable less than 12 months after the date thereof, except as provided in this section, by rules adopted by the commission, or by specific order of the commission in an individual case.

II. In establishing the amounts of the notes, bonds, and other evidences of indebtedness which the utility is permitted to issue or renew without prior commission approval, the commission shall consider the size, circumstances, and other characteristics of each utility, the aggregate term of the renewals of such notes, bonds, and other evidences of indebtedness, and the time period and manner for reporting such renewals to the commission.

8. Pursuant to RSA 369:7, the Commission may establish the amount of short term indebtedness a public utility may issue without prior approval by rule or by specific order in an individual case. In this case, the rule provides for a 10% of net fixed plant cap on short term debt without prior Commission approval. By this petition, PEU seeks by order to increase that cap to 18% of its net fixed plant.

9. The Commission is required to consider “the size, circumstances, and other characteristics of each utility” when establishing the permissible level of indebtedness. As is explained in the testimony of Mr. Goodhue, the reasons for granting the waiver in 2015 continue to apply today.

10. PEU proposes that the Commission, consistent with Order No. 15,288, increase PEU’s short term debt limits to 18% of its net fixed plant. PEU also proposed to continue the practice adopted in Order No. 15,288 that PEU include monthly levels of short term debt with its Annual Reports. Also consistent with Order No. 15,288, PEU proposes that it notify Commission Staff and the OCA in writing in any month that short term debt exceeds 15% of net fixed plant.

11. The one modification from Order No. 15,288 that the Company requests is that this waiver be issued on a permanent basis. Although the Commission declined to issue a permanent waiver in Docket DW 15-288, the circumstances are sufficiently modified in this docket to warrant consideration of a permanent waiver. First, as described above, Order No. 15,288 placed certain reporting requirements on the Company such that any abuse of the waiver would be quickly identified either through the annual reporting requirement or the notice required if the short term debt exceeds 15% of net fixed plant. The reporting requirements have worked well and, after four years of experience, can provide comfort to the Commission that the waiver is working as intended.

12. A permanent waiver will also allow the Company to fully incorporate the ratemaking methodology approved by the Commission in Order No. 25,292 (November 23, 2011), as amended by Order No. 26,179 (October 4, 2018). Approval of an 18% short term debt limit on a permanent basis will serve the public interest because it will:

- (a) Allow the Company to effectively reinvest in long term capital projects and infrastructure at debt funding rates as opposed to debt/equity rates, thereby lowering the overall cost to ratepayers;
- (b) Provide the Company the flexibility to effectively pursue long term reimbursement financing in support of capital projects, which allows it to pursue favorable borrowing rates associated with the SRF loan program and other commercial loan products; and
- (c) Stabilize revenue levels by allowing the Company to focus on annual revenue levels, without concern of running afoul of the overly restrictive 10% short term debt limit requirement in portions of the fiscal year.

13. PEU's request in this docket is consistent with RSA 369:7, which is intended to limit ratepayer exposure from utility funding of long term projects with potentially higher cost short term cash flows or debt, which, at the same time, would not properly match the cash outflows for the depreciation associated with capital expenditures to the cash inflows from the funding source. The existing rule sets a generic short term debt limit, above which a utility may not issue short term debt without Commission approval. Under the particular rate structure and circumstances of PEU, however, the 10% debt limit is unnecessarily restrictive. Inasmuch as all capital investments for PEU will be financed by debt, and its small size limits its financing options, increasing the short term debt limit to 18% appropriately balances the need to limit ratepayer exposure to increased financing costs with the benefits of decreasing financing and regulatory costs by providing financing flexibility to PEU.

14. The public interest is served by providing financial flexibility, stabilizing revenues, and reducing costs to PEU and its customers.

Conclusion

WHEREFORE, by this petition, PEU respectfully requests that the Commission:

- A. Grant PEU's request for a waiver of Puc 608.05 and increase the limitation on PEU's short term indebtedness subject to the terms and conditions described in this petition;
- B. Grant the waiver on a permanent basis;
- C. Find the proposed waiver serves the public interest;
- D. Find the waiver will not disrupt the orderly and efficient resolution of matters before the Commission;
- E. Find the waiver is routine or, in the alternative, issue an Order *Nisi* approving its request; and

F. Grant such other relief that is just and reasonable.

Respectfully submitted,

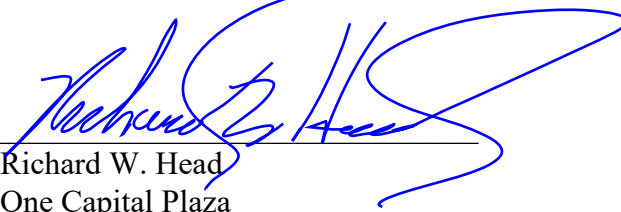
PENNICHUCK EAST UTILITIES, INC.

By Its Attorneys

RATH, YOUNG and PIGNATELLI, PC

Date: June 20, 2019

By:


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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Petition for Waiver, including prefiled testimony referred to in the Petition, has been forward to the Office of Consumer Advocate via hand delivery and electronic mail.

Date: June 20, 2019


Richard W. Head