

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 22-___

Pittsfield Aqueduct Company, Inc.

PETITION FOR WAIVER AND INCREASE TO THE SHORT-TERM
DEBT LIMIT

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- 2. Petition of PAC for a Waiver and Increase to the Short-Term Debt Limit
- 11. Direct Testimony of George Torres
- 21. Exhibit GT-1 - PAC Short-term Debt Threshold June 2019 to September 2022.
- 25. Exhibit GT-2 – PAC Notice to DOE and OCA – Short-Term Debt – Nov. 3, 2022

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PETITION FOR WAIVER AND INCREASE TO THE SHORT-TERM
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Pittsfield Aqueduct Company, Inc. (“PAC” 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 ten percent (10%) limitation on its short-term debt under N.H. Admin. Rule Puc 608.05 and Puc 201.05, as was previously granted in Order No. 25,820 (DW 15-288). In support of this Petition, PAC 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, PAC¹ sought a waiver of Puc

¹ Docket No. 15-288 and Order No. 25,820 (Sept. 29, 2015) applied to both PEU and Pittsfield Aqueduct Company. This petition is filed on behalf of PAC only, as PEU is not seeking a waiver because it received a short-term debt limit waiver extension by Order No. 26,311 (November 27, 2019) in Docket No. 19-112

608.05 based on the 2011 acquisition of Pennichuck Corporation by the City of Nashua, which included the indirect acquisition of PAC. *See* Order No. 25,292 (November 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 September 29, 2015, the Commission granted both PAC and PEU a waiver and increase of the short-term debt limit from ten percent (10%) to eighteen percent (18%) until June 20, 2019. *See* Order No. 25,820 (September 29, 2015). 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.

4. On September 29, 2015, the Commission granted both PAC and PEU a waiver and increase of the short-term debt limit from ten percent (10%) to eighteen percent (18%) until June 20, 2019. *See* Order No. 25,820 (September 29, 2015). 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 expired on June 30, 2019. The Commission concluded that “If the companies want

the waiver to continue beyond that date, they will need to file an appropriate request.” See Order No. 25,820 at 4

6. On March 8, 2018, PAC filed a Petition for Approval of Refinancing of Intercompany Debt to refinance a 10-year \$776,850 fixed rate intercompany note payable between the Company and Pennichuck Corporation and to convert \$409,150 of short-term intercompany debt to a long-term note. The refinancing would eliminate a balloon payment, provide favorable debt carrying costs of 3.2% and reduce the level of PAC’s short-term debt that was above the statutory 10% limit of net fixed plan.

7. On April 20, 2018, the Commission authorized the refinancing of the exiting ten (10) year intercompany note and conversion of the \$409,150 of variable-rate short-term intercompany debt into a long-term note. See Order No. 26,125 (April 20, 2018). In the Order, the Commission found the refinancing and conversion of short-term debt to be routine in nature and in the public interest pursuant to RSA 369:1. See Order 26,125 at 4.

8. 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.

9. On May 1, 2018, the Company completed the refinancing of its long-term note and conversion of its short-term intercompany debt into long-term debt. This had the net effect of

lowering PAC's short-term debt below the statutory limit of 10%. See Testimony of George Torres at 3.

10. On June 20, 2019, PEU filed a petition for waiver of the short-term debt limit, which was set to expire on June 30, 2019, in Docket No. 19-112. The Commission by Order No. 26,311 granted PEU's petition granting a waiver of the short-term debt limit setting it at 18% through June 30, 2023. See Order 26,311 (November 27, 2019) at 5. PAC did not join that petition because the refinance of intercompany debt approved in Order No. 26,125 and subsequent transaction lowered its short-term debt below 10%.

11. On November 9, 2021, the Commission approved a settlement agreement and granted PAC's request to amend its ratemaking methodology. See Docket DW 20-153, Order No. 26,544 (November 9, 2021) at 8-9. The underlying capital structure composed primarily of debt, however, remains in place and is reinforced under the new methodology.

12. The Company's short-term debt has increased above the statutory limit and most recently exceeded twenty-one percent (21.3%), in August 2022, which is beyond the 18% cap previously authorized in Order 25,820 (which expired on June 30, 2019), as reported in PAC's most recent monthly financial statements submitted to the Commission. The threshold was exceeded by this amount because of a temporary one-time year-to-date true-up in the intercompany accounts in the Company's balance sheet. See Direct Testimony of George Torres at 3, see also Exhibit GT – 1. Subsequently, as of September 2022, the Company's short-term debt threshold has dropped back down to 11.98%. See Direct Testimony of George Torres at 3, see also Exhibit GT-1.

13. On November 3, 2022, the Company sent a notice to the Department of Energy (DOE)

and Office of Consumer Advocate (OCA) for the exceedance above fifteen percent (15%) in accordance with the prior debt limit waiver granted in Order 25,820. A copy of the notice is attached as Exhibit GT-2.

14. The Company therefore requests a temporary waiver of Puc 608.05 pursuant to PUC 201.05, with the terms and conditions described in this petition until June 30, 2023 to coincide with the authorized waiver granted for PEU in Docket No. DW 19-112. See Order No. 26,311 (November 27, 2019).

Waiver Request

15. 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.

16. 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, PAC seeks by order to increase that cap to 18% of its net fixed plant.

17. 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. George Torres, the reasons for granting the

waiver in 2015 continue to apply today. See Direct Testimony of George Torres at 6-9.

18. PAC proposes that the Commission, consistent with Order No. 25,820, temporarily increase PAC's short-term debt limits to 18% of its net fixed plant. PAC also proposed to continue to submit PAC's monthly levels of short-term debt with its Annual Reports.

Also consistent with Order No. 25,820, PAC proposes that it notify DOE and the OCA in writing in any month that short-term debt exceeds 15% of net fixed plant.

19. The Company requests that this waiver extend until June 30, 2023, consistent with the short-term debt waiver term granted to PEU. See Docket No. DW 19-112, Order No. 26,311 at 5. The Company will re-evaluate the need for continued short-term waivers for both PAC and PEU, and if necessary, jointly file a petition for both companies to be more efficient and minimize legal expenses.

20. Approval of an 18% short term debt limit 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, the DWGTF loan program, and other commercial loan products (which may become available to the Company, although none currently exist); 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.

21. PAC'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. As PAC, like its sister subsidiaries, has a rate structure that is designed to provide cash flows from targeted allowed revenue "buckets" and not from depreciation, as a debt-only funded utility, the underlying concept is not congruent with the Company's ability to provide cash flow coverage for its debt repayments, and provide for funding to make capital project improvements. The existing rule sets a generic short-term debt limit, above which a utility may not issue short-term debt without Commission approval. Under this particular rate structure and circumstances of PAC, where the only short-term debt is intercompany loans, the 10% debt limit is unnecessarily restrictive. Since all capital investments for PAC 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 PAC.

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

Conclusion

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

- A. Grant PAC's request for a waiver of Puc 608.05 and increase the limitation on PAC's short-term indebtedness subject to the terms and conditions described in this petition;
- B. Grant the waiver on a temporary basis until June 30, 2023;
- 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,

PITTSFIELD AQUEDUCT COMPANY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: November 3, 2022

By:  _____

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Certificate of Service

I hereby certify that a copy of this motion was provided via electronic mail to the individuals included on the Commission's service list for this docket.

Dated: November 3, 2022

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James J. Steinkrauss