

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 11-224

PENNICHUCK EAST UTILITY, INC.

Petition for Approval of the Transfer of Real Estate

Order *Nisi* Granting Petition

ORDER NO. 25,309

December 29, 2011

I. BACKGROUND

Pennichuck East Utility, Inc. (PEU) is a regulated public water utility serving nearly 7,000 customers in a number of New Hampshire municipalities. On October 4, 2011, PEU filed a petition requesting authority pursuant to RSA 374:30 to transfer three parcels of land associated with its Birch Hill water system in the Town of Conway to the New Hampshire Institute of Agriculture and Forestry (NHIAF). The three properties, totaling 55 acres, are identified as lots 231-106, 231-147 and 231-148 and are located between West Side Road and the Saco River opposite the Birch Hill development. The petition was accompanied by the prefiled testimony of Donald L. Ware, President of PEU, and other supporting documents. The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-224.html>.

The lots were originally acquired by PEU's sister utility, Pittsfield Aqueduct Company (PAC), in 2007 and 2008 in anticipation of installing a new groundwater supply for the Birch Hill system. PAC subsequently installed an interconnection with North Conway Water Precinct (NCWP) to obtain a source of supply for the development. The interconnection runs across two

of the three lots. All three lots were later transferred to PEU as part of the transfer of Birch Hill and other water systems from PAC to PEU in docket DW 09-051. *See, Pittsfield Aqueduct Company, Inc.*, Order No. 25,051, 94 NH PUC 701 (2009). PEU will retain a 25-foot easement along the interconnection route as required for access and maintenance purposes, but otherwise no longer requires the lots for water supply purposes. PEU proposes to sell the three properties to the NHIAF, a non-profit organization located in Conway, that will purchase the lots for \$65,000 in accordance with a P&S agreement provided in the filing. NHIAF offered the highest price for the combined parcels in response to PEU's marketing of the properties. The lands are located in the Saco River floodplain and as such are subject to certain limitations imposed by Conway zoning ordinances. NHIAF has leased the largest parcel for agricultural purposes for the past two years and, if the proposed sale is consummated, would continue to use the three properties for its agricultural and educational mission, thus satisfying the zoning requirements. The proposed sale price of \$65,000 for the three parcels is slightly less than the \$71,248.51 originally paid for the properties, with the difference reflecting the value of the water main easement being retained by PEU. Endorsement of the sale by the City of Nashua, required by its pending merger agreement with Pennichuck Corporation, was provided in a Resolution included in PEU's filing.

On December 9, 2011, Staff filed a letter recommending the Commission approve PEU's request. Staff stated that it had reviewed PEU's filing and had conducted discovery, which is attached to its recommendation. Staff noted that the water supply agreement with NCWP has a term of 20 years and is further extendable by agreement of both parties, thus providing assurance of an adequate supply. Staff also noted that the proposed accounting treatment of the transfer

includes applying the gain on the sale to the current balance of the Birch Hill Capital Recovery Surcharge and is more fully detailed in the discovery responses.'

II. COMMISSION ANALYSIS

Pursuant to RSA 374:30, "[a]ny public utility may transfer or lease its franchise, works or system, or any part of any such franchise, works, or system ... when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise." In this instance the parcels proposed to be transferred are no longer needed for water supply purposes, and their sale will result in elimination of the associated property tax payments by PEU. PEU is selling the parcels to the highest bidder, the terms of the proposed sale appear reasonable, and transfer of the parcels will have no impact on PEU's continued ability to operate the Birch Hill water system. Accordingly, we find the transfer of the three properties, subject to retaining an easement across two of the lots as described, is for the public good and approve it. While there is no indication of any opposition to the proposed sale, we will nonetheless approve PEU's petition on a *nisi* basis in order to ensure that all interested parties receive notice of the proposed transfer and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that the sale by Pennichuck East Utility, Inc. of lots 231-106, 231-147 and 231-148 in the Town of Conway to NHIAF is approved, subject to the effective date below; and it is

FURTHER ORDERED, that PEU shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Conway Town Clerk as well as published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted,

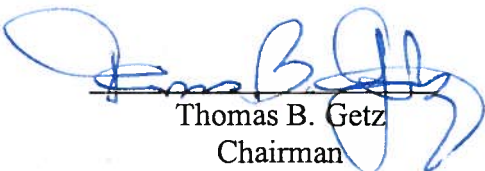
such mailing and publication to be no later than January 8, 2012 and to be documented by affidavit filed with this office on or before January 29, 2012; and it is


FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 15, 2012 for the Commission's consideration; and it is

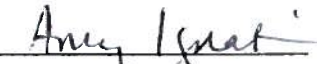
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than January 22, 2012; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective January 29, 2012, unless PEU fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.


By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 2011.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary