

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 23-___

Pennichuck East Utility, Inc.

**Petition of Pennichuck East Utility, Inc. for Approval of
Financing from CoBank, ACB**

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”), petitions the Commission for approval and authority under RSA 369:1-4 to (1) to enter into a loan of \$744,775 from CoBank, ACB (“CoBank”) to fund certain 2022 capital projects not otherwise funded, as a repayment and refinance of amounts borrowed under the Company’s Fixed Asset Line of Credit (“FALOC”) for those projects during 2022.

In support of its Petition, PEU respectfully represents as follows:

1. PEU is a New Hampshire public utility corporation providing retail water service to customers in the towns of Atkinson, Barnstead, Bow, Chester, Conway, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Middleton, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham. PEU is wholly owned by Pennichuck Corporation (“Penn Corp”), which, in turn, is wholly-owned by the City of Nashua.
2. PEU is seeking authority to enter into a loan of \$744,775 from CoBank to fund 2022 capital projects not funded by SRF loans or DWGTF loans, as a repayment and refinance of amounts borrowed under the Company’s for those projects during 2022.
3. PEU’s request is discussed in more detail below.

CoBank Loan

4. As is discussed in Mr. Torres' and as described in Mr. Boisvert's testimony filed in Docket No. DW 23-013 for the PEU QCPAC, during 2022, approximately \$744,775 of capital improvements were made by PEU for a number of specific projects, routine maintenance capital projects, and other non-recurring capital expenditures, which were not funded by the 0.1 DSRR account and did not qualify for SRF or DWGTF funding.

5. The financing with CoBank is needed to repay the amounts drawn on the Company's FALOC for these projects during 2022. This amount is consistent with the amounts included on the schedules submitted for PEU's QCPAC filing under Docket No. DW 23-013.

6. While the final terms and interest rates are subject to change prior to the date of closing, the Company expects to obtain a \$744,775 term loan with a 25-year amortization, with level monthly principal and interest payments with an interest rate to be determined based on market conditions (currently estimated at 7.25% per annum). See *Direct Testimony of George Torres* at 7. The proceeds from this new CoBank loan will be used to pay down and refinance amounts used to fund 2021 capital expenditures, not funded by SRF or DWGTF loans or through the 0.1 DSRR. The new CoBank loan will provide permanent financing for these long-lived assets. See *Id.* at 7.

7. The new CoBank loan will be secured by (i) a security interest in the Company's equity interest in CoBank (consisting of the Company's \$212,825.39 equity investment in CoBank and the Company's right to receive patronage dividends) and (ii) the unconditional guarantee of the Company's obligations to CoBank by Penn Corp pursuant to the Guarantee of Payment by Penn Corp in favor of CoBank dated as of February 9, 2010, a copy of which was also filed with the Commission in Docket No. DW 09-134. More details on the terms and

conditions of the CoBank loan are described in Mr. Torres' testimony and in the confidential Non-Binding Summary of Terms and Conditions attached as Exhibit GT-5. See *Id.* at 7.

8. The anticipated issuance costs for the CoBank loan total less than \$10,000 and relates primarily to legal costs which will be incurred to (i) review and revise the necessary loan documentation prepared by CoBank, and (ii) obtain Commission approval of the loans. The issuance costs will be amortized over the life of the CoBank loans. The annual amortization expense of \$400, associated with the issuance costs, has not been reflected in schedules attached in Exhibits GT-1 through 4 to Mr. Torres' testimony due to its immateriality with respect to the overall analysis and impact of this proposed financing. See *Id.* at 10.

9. In accordance with Puc 609.03 and Form F-4, Mr. Torres' testimony describes the estimated costs of the proposed financing, and includes the following attachments:

- Schedule GT-1, pages 1 and 2, presents the actual financial position of the Company as of December 31, 2021, and the pro forma financial position reflecting certain adjustments pertaining to the proposed CoBank \$744,775 term loan financing. Schedule GT-1, page 1, reflects the pro forma adjustments to record the net assets related to the capital projects funded by the CoBank term loan, and to record the net amount needed to record a full year of depreciation (as an adjustment to the half-year convention already booked for the assets as of 12/31/2022); there are no amounts reflected to adjust Plant Assets for the \$744,775 cost of the net assets or to reflect the Cost of Removal, of \$74,478, as the actual amounts for these entries and projects have already been included in the 12/31/2022 financial statements for these used and useful assets as of year-end. Schedule GT-1, page 1, also records the use of funds to support some of the

related expenses.

- Schedule GT-1, page 2 (Asset Line of Credit funds), establishes the total CoBank loan of \$744,775, as well as the repayment of \$744,775 of FALOC advances related to the 2022 capital improvements that were funded out of the Company's working capital and intercompany borrowings from Pennichuck. This schedule also reflects the income impact on retained earnings related to costs associated with the financing, as reflected on Schedule GT-2.
- Schedule GT-2, pages 1 and 2, presents the Company's Operating Income Statement for the Twelve Months Ended December 31, 2022. As indicated previously, the issuance costs associated with the financing are not expected to be significant and are not reflected in Schedule GT-2, page 1. Schedule GT-2, page 1, contains three pro forma adjustments. The first adjustment records the estimated increase in interest expense related to additional debt raised at interest rates of 7.25% per annum. The second adjustment records the estimated depreciation and property taxes on the new assets. The third adjustment records the income tax effect of the additional pro forma interest expense, depreciation and property tax expenses, using an effective combined federal and state income tax rate of 27.00%.
- Schedule GT-3, the Company's Pro Forma Capital Structure for Ratemaking Purposes for the Twelve Months Ended December 31, 2022, demonstrating the Company's pro forma total capitalization as of December 21, 2022. Schedule GT-3 is consistent with the Statement of Capitalization Ratios filed as Exhibit 5 to the Form F-4 pursuant to PUC Rule 609.03(b)(6).

- Schedule GT-4A, the Company's Projected Rate Impact on Single Family Residential Homes illustrates the Company's pro forma impact from this financing on the average single-family residential home's water bill, as it pertains to the rates that were approved under Docket No. DW 20-156.
- Schedule GT-4B, the Company's Weighted Average Cost of Long-Term Debt, demonstrates the Company's pro forma impact from this financing on its overall annual weighted average cost of Long-Term debt, inclusive of loans already in existing on the Company's books as of December 31, 2022. This schedule is consistent with Exhibit 6 of Form F-4 pursuant to PUC Rule 609.03(b)(7).

10. The CoBank financing has been approved by the Company's and Penn Corp's Boards of Directors. Copies of the approvals are attached as Exhibits GT-7 and GT-8. The CoBank financing approval was submitted on April 7, 2023 for approval by Penn Corp's sole shareholder, the City of Nashua. A copy of the letter is attached a Exhibit GT-9. The Company expects approval from the City by mid-to-late April 2023, and will supplement its Petition with documentation showing the City's approvals once available.

11. Section 6(c) of the Loan Agreement between Pennichuck and TD Bank, NA (the "Bank") prohibits Pennichuck or its subsidiaries from incurring additional indebtedness without the express prior written consent of the Bank, except for certain allowed exceptions. Section 6(c)(v) allows the Company to borrow up to \$1.5 million per annum from CoBank or equivalent lender, provided that TD Bank, NA is provided at least 30 days prior written notice related to said indebtedness, in lieu of prior written consent from TD Bank. As such, prior written notice was given to the Bank prior to the Company's filing of this petition, the financing is not anticipated to close until late July 2023 or August 2023. A copy of the letter sent via email to

TD Bank on April 3, 2023 to satisfy the notice requirement is attached as Exhibit GT-6.

12. The Company respectfully requests that the Commission issue an Order in this docket by July 31, 2023, to be effective by the end of August 2023 (such that if issued by an Order *Nisi* by July 31, 2023). This will allow the Company to close upon the term loan as a requirement in establishing the final surcharge under the Company's QCPAC filing in pendency in Docket No. DW 23-013. Timely closing on the CoBank term loan, will allow the Company to include the actual impact of this loan in its QCPAC surcharge under Docket No. DW 23-013.

13. Mr. Torres further explains that the proposed financing is consistent with the public good because the CoBank loan will enable PEU to continue to provide safe, adequate, and reliable water service to PEU's customers. For the reasons described in Mr. Boisvert's direct testimony included with the Company's petition in Docket No. DW 23-013 and incorporated here by reference, the projects funded by the CoBank loan will provide the most cost-effective solutions, in support of this overall benefit for PEU's customers. Mr. Torres explains that the terms of the financing through the CoBank loan is favorable compared to other alternatives and will result in, both access to, and lower financing costs than would be available through all other current debt financing options.

14. The Company avers that it is entitled to the financings described above, for the purposes set forth herein, and that the issuance of such notes will be consistent with the public good as contemplated by the New Hampshire Supreme Court's ruling in *Appeal of Easton*, 125 N.H. 205, 211 (1984). The use of long-term debt to pay FALOC converts the short-term debt to long-term debt which better aligns with the useful life of the underlying capital assets and is consistent with the QCPAC mechanism. See *Pennichuck East Utility, Inc.*, Order No. 26,253 (May 22, 2019), see also *Pennichuck East Utility, Inc.*, Order No. 26,418 (October 30, 2020).

15. Furthermore, the Company asserts that this petition qualifies as a routine financing consistent with the Commission’s decision *In re PSNH*, Order No. 25,050, 94 NH PUC 691,699 (December 8, 2009), in Docket DW 18-133, regarding PWW in Order 26,197 (December 3, 2018), and most recently for a PEU CoBank loan approved in Docket No. 22-025. *See* Order No. 26,640 (June 10, 2022) at 3-4. A routine request is one “that will have no discernible impact on rates or deleterious effect on capitalization, [and] in which the funds are to enable numerous investments appropriate in the ordinary course of utility operations.” *See In re PSNH*, Order No. 25,050 at 13 (December 8, 2009). Here, the Company avers that the proposed financing will not have a significant impact on rates and the proposed CoBank loan will facilitate customary improvements made in the ordinary course of PEU’s business.

WHEREFORE, by this petition, the attached testimony and exhibits, and pursuant to RSA 369, including RSA 369:1-4, PEU requests that the Commission:

(a) Find that the CoBank loan of up to \$744,775 to fund certain 2022 capital projects which were not funded by the 0.1 DSRR account and did not qualify for SRF or DWGTF funding, and were not funded by SRF or DWGTF loans in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with the public good;

(b) Authorize PEU to do all things, take all steps, and execute and deliver all documents necessary or desirable to consummate, implement and carry out the proposed financing;

(c) Approve and authorize the financing request by Order *Nisi* or, in the alternative, issue an Order of Notice by July 31, 2023, or as soon as practicable that establishes a procedural schedule, including if required, a date for hearing in this matter, which would result in an Order that is effective by the end of August 2021; and

(d) Take such further action and make such other findings and orders as in its judgment may be just, reasonable, and in the public good.

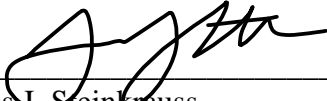
Respectfully submitted,

PENNICHUCK EAST UTILITY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: April 11, 2023

By: 
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Certificate of Service

I hereby certify that a copy of this petition for approval of financings, including the pre-filed testimony and exhibits referred to in the Petition, have this day been forwarded to the Office of Consumer Advocate via electronic mail at ocalitigation@oca.nh.gov.

Dated: April 11, 2023


James J. Steinkrauss