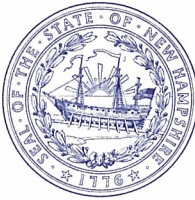


THE STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

March 15, 2011

Debra A. Howland
Executive Director and Secretary
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301



Re: DW 10-330 Pennichuck East Utility, Inc.
Petition for Authority to Issue up to \$300,000 of Long Term Debt

Dear Ms. Howland:

On December 17, 2010, Pennichuck East Utility, Inc. (PEU) filed a petition with the Commission seeking authority to borrow up to \$300,000 in long term debt, pursuant to RSA 369. PEU proposes to borrow from the State Revolving Loan Fund (SRF) administered by the New Hampshire Department of Environmental Services (DES). Included with PEU's petition is the direct testimony of Donald L. Ware, President of PEU, and Thomas C. Leonard, Chief Financial Officer of PEU. After review, Staff recommends Commission approval of PEU's request.

PEU seeks to borrow up to \$300,000 in order to finance replacement of approximately 3,000 feet of water main in the company's Locke Lake water system in the Town of Barnstead. The system serves approximately 850 homes and began providing service more than 40 years ago. The distribution system consists of 2, 3, and 4-inch mains made of substandard materials that are prone to breakage and leakage. PEU has experienced 45 leaks in the system in the past two years alone, 22 of which were in its mains and 23 in the company-owned "main to stop" portion of service lines. PEU acquired the Locke Lake system on January 1, 2010. See, *Pennichuck East Utility, Inc.*, Order No. 25,051, 94 NH PUC 701 (2009).

Replacement of the entire distribution system is estimated to cost some \$10 million and is not realistic in light of the rate impacts on customers. The company's goal is to replace an amount of main each year roughly corresponding to the annual depreciation expense the company receives on its Locke Lake assets. This amounts to replacement of approximately 3,000 of the system's 100,000 feet of main annually, which is consistent

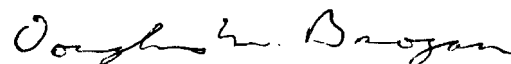
with the current proposal. Given that leaks are not specific to any one portion of the system, main replacements would begin at the primary pumping station and work outward around Locke Lake, except that work would be coordinated with any planned town road paving projects to minimize costs. The proposal would include upsizing to 4 and 6-inch mains where appropriate in accordance with the long term distribution system flow requirements and to provide minimal fire flows (see response to Staff 1-3 in the company's data responses, which are attached to this letter). It would also include replacement of the main-to-stop portion of service lines encountered along the mains that are replaced. Existing service lines, which are typically small diameter and serve two homes, would be replaced with appropriately sized individual lines. The company hopes to construct the proposed project this summer.

PEU's proposed financing for the project is through the SRF program, with which the Commission is familiar. The loan will be on a 20 year term at an interest rate currently not expected to exceed 2.864%. In addition, principal forgiveness of 40 percent of the loan value, or \$6,000 annually, is anticipated based on water rates in Locke Lake. DES will make disbursements on the loan based on invoices submitted by contractors engaged by PEU. Interest will accrue at an annual rate of 1% on disbursed amounts through the date that the project is substantially completed. Payments of principal and interest will begin six months thereafter. SRF funding is competitive, and the proposed project ranked eighth among 57 proposals evaluated by DES (attachment to Staff 1-1). Both PEU and its parent, Pennichuck Corporation, approved the proposed borrowing in late January, 2011 (supplemental response to Staff 1-5).

Staff has thoroughly reviewed, and supports, the proposal as presented by PEU. The procurement of an SRF loan for this project ensures that PEU will finance these improvements at the lowest possible cost to customers. Future rate impact to customers will be minimal as the net cost of this project after the anticipated principal forgiveness represents just a 1.2% increase in PEU's overall rate base. The project will help to address the ongoing service disruption impacts stemming from Locke Lake's inferior distribution system. Staff, therefore, recommends approval of PEU's request for authority to borrow up to \$300,000 from the SRF to finance needed capital improvements at its Locke Lake water system.

If there are any questions regarding this matter, please let me know.

Sincerely,



Douglas W. Brogan
Utility Engineer

Attachment – Discovery Responses

cc: Service List

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-1

Date of Response: January 14, 2011
Witness: Donald L. Ware

REQUEST: The testimony of Mr. Ware on page 3, lines 13-15 appears to reference a different attachment for schedule DW-1 than what was provided. Please provide the correct attachment.

RESPONSE: Please see the correct DW-1, which is attached to this response.

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-2

Date of Response: January 14, 2011
Witness: Donald L. Ware

REQUEST: Mr. Ware's testimony at page 4, lines 4-9, references schedule 40 pipe failing at glue joints, and HDPE failing at nylon stab fittings, with neither apparently meeting AWWA pipe standards. Regarding the third type of pipe mentioned, SDR21 PVC with glued joints, please indicate:

- a) Whether it meets AWWA standards and;
- b) Whether it is also experiencing failures and, if so, what kind.

RESPONSE: a) SDR21 PVC pipe is a 200 psi PVC pipe manufactured with an iron pipe outside diameter. This pipe does not meet the AWWA C900 standard for PVC which requires a flexible, push on joint and also requires pipe 4" and larger to have the same outside diameter as ductile iron pipe. The pipe in Locke Lake has glued joints and in the 4" size does not have a ductile iron outside diameter.

- b) Yes, this pipe is experiencing joint failures, the same as the schedule 40 PVC pipe.

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-3

Date of Response: January 14, 2011
Witness: Donald L. Ware

REQUEST: Is any upsizing anticipated as part of the replacement project? If so, please explain?

RESPONSE: The existing system consisting primarily of 2", 3" and 4" water main. The final system layout, based on the hydraulic model, will consist of 4" and 6" water main. The 6" water main will be for the main loop and key looped side streets and all the dead ends will be 4" water main. The upsizing will allow the delivery of fire protection of about 500 gpm as well as insuring delivery of peak flows to all parts of the water system with significant pressure fluctuations.

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-4

Date of Response: January 14, 2011
Witness: Thomas C. Leonard

REQUEST: Mr. Leonard's testimony on page 3, line 22 through the end of page 4, references three attached schedules having end dates of December 31, 2009, whereas the schedules themselves indicate end dates of September 30, 2010. Please clarify.

RESPONSE: The schedules were prepared using the Company's results as of September 30, 2010. The references in my testimony to December 31, 2009 (beginning on page 3, line 22 and continuing through page 5, line 1) should refer to the September 30, 2010 date rather than December 31, 2009.

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-5

Date of Response: January 14, 2011
Witness: Donald L. Ware

REQUEST: Please provide the resolution of the Board of Directors authorizing the proposed financing, as referenced in Mr. Leonard's testimony on page 5, lines 15-20, when it is available.

RESPONSE: The Board will be voting on the required resolutions at their January 26, 2011 Board meeting. A copy of the certified resolutions will be sent to the Commission by the end of January 2011.

PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-5

Date of Response: January 28, 2011
Witness: Donald L. Ware

REQUEST: Please provide the resolution of the Board of Directors authorizing the proposed financing, as referenced in Mr. Leonard's testimony on page 5, lines 15-20, when it is available.

SUPPLEMENTAL
RESPONSE:

A copy of the votes of Pennichuck Corporation and Pennichuck East Utility, Inc. relating to the proposed financing are attached to this response.

SECRETARY'S CERTIFICATE

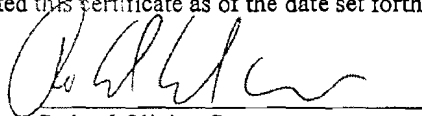
PENNICHUCK CORPORATION

I, Roland Olivier, being the duly elected Secretary of PENNICHUCK CORPORATION, a New Hampshire corporation (the "Corporation"), hereby certify that:

- (i) Attached hereto as Exhibit A is a true and correct copy of certain resolutions adopted by the Board of Directors of Pennichuck Corporation at a regular meeting of the Board of Directors on January 26, 2011, and that such meeting and resolutions are in conformity with the Articles of Incorporation and the Bylaws of the Corporation (each as amended to date) and such resolutions have not been rescinded or modified, and are in full force and effect, as of the date hereof.
- (ii) The Articles of Incorporation of the Corporation delivered by the Corporation to the State of New Hampshire, Department of Environmental Services ("State") on August 27, 2009 are a true, correct and complete copy of the Corporation's Articles of Incorporation and said Articles of Incorporation are still in full force and effect and have not been modified, revised, amended or rescinded in any way since August 27, 2009
- (iii) The Bylaws of the Corporation delivered by the Corporation to the State on August 27, 2009 are a true, correct and complete copy of the Corporation's Bylaws and said Bylaws are still in full force and effect and have not been modified, revised, amended or rescinded in any way since August 27, 2009.

IN WITNESS WHEREOF, I have executed this certificate as of the date set forth below.

Dated: January 26, 2011



Roland Olivier, Secretary

EXHIBIT A

**RESOLUTIONS EFFECTIVE AS OF JANUARY 26, 2011
ADOPTED BY
BOARD OF DIRECTORS
OF
PENNICHUCK CORPORATION**

Pursuant to New Hampshire Revised Statutes Annotated 293-A:8.20, the directors of PENNICHUCK CORPORATION ("PENNICHUCK" or the "Corporation"), a New Hampshire corporation, at a regular meeting of the directors of PENNICHUCK on January 26, 2011, said meeting having been duly noticed and convened in accordance with PENNICHUCK's Bylaws, unanimously adopted the following resolutions effective as of January 26, 2011:

- VOTED: To authorize and approve the guaranty by Pennichuck Corporation ("Pennichuck") of an agreement between Pennichuck East Utility, Inc. ("PEU") and the State of New Hampshire under the State Revolving Loan Fund ("SRF"), pursuant to which PEU will borrow up to Three Hundred Thousand Dollars (\$300,000) at the current SRF rate of interest (currently 2.864%) for the purpose of funding the replacement of about 3,000 lineal feet of water main in the Locke Lake Water System in Barnstead, New Hampshire.
- VOTED: That Duane C. Montopoli, Donald L. Ware and Thomas C. Leonard are, and each of them hereby is, authorized to act as Pennichuck's representative for purposes of executing and administering the above referenced loan guaranty and/or executing any other related documents, certificates, and undertakings on behalf of Pennichuck.

SECRETARY'S CERTIFICATE

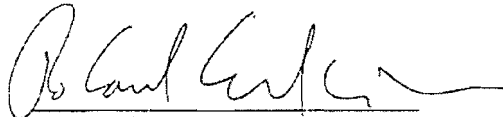
PENNICHUCK EAST UTILITY, INC.

I, Roland Olivier, being the duly elected Secretary of PENNICHUCK EAST UTILITY, INC., a New Hampshire corporation (the "Corporation"), hereby certify that:

- (i) Attached hereto as Exhibit A is a true and correct copy of a certain Action by Consent in Lieu of a Special Meeting of the Board of Directors of Pennichuck East Utility, Inc. effective as of January 26, 2011, and that such consent is in conformity with the Articles of Incorporation and the Bylaws of the Corporation (each as amended to date) and such consent has not been rescinded or modified, and is in full force and effect, as of the date hereof.
- (ii) Attached hereto as Exhibit B is a true, correct and complete copy of the Corporation's Articles of Incorporation and said Articles of Incorporation are still in full force and effect and have not been modified, revised, amended or rescinded in any way as of the date hereof.
- (iii) Attached hereto as Exhibit C is a true, correct and complete copy of the Corporation's Bylaws and said Bylaws are still in full force and effect and have not been modified, revised, amended or rescinded in any way as of the date hereof.

IN WITNESS WHEREOF, I have executed this certificate as of the date set forth below.

Dated: January 26, 2010


Roland Olivier, Secretary

**ACTION BY CONSENT IN LIEU OF A SPECIAL MEETING OF THE
BOARD OF DIRECTORS
OF
PENNICHUCK EAST UTILITY, INC.**

Pursuant to New Hampshire Revised Statutes Annotated 293-A:8.21, the undersigned, being all the directors of PENNICHUCK EAST UTILITY, INC. ("PEU"), a New Hampshire corporation, in lieu of a special meeting of the directors of PEU, do hereby waive all notice of the time, place and purpose of said special meetings, and hereby consent to the following actions and adopt the following resolutions effective as of January 26, 2011:

- VOTED: To authorize and approve an agreement between Pennichuck East Utility, Inc. ("PEU") and the State of New Hampshire under the State Revolving Loan Fund ("SRF"), pursuant to which PEU will borrow up to Three Hundred Thousand Dollars (\$300,000) at the current SRF rate of interest (currently 2.864%) for the purpose of funding the replacement of about 3,000 lineal feet of water main in the Locke Lake Water System in Barnstead, New Hampshire.
- VOTED: That John J. Boisvert, Donald L. Ware and Thomas C. Leonard are authorized to act as Pennichuck East Utility, Inc.'s representative for purposes of executing and administering the above referenced loan agreements and/or executing any other related documents, certificates, and undertakings on behalf of PEU.

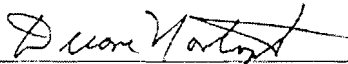

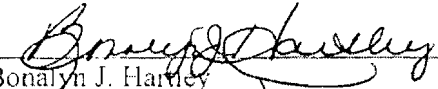

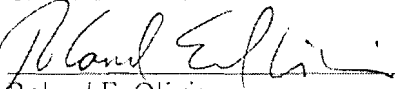
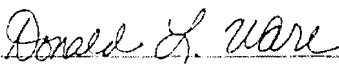
 _____ Duane C. Montopoli	<u>1/25/11</u> Date
 _____ Stephen J. Densberger	<u>1/25/11</u> Date
 _____ Bonalyn J. Hartley	<u>01/25/11</u> Date
 _____ Thomas C. Leonard	<u>1/25/11</u> Date
 _____ Roland E. Olivier	<u>01/25/11</u> Date
 _____ Donald L. Ware	<u>1/25/11</u> Date

EXHIBIT B
ARTICLES OF INCORPORATION
PENNICHUCK EAST UTILITY, INC.

FILED

JAN 22 1998

WILLIAM M. GARDNER
NEW HAMPSHIRE
SECRETARY OF STATE

**ARTICLES OF INCORPORATION
OF
PENNICHUCK EAST UTILITY, INC.**

THE UNDERSIGNED, ACTING AS THE INCORPORATOR OF A CORPORATION UNDER THE NEW HAMPSHIRE BUSINESS CORPORATION ACT (RSA CHAPTER 293-A), ADOPTS THE FOLLOWING ARTICLES OF INCORPORATION FOR SUCH CORPORATION:

ARTICLE I

The name of the Corporation is Pennichuck East Utility, Inc..

ARTICLE II

The street address of the Corporation's initial registered office is Four Water Street, Nashua, New Hampshire 03061, and the name of its initial registered agent at that office is Maurice L. Arel.

ARTICLE III

The Corporation is empowered to transact any and all lawful business for which a corporation may be incorporated under New Hampshire RSA Chapter 293-A, as such chapter now exists or is amended hereafter, or under any successor statute. The principal purpose for which the Corporation is organized is to own, operate and manage a water utility system for certain residents of the State of New Hampshire, and to supply water to such other persons and for such other uses as the Corporation may from time to time determine.

ARTICLE IV

The aggregate number of shares of capital stock that the Corporation is authorized to issue is One Hundred (100) shares having a par value of \$1.00 per share, all of which shall be common stock having unlimited voting rights. The capital stock of the Corporation shall be sold or offered for sale within the meaning of the New Hampshire Uniform Securities Act (RSA Chapter 421-B).

ARTICLE V

The shareholders of the Corporation do not have a preemptive right to acquire the Corporation's unissued shares of capital stock.

ARTICLE VI

No Director or officer shall be liable to the Corporation or any shareholder for money damages for any action taken, or any failure to take any action, except liability for:

1. The amount of a financial benefit received by a Director or officer to which the Director or officer is not entitled;
2. An intentional infliction of harm on the Corporation or its shareholders;
3. A violation of RSA 293-A:8.33; or
4. An intentional violation of criminal law.

If the New Hampshire Business Corporation Act, or any successor statute, is amended after the filing of these Articles of Incorporation to authorize corporate action further eliminating or limiting the personal liability of the Directors or officers of the Corporation, then the liability of the Directors and officers of the Corporation shall be eliminated or limited to the fullest extent permitted by such amendment. Any repeal or modification of this Article by the shareholders of the Corporation shall not adversely affect any right or protection of a Director or officer of the Corporation existing at the time of such repeal or modification.

ARTICLE VII

The name and address of the incorporator is:

Maurice L. Arel, Four Water Street, Nashua, New Hampshire, 03061.

Dated: January 20, 1998



Maurice L. Arel
Sole Incorporator

EXHIBIT C

BYLAWS

PENNICHUCK EAST UTILITY, INC.

**BYLAWS
OF
PENNICHUCK EAST UTILITY, INC.**

ARTICLE I

OFFICES

1.1 **Business Office.** The principal office of the Corporation shall be located at any place either within or outside the State of New Hampshire as designated in the Corporation's most current Annual Report filed with the State of New Hampshire Secretary of State. The Corporation may have such other offices, either within or without the State of New Hampshire as the Board of Directors may designate or as the business of the Corporation may require from time to time. The Corporation shall maintain at its principal office a copy of certain records, as specified in Section 2.14 of these Bylaws.

1.2 **Registered Office.** The registered office of the Corporation required by the New Hampshire Business Corporation Act, RSA Chapter 293-A ("Act"), shall be located within the State of New Hampshire as designated in the Corporation's most current Annual Report filed with the State of New Hampshire Secretary of State and may be, but need not be, identical with the principal office (if located within the State of New Hampshire). The address of the registered office may be changed from time to time.

ARTICLE II

SHAREHOLDERS

2.1 **Annual Shareholder Meeting.** The annual meeting of the shareholders shall be held at such time within 120 days of the end of the fiscal year of the Corporation as shall be fixed by the Board of Directors, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting.

If the election of Directors shall not be held on the day designated herein for any annual meeting of the shareholders, or at any subsequent continuation after adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as convenient.

2.2 **Special Shareholder Meetings.** Special meetings of the shareholders, for any purpose or purposes, described in the meeting notice, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the holders of not less than one-tenth of all outstanding votes of the Corporation entitled to be cast on any issue at the meeting.

2.3 **Place of Shareholder Meeting.** The Board of Directors may designate any place within or without the State of New Hampshire as the place of meeting for any

Bylaws of Pennichuck East Utility, Inc.

Page 2

annual or special meeting of the shareholders. If no designation is made, the place of meeting shall be the principal office of the Corporation in the State of New Hampshire.

2.4 Notice of Shareholder Meeting.

(a) **Required Notice.** Written notice stating the place, day and hour of any annual or special shareholder meeting shall be delivered not less than 10 nor more than 60 days before the date of the meeting, either personally or by mail, by or at the direction of the President or the Board of Directors to each shareholder of record entitled to vote at such meeting and to any other shareholder entitled by the Act to receive notice of the meeting. Notice shall be deemed to be effective at the earlier of: (1) when deposited in the United States mail, addressed to the shareholder at his address as it appears on the stock transfer books of the Corporation, with postage thereon prepaid; (2) on the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; (3) when received; or (4) five days after deposit in the United States mail, if mailed postpaid and correctly addressed to an address other than that shown in the Corporation's current record of shareholders.

(b) **Adjourned Meeting.** If any shareholder meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, and place, if the new date, time, and place is announced at the meeting before adjournment. But if a new record date for the adjourned meeting is, or must be fixed, in accordance with Section 2.5, then notice must be given pursuant to the requirements of Paragraph (a) of this Section 2.4 to those persons who are shareholders as of the new record date.

(c) **Waiver of Notice.** A shareholder may waive notice of the meeting by a writing signed by the shareholder entitled to the notice, which is delivered to the Corporation (either before or after the date and time stated in the notice) for inclusion in the minutes or filing with the corporate records.

Bylaws of Pennichuck East Utility, Inc.

Page 3

A shareholder's attendance at a meeting:

- (1) waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and
- (2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

(d) Contents of Notice. The notice of each special shareholder meeting shall include a description of the purpose or purposes for which the meeting is called. Except as provided in this Section 2.4(d) or otherwise in the Act, the notice of an annual shareholder meeting need not include a description of the purpose or purposes for which the meeting is called.

If a purpose of any shareholder meeting is to consider either: (1) a proposed amendment to the Articles of Incorporation (including any restated Articles requiring shareholder approval), (2) a plan of merger or share exchange, (3) the sale, lease, exchange or other disposition of all, or substantially all of the Corporation's property, (4) the dissolution of the Corporation, or (5) the removal of a Director, the notice must so state and be accompanied by respectively a copy or summary of: (1) the articles of amendment; (2) the plan of merger or share exchange; and (3) the transaction for disposition of all the Corporation's property. If the proposed corporate action creates dissenters' rights, the notice must state that shareholders are, or may be, entitled to assert dissenters' rights, and must be accompanied by a copy of Section 13 of the Act. If the Corporation issues, or authorizes the issuance of shares for promissory notes or for promises to render services in the future, the Corporation shall report in writing to all of the shareholders the number of shares authorized or issued, and the consideration received, with or before the notice of the next shareholder meeting. Likewise, if the Corporation indemnifies or advances expenses to a Director, this action shall be reported to all the shareholders with or before notice of the next shareholder meeting (as provided in RSA 293-A:16.21).

2.5 Fixing of Record Date. For the purpose of determining shareholders of any voting group entitled to notice of or to vote at any meeting of shareholders, or shareholders entitled to receive payment of any distribution or dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors may fix in advance a date as the record date. Such record date shall not be more than 70 days prior to the date on which the particular action, requiring such determination of shareholders, is

Bylaws of Pennichuck East Utility, Inc.

Page 4

to be taken. If no record date is so fixed by the Board for the determination of shareholders entitled to notice of, or to vote at a meeting of shareholders, or shareholders entitled to receive a share dividend or distribution, the record date for determination of such shareholders shall be at the close of business on:

(a) With respect to an annual shareholder meeting or any special shareholder meeting called by the President or by the Board, the day before the first notice is delivered to shareholders;

(b) With respect to a special shareholder meeting demanded by the shareholders, the date the first shareholder signs the demand;

(c) With respect to the payment of a share dividend, the date the Board authorizes the share dividend;

(d) With respect to actions taken in writing without a meeting (pursuant to Section 2.12), the date the first shareholder signs a consent; and

(e) With respect to a distribution to shareholders, (other than one involving a repurchase or reacquisition of shares), the date the Board authorizes the distribution.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof unless the Board of Directors fixes a new record date. The Board shall be required to fix a new record date if the meeting is adjourned to a date more than 120 days after the date set for the original meeting.

2.6 **Shareholder List.** The officer or agent having charge of the stock transfer books for shares of the Corporation shall maintain a complete record of the shareholders entitled to vote at each meeting of shareholders, arranged in alphabetical order, with the address of and the number of shares held by each. The shareholder list shall be maintained at the Corporation's principal office and shall be available for inspection by any shareholder, subject to the provisions of Section 2.14. The Corporation shall maintain the shareholder list in written form or in another form capable of conversion into written form within a reasonable time.

After fixing a record date for a meeting of shareholders, the Corporation shall prepare an alphabetical list of the names of all of its shareholders who are entitled to notice of a shareholders' meeting. The list shall be arranged by voting group, if any, and within each voting group by class or series of shares, and show the address of and the number of shares held by each shareholder. The shareholders' list must be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the

Bylaws of Pennichuck East Utility, Inc.

Page 5

Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, his agent, or attorney is entitled on written demand to inspect and, subject to the requirements of Section 2.14, to copy the list, during regular business hours and at his or her expense, during the period it is available for inspection. The Corporation shall make the shareholders' list available at the meeting of shareholders, and any shareholder, his agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment thereof.

2.7 Shareholder Quorum and Voting Requirements. If the Articles of Incorporation or the Act provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group.

Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those share exists with respect to that matter. Unless the Articles of Incorporation, a Bylaw adopted pursuant to Section 2.8, or the Act provide otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

If the Articles of Incorporation or the Act provide for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

If a quorum exists, action on a matter (other than the election of Directors) by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation, a bylaw adopted pursuant to Section 2.8, or the Act require a greater number of affirmative votes.

2.8 Increasing Either Quorum or Voting Requirements. For purposes of this Section 2.8 a "supermajority" quorum is a requirement that more than a majority of the votes of the voting group be present to constitute a quorum; and a "supermajority" voting requirement is any requirement that requires the vote of more than a majority of the affirmative votes of a voting group at a meeting.

Except as otherwise provided in the Articles of Incorporation, the shareholders of any class or series of capital stock may adopt, amend, or delete a Bylaw which fixes a "supermajority" quorum or "supermajority" voting requirement for that class or series of capital stock.

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The adoption or amendment of a Bylaw that adds, changes, or deletes a "supermajority" quorum or voting requirement for any class or series of capital stock must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

A Bylaw that fixes a supermajority quorum or voting requirement for shareholders may not be adopted, amended or repealed by the Board of Directors.

2.9 **Proxies.** At all meetings of shareholders, a shareholder may vote in person, or vote by proxy which is executed in writing by the shareholder or which is executed by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Corporation or other person authorized to tabulate votes before or at the time of the meeting. No proxy shall be valid after 11 months from the date of its execution unless otherwise provided in the proxy.

2.10 **Voting of Shares.** Unless otherwise provided in the Articles of Incorporation, each outstanding share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of shareholders.

Except as provided by specific court order, no shares held by another corporation, if a majority of the shares entitled to vote for the election of Directors of such other corporation are held by the Corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time for purposes of any meeting. Provided, however, the prior sentence shall not limit the power of the Corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

2.11 **Corporation's Acceptance of Votes.**

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the Corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the Corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

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- (1) the shareholder is an entity as defined in the Act and the name signed purports to be that of an officer or agent of the entity;
- (2) the name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the Corporation requests, evidence of fiduciary status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;
- (3) the name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the Corporation requests, evidence of this status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;
- (4) the name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the Corporation requests, evidence acceptable to the Corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or
- (5) two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The Corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the Secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(d) The Corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this Section 2.11 are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this Section 2.11 is valid unless a court of competent jurisdiction determines otherwise.

2.12 Informal Action by Shareholders. Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting if one or more

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consents in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof are delivered to the Corporation for inclusion in the minute book. If the act to be taken requires that notice be given to non-voting shareholders, the Corporation shall give the non-voting shareholders written notice of the proposed action at least 10 days before the action is taken, which notice shall contain or be accompanied by the same material that would have been required if a formal meeting had been called to consider the action. A consent signed under this Section 2.12 has the effect of a meeting vote and may be described as such in any document.

2.13 **Voting for Directors.** Unless otherwise provided in the Articles of Incorporation, Directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

2.14 **Corporate Records; Shareholder's Right to Inspect Corporate Records.**

(a) **Minutes and Accounting Records.** The Corporation shall keep as permanent records: minutes of all meetings of its shareholders and Board of Directors; a record of all actions taken by its shareholders and Board of Directors without a meeting; and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors. The Corporation shall maintain appropriate accounting records.

(b) **Absolute Inspection Rights of Records Required at Principal Office.** If a shareholder gives the Corporation written notice of his demand at least five business days before the date on which he wishes to inspect and copy, the shareholder (or his or her agent or attorney) has the right to inspect and copy, during regular business hours any of the following records, all of which the Corporation is required to keep at its principal office:

- (1) its Articles or Restated Articles of Incorporation and all amendments to them currently in effect;
- (2) its Bylaws or Restated Bylaws and all amendments to them currently in effect;
- (3) resolutions adopted by its Board of Directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;
- (4) the minutes of all shareholders meetings, and records of all action taken by shareholders without a meeting, for the past three years;

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- (5) all written communications to shareholders generally within the past three years, including the financial statement furnished for the past three years to the shareholders;
- (6) a list of the names and business addresses of its current Directors and officers; and
- (7) its most recent annual report delivered to the Secretary of State.

(c) **Conditional Inspection Right.** In addition, if a shareholder gives the Corporation a written demand made in good faith and for a proper purpose at least five business days before the date on which he or she wishes to inspect and copy a corporate record, he or she describes with reasonable particularity his or her purpose and the records he or she desires to inspect, and the records are directly connected with his or her purpose, the shareholder (or his agent or attorney) is entitled to inspect and copy, during regular business hours at a reasonable location specified by the Corporation, any of the following records of the Corporation:

- (1) excerpts from minutes of any meeting of the Board of Directors, records of any action of a committee of the Board of Directors, minutes of any meeting of the shareholders, and records of action taken by the shareholders or Board of Directors without a meeting, to the extent not subject to inspection under paragraph (a) of this Section 2.14;
- (2) accounting records of the Corporation; and
- (3) the list of shareholders (compiled no earlier than the date of the shareholder's demand).

(d) **Copy Costs.** The right to copy records includes, if reasonable, the right to receive copies made by photographic or other means. The Corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production or reproduction of the records.

(e) **Shareholder Includes Beneficial Owner.** For purposes of this Section 2.14, the term "shareholder" shall include a beneficial owner whose shares are held in a voting trust or by a nominee on his or her behalf.

2.15 Financial Statements; Fiscal Year.

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(a) The Corporation shall furnish its shareholders annual financial statements, which may be consolidated or combined statements of the Corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements of the Corporation are prepared on the basis of generally accepted accounting principles, the annual financial statements for the shareholders also must be prepared on that basis.

(b) Except as otherwise required by the shareholders, if the annual financial statements are reported upon by a public accountant, its report must accompany them; and if not, the statements must be accompanied by a statement of the President or the person responsible for the Corporation's accounting records:

- (1) stating his or her reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and
- (2) describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) The Corporation shall furnish the annual financial statements to each shareholder within 120 days after the close of each fiscal year. Thereafter, on written request from a shareholder who was not furnished the statements, the Corporation shall furnish him or her the latest financial statements.

(d) The fiscal year of the Corporation shall be the calendar year.

2.16 **Dissenters' Rights**. Each shareholder shall have the right to dissent from and obtain payment for his shares when so authorized by, and in accordance with the procedures set forth in, the Act.

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ARTICLE III

BOARD OF DIRECTORS

3.1 **General Powers.** All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors.

3.2 **Number, Tenure, and Qualifications of Directors.** The number of Directors of the Corporation shall be established by the shareholders at each annual meeting of the shareholders or by the Board of Directors in accordance with the requirements of the Act. Each Director shall hold office until the next annual meeting of shareholders or until removed. However, if his or her term expires, he or she shall continue to serve until his or her successor shall have been elected and qualified or until there is a decrease in the number of Directors. Directors are not required to be residents of the State of New Hampshire or shareholders of the Corporation.

3.3 **Regular Meetings of the Board of Directors.** A regular meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings without other notice than such resolution. All meetings shall be held at the principal place of business of the Corporation unless notice of another location is given. If so permitted by Section 3.7, any such regular meeting may be held by telephone.

3.4 **Special Meetings of the Board of Directors.** Special meetings of the Board of Directors may be called by or at the request of the President or any one of the Directors. If permitted by Section 3.7, such meeting may be held by telephone.

3.5 **Notice of, and Waiver of Notice for, Special Director Meetings.** Notice of any special Director meeting shall be given at least two days previously thereto either orally or in writing. If mailed, notice of any Director meeting shall be deemed to be effective at the earlier of: (1) when received; (2) five days after deposited in the United States mail, addressed to the Director's business office, with postage thereon prepaid; or (3) the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the Director. Any Director may waive notice of any meeting, in writing, before or after the date and time of the meeting stated in the notice, such waiver to be filed with the minutes of the Board of Directors. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business and at the beginning of the meeting (or promptly on his arrival) objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting.

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3.6 **Director Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, unless a supermajority is required pursuant to the provisions of Section 3.8.

3.7 **Directors, Manner of Acting.** The act of the majority of the Directors present at a meeting at which a quorum is present when the vote is taken shall be the act of the Board of Directors unless a supermajority is required pursuant to the provisions of Section 3.8.

Unless the Articles of Incorporation provide otherwise, any or all Directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

A Director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless: (1) he or she objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting; or (2) his or her dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) he or she delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a Director who votes in favor of the action taken.

3.8 **Establishing a "Supermajority" Quorum or Voting Requirement for the Board of Directors.** For purposes of this Section 3.8, a "supermajority" quorum is a requirement that more than a majority of the Directors in office constitute a quorum; and a "supermajority" voting requirement is any requirement that requires the vote of more than a majority of those Directors present at a meeting at which a quorum is present to be the act of the Directors.

A Bylaw that fixes a supermajority quorum or supermajority voting requirement may be amended or repealed:

- (1) if originally adopted by the shareholders, only by the shareholders;
- (2) if originally adopted by the Board of Directors, either by the shareholders or the Board of Directors.

The adoption or amendment of a Bylaw that adds, changes, or deletes a "supermajority" quorum or voting requirement for the Board of Directors must meet the same quorum requirement and be adopted by the same vote required to take action under

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the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

3.9 **Director Action Without a Meeting.** Any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if all the Directors take the action, each one signs a written consent describing the action taken, and the consents are filed with the records of the Corporation. Action taken by consents is effective when the last Director signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

3.10 **Removal of Directors.** The shareholders may remove one or more Directors at a meeting called for that purpose if notice has been given that a purpose of the meeting is such removal. The removal may be with or without cause unless the Articles of Incorporation provide that Directors may only be removed with cause. If a Director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him. If cumulative voting is authorized, a Director may not be removed if the number of votes sufficient to elect him under cumulative voting is voted against his removal. If cumulative voting is not authorized, a Director may be removed only if the number of votes cast to remove him exceeds the number of votes cast not to remove him.

3.11 **Board of Director Vacancies.** Unless the Articles of Incorporation provide otherwise, if a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors, the Board of Directors or the shareholders may fill the vacancy. If the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all of the Directors remaining in office.

If the vacant office was held by a Director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date) may be filled before the vacancy occurs but the new Director may not take office until the vacancy occurs.

The term of a Director elected to fill a vacancy expires at the next shareholders meeting at which Directors are elected. However, if his or her term expires, he or she shall continue to serve until his or her successor is elected and qualifies or until there is a decrease in the number of Directors.

3.12 **Director Compensation.** Unless otherwise provided in the Articles of Incorporation, by resolution of the Board of Directors, each Director may be paid his

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expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a stated salary as Director or a fixed sum for attendance at each meeting of the Board of Directors or both. No such payment shall preclude any Director from serving the Corporation in any capacity and receiving compensation therefor.

3.13 Director Committees.

(a) Creation of Committees. Unless the Articles of Incorporation provide otherwise, the Board of Directors may create one or more committees and appoint members of the Board of Directors to serve on them. Each committee must have two or more members, who serve at the pleasure of the Board of Directors.

(b) Selection of Members. The creation of a committee and appointment of members to it must be approved by the greater of (1) a majority of all the Directors in office when the action is taken or (2) the number of Directors required by Section 3.7 to take action.

(c) Required Procedures. Sections 3.4, 3.5, 3.6, 3.7, 3.8 and 3.9, which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors, apply to committees and their members.

(d) Authority. Each committee may exercise those aspects of the authority of the Board of Directors which the Board of Directors confers upon such committee in the resolution creating the committee. Provided, however, a committee may not:

- (1) authorize distributions;
- (2) approve or propose to shareholders action that the Act requires be approved by shareholders;
- (3) fill vacancies on the Board of Directors or on any of its committees;
- (4) amend the Articles of Incorporation pursuant to the authority of Directors to do so granted by Section 10.02 of the Act;
- (5) adopt, amend, or repeal Bylaws;
- (6) approve a plan of merger not requiring shareholder approval;

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- (7) authorize or approve reacquisition of shares, except according to a formula or method prescribed by the Board of Directors; or
- (8) authorize or approve the issuance or sale or contract for sale of shares or determine the designation and relative right, preferences, and limitations of a class or series of shares, except that the Board of Directors may authorize a committee to do so within limits specifically prescribed by the Board of Directors.

ARTICLE IV

OFFICERS

4.1 **Number of Officers.** The officers of the Corporation shall be a President, a Secretary, and a Treasurer, and may include the office of Chairman, each of whom shall be appointed by the Board of Directors. Such other officers and assistant officers as may be deemed necessary, including any Vice-Presidents, may be appointed by the Board of Directors. If specifically authorized by the Board of Directors, an officer may appoint one or more officers or assistant officers. The same individual may simultaneously hold more than one office in the Corporation.

4.2 **Appointment and Term of Office.** The officers of the Corporation shall be appointed by the Board of Directors for a term as determined by the Board of Directors. The designation of a specified term grants to the officer no contract rights, and the Board can remove the officer at any time prior to the termination of such term. If no term is specified, they shall hold office until they resign, die, or until they are removed in the manner provided in Section 4.3.

4.3 **Removal of Officers.** Any officer may be removed by the Board of Directors at any time, with or without cause. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer or agent shall not of itself create contract rights.

4.4. **Chairman of the Board.** The Chairman of the Board, if any, may be designated by the Directors as chief executive officer of the Corporation. The Chairman of the Board, if any, shall preside at all meetings of the shareholders and of the Board of Directors, and shall exercise overall supervision of the officers and affairs of the Corporation.

4.5 **The President.** The President shall be the chief executive officer of the Corporation if the Chairman is not so designated, and shall have the general management

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of the affairs of the Corporation as far as they are not specifically regulated by the shareholders or the Directors, including the Chairman of the Board, if any. The President shall preside at all the meetings of the shareholders and of the Board of Directors in the absence of the Chairman or if no Chairman shall have been designated by the Directors. He or she may sign certificates for shares of the Corporation and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

4.6 **The Vice-Presidents.** If appointed, in the absence of the President or in the event of his or her death, inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their appointment) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. If there is no Vice-President, then the Treasurer shall perform such duties of the President. Any Vice-President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

4.7 **The Secretary.** The Secretary shall: (a) keep the minutes of the proceedings of the shareholders and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of any seal of the Corporation and if there is a seal of the Corporation, see that it is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each shareholder which shall be furnished to the Secretary by such shareholder; (f) sign certificates for shares of the Corporation; (g) have general charge of the stock transfer books of the Corporation; and (h) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

4.8 **The Treasurer.** The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his

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or her duties in such sum and with such surety or sureties as the Board of Directors shall determine.

4.9 **Salaries.** The salaries of the officers shall be fixed from time to time by the Board of Directors.

ARTICLE V

INDEMNIFICATION OF DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES

5.1 **Indemnification of Directors.** The Corporation shall indemnify any individual made a party to a proceeding, or is threatened to be made a party to any proceeding, whether civil, criminal, administrative or investigative, because he is or was a Director of the Corporation, or while a Director of the Corporation is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against liability incurred in the proceeding, but only if the Corporation has authorized the payment in accordance with RSA 392-A:8.55 and a determination has been made in accordance with the procedures set forth therein that the Director met the standards of conduct in Paragraphs (a), (b), and (c) below.

(a) **Standard of Conduct.** The individual shall demonstrate that:

- (1) he or she conducted himself or herself in good faith; and
- (2) he or she reasonably believed: (i) in the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in its best interests; (ii) in all other cases, that his or her conduct was at least not opposed to its best interests; and (iii) in the case of any criminal proceeding, he or she had no reasonable cause to believe his conduct was unlawful.

(b) **No Indemnification Permitted in Certain Circumstances.** The Corporation shall not indemnify a Director under this Section 5.1:

- (1) in connection with a proceeding by or in the right of the Corporation in which the Director was adjudged liable to the Corporation; or
- (2) in connection with any other proceeding charging improper personal benefit to him or her, whether or not involving action in his or her official capacity, in which he or she was adjudged

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liable on the basis that personal benefit was improperly received by him or her.

(c) Indemnification in Derivative Actions Limited. Indemnification permitted under this Section 5.1 in connection with a proceeding by or in the right of the Corporation is limited to reasonable expenses incurred in connection with the proceeding.

(d) Mandatory Indemnification. The Corporation shall indemnify a Director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a Director of the Corporation, against reasonable expenses, including attorneys' fees, incurred in connection therewith.

5.2 Advance Expenses for Directors. If a determination is made, following the procedures of RSA 293-A:8.55 that the Director has met the following requirements, and if an authorization of payment is made, following the procedures and standards set forth therein, the Company shall pay for or reimburse the reasonable expenses incurred by a Director who is a party to a proceeding in advance of final disposition of the proceeding, if:

(a) the Director furnishes the Corporation a written affirmation of his or her good faith belief that he or she has met the standard of conduct described in Section 5.1 of this Article V;

(b) the Director furnishes the Corporation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct (which undertaking must be an unlimited general obligation of the Director but need not be secured and may be accepted without reference to financial ability to make repayment); and

(c) a determination is made that the facts then known to those making the determination would not preclude indemnification under Section 5.1 or RSA 293-A:8.50 through 8.58.

5.3 Indemnification of Officers, Agents, and Employees Who Are Not Directors. The Board of Directors may indemnify and advance expenses to any officer, employee, or agent of the Corporation, who is not a Director of the Corporation, to any extent consistent with public policy, as determined by the general or specific action of the Board of Directors.

5.4 Insurance. The Corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the Corporation, or who, while a director, officer, employee, or agent of the Corporation, is or

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was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employee, or agent, whether or not the corporation would have the power to indemnify him against the same liability under RSA 293-A:8.51 or 293-A:8.52. The obligation to indemnify and reimburse set forth in this Article V, if applicable, shall be reduced by the amount of any such insurance proceeds paid to such person, or the representatives or successors of such person.

5.5 **Effect of Bylaw Amendment.** No amendment or repeal of this Article shall limit or eliminate the benefits provided to any person under this Article with respect to any act or omission that occurred prior to such amendment or repeal.

ARTICLE VI

CERTIFICATES FOR SHARES AND THEIR TRANSFER

6.1 **Certificates for Shares.**

(a) **Content.** Certificates representing shares of the Corporation shall at a minimum, state on their face the name of the issuing corporation and that it is formed under the laws of the State of New Hampshire; the name of the person to whom issued; and the number and class of shares and the designation of the series, if any, the certificate represents; and be in such form as determined by the Board of Directors. Such certificates shall be signed (either manually or by facsimile) by the President and by the Secretary and may be sealed with a corporate seal or a facsimile thereof. Each certificate for shares shall be consecutively numbered or otherwise identified.

(b) **Legend as to Class or Series.** If the Corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series (and the authority of the Board of Directors to determine variations for future series) must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the Corporation will furnish the shareholder this information on request in writing and without charge.

(c) **Shareholder List.** The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Corporation.

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(d) Transferring Shares. All certificates surrendered to the Corporation for transfer shall be canceled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled, except that in case of a lost, destroyed, or mutilated certificate a new one may be issued therefor upon such terms and indemnity to the Corporation as the Board of Directors may prescribe.

6.2 Registration of the Transfer of Shares. Registration of the transfer of shares of the Corporation shall be made only on the stock transfer books of the Corporation. In order to register a transfer, the record owner shall surrender the shares to the Corporation for cancellation, properly endorsed by the appropriate person or persons with reasonable assurances that the endorsements are genuine and effective. Unless the Corporation has established a procedure by which a beneficial owner of shares held by a nominee is to be recognized by the Corporation as the owner, the person in whose name shares stand on the books of the Corporation shall be deemed by the Corporation to be the owner thereof for all purposes.

6.3 Restrictions on Transfer of Shares Permitted. The Directors (or shareholders) may impose restrictions on the transfer or registration of transfer of shares (including any security convertible into, or carrying a right to subscribe for or acquire shares). A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

A restriction on the transfer or registration of transfer of shares may be authorized:

- (a) to maintain the Corporation's status when it is dependent on the number or identity of its shareholders;
- (b) to preserve exemptions under federal or state securities law;
- (c) for any other reasonable purpose.

A restriction on the transfer or registration of transfer of shares may:

- (a) obligate the shareholder first to offer the Corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;
- (b) obligate the Corporation or other persons (separately, consecutively, or simultaneously) to acquire the restricted shares;

Bylaws of Pennichuck East Utility, Inc.

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(c) require the Corporation, the holders or any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable;

(d) prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

6.4 **Acquisition of Shares.** The Corporation may acquire its own shares, and the shares so acquired constitute authorized but unissued shares.

ARTICLE VII

DISTRIBUTIONS

7.1 **Distributions.** The Board of Directors may authorize, and the Corporation may make, distributions (including dividends on its outstanding shares) in the manner and upon the terms and conditions provided by law and in the Articles of Incorporation.

ARTICLE VIII

CORPORATE SEAL

8.1 **Corporate Seal.** The Board of Directors may provide a corporate seal which may be circular in form and have inscribed thereon any designation including the name of the Corporation, New Hampshire as the state of incorporation, and the words "Corporate Seal."

ARTICLE IX

AMENDMENTS

9.1 **Amendments.** The Board of Directors may amend or repeal the Corporation's Bylaws unless:

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(a) The Articles of Incorporation or the Act reserve this power exclusively to the shareholders in whole or in part; or

(b) The shareholders in adopting, amending, or repealing a particular Bylaw provide expressly that the Board of Directors may not amend or repeal that Bylaw; or

(c) The Bylaw either establishes, amends, or deletes, a supermajority shareholder quorum or voting requirement (as defined in Section 2.8).

Any amendment which changes the voting or quorum requirement for the Board must comply with Article III, Section 3.8, and for the shareholders, must comply with Article II, Section 2.8.

The Corporation's shareholders may amend or repeal the Bylaws, even though the Bylaws may also be amended or repealed by its Board of Directors.

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PENNICHUCK EAST UTILITY
DW 10-330

Pennichuck East Utility's Responses to
Staff's Data Requests – Set 1
Petition for Authority to Issue Up To \$300,000
of Long-Term Debt

Date Request Received: January 6, 2011
Request No. Staff 1-6

Date of Response: January 14, 2011
Witness: Donald L. Ware

REQUEST: Would the acquisition of Pennichuck's stock by Nashua be anticipated to have any impact on the proposed borrowing or water main project? If so, please explain.

RESPONSE: No.