

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 24-___

Pennichuck Water Works, Inc.

**Petition of Pennichuck Water Works, Inc. for Financing Approval
to Renew and Extend its Fixed Asset Line of Credit with TD Bank, NA**

Pennichuck Water Works, Inc. (“PWW”), 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”), hereby petitions the Commission for approval and authority under RSA 369:1-4 to renew and extend the Fixed Asset Line of Credit (“FALOC”) in place with TD Bank, NA, set to expire on June 30, 2025 for two (2) years and increase the capacity of the FALOC from \$12 million to \$16 million. In support of its Petition, PWW respectfully represents as follows:

1. PWW is a New Hampshire public utility corporation providing retail water service to customers in the towns of Nashua, Amherst, Merrimack, Milford, Hollis, Bedford, Derry, Plaistow, Epping, Salem, and Newmarket, New Hampshire. PWW is wholly owned by Pennichuck Corporation, which, in turn, is wholly owned by the City of Nashua.

FALOC Request

2. The Company proposes this financing request for approval of a renewal of its FALOC with TD Bank, N.A., for two (2) years and increase the amount to \$16 million from \$12 million. The Commission previously approved a renewal of the FALOC with TD Bank, N.A. until June 30, 2025 by Order No. 26,827 (May 25, 2023) in Docket No. DW 23-040. The Commission previously approved the renewal and increase in the FALOC and renewal until June

30, 2023, by Order No. 26,442 (December 29, 2020) in Docket No. DW 20-157. The proposed two (2) year and three (3) month renewal and extension of the FALOC and increase would have an expiration date of September 30, 2027 or two (2) years from the date of closing of the FALOC renewal, whichever is later.

3. The Company seeks an increase in the capacity of the FALOC with TD Bank, NA from \$12 million to \$16 million, but does not seek to otherwise change the terms of the existing FALOC facility with TD Bank, N.A. other than the increase and two (2) year extension.

4. The Company requests the increase in capacity to give allowance for increases in projected costs due to the anticipated merger and consolidation of Pennichuck East Utility, Inc., and Pittsfield Aqueduct Company into PWW in Docket No. DW 23-101. Upon closing the merger, subject to pending approval by the Commission, PEU will no longer be able to access its FALOC through CoBank and the combined PWW will need additional capacity to fund capital improvements for the combined systems. The increase in capacity from \$12 million to \$16 million also includes factors such as inflation as well as an allowance for capitalized interest on the FALOC itself to have adequate capacity under the line. If the merger or consolidation pursuant to Docket No. DW 23-101 is not approved or closed, the Company will not utilize the additional, extended capacity. See *Direct Pre-filed Testimony of George Torres* at 7.

5. The Company will continue to utilize the FALOC to fund the cash flow needs associated with capital projects during the calendar year, to be repaid in its entirety annually with the issuance of tax-exempt bonds, taxable bonds, or BANs in conformity with the annual QCPAC process for used and useful projects for each calendar year.

6. The proposed FALOC renewal would have a first security interest in the accounts receivable and inventory of PWW, as well as a pledge of PWW's stock (owned by Pennichuck

Corporation), an assignment of the rights under the Money Pool Agreement and Cost Allocation Agreement, and will be cross-defaulted with all debt obligations of PWW, as well as the Line of Credit with TD Bank, NA at Pennichuck Corporation, (which is a \$4 million dollar cap for working capital purpose only). The FALOC renewal will have covenants equivalent to the covenants for the Bonds under the Loan and Trust Agreement and would have an interest rate of 30-day SOFR (Secured Overnight Financing Rate), plus 1.75%, which is consistent with the existing FALOC. See *Direct Pre-filed Testimony of George Torres* at 6. Additionally, the FALOC renewal will have a one-time upfront renewal fee of \$16,000 which will be due upon closing and the initial access to the renewed FALOC. See *Id.* at 6. The Company also anticipates the cost of issuance for this facility to be approximately \$8,000 to \$15,000 for legal costs paid by PWW for both its own legal counsel, as well as legal counsel of TD Bank. See *Id.* at 6, 7 see also Exhibit GT-5, Term Sheet for the FALOC.

7. In accordance with Puc 609.03 and Form F-4, Mr. Torres's testimony describes the estimated costs of the proposed financing, and includes the following attachments:¹

- Schedule GT-1, pages 1 and 2, presents the actual financial position of the Company as of December 31, 2023, and the pro forma financial position impact of the FALOC renewal. Schedule GT-1, page 1, reflects the pro forma adjustments to record the additional interest expenses (net of the income tax impact) associated with renewing the FALOC. This schedule also reflects the net income impact on retained earnings related to costs associated with the FALOC renewal, as reflected in Schedule GT-1, page 2 and Schedule GT-2.

¹ As has been noted in previous finance dockets, due to PWW's unique ownership and financing structure, the Company has not included a schedule showing PWW's capital structure with pro forma adjustments.

- Schedule GT-2, pages 1 and 2, presents the Company's Operating Income Statement for the Twelve Months Ended December 31, 2023. Schedule GT-2, page 1, contains two pro forma adjustments. The first adjustment records the estimated new debt issuance cost amortization of \$12,000. The second adjustment records the income tax effect of the additional pro forma debt issuance expense, depreciation and property tax expenses, using an effective combined federal and state income tax rate of 27.08%.
 - Schedule GT-3, the Company's Pro Forma Capital Structure for Ratemaking Purposes for the Twelve Months Ended December 31, 2023, demonstrating the impact on the Company's pro forma total capitalization as of December 31, 2023. 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 Order No. 26,862 (July 27, 2023) in Docket No. DW 22-032.
 - 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, 2023. This schedule is consistent with Exhibit 6 of Form F-4 pursuant to PUC Rule 609.03(b)(7).
8. Mr. Torres further explains that the Commission can authorize PWW to obtain the

FALOC renewal under RSA Chapter 369 for the purposes set forth in this petition and the financings are consistent with the public good because the funds will:

- (a) be used exclusively to fund the cash flow needs associated with capital projects during each calendar year,
- (b) repaid in its entirety annually with the issuance of tax-exempt bonds, taxable bonds, or BANs,
- (c) utilized in conformity with the annual QCPAC process for used and useful projects for each calendar year. See *Direct Pre-filed Testimony of George Torres* at 5, 6.

9. If the Company obtains authority from the Commission to borrow from TD Bank for the renewed FALOC, loan documents will be prepared for the transactions, setting forth the exact terms and conditions for borrowing the funds. A copy of the FALOC Term Sheet with TD Bank is attached as Exhibit GT-5.

10. As is described in Mr. Torres' testimony, the FALOC renewal was given preliminary approval by PWW's and Pennichuck Corporation's Board of Directors which have authorized management to pursue all steps necessary to complete the transactions. See Exhibits GT-6 and GT-7, attached to Mr. Torres' testimony. See *Id.* at 8. As is stated in Mr. Torres' testimony, PWW submitted a request for approval to the City of Nashua on March 24, 2023, and the City of Nashua Board of Alderman approved Resolution R-24-092 on October 8, 2024. See *Id.* at 8, and Exhibit GT-8 (Resolution R-24-092, City of Nashua Board of Alderman meeting minutes for October 8, 2024).

11. For the reasons described in Mr. Torres' testimony, PWW is requesting Commission approval of the FALOC renewal in time to it to close on the FALOC prior to March

1, 2025, including an allowance for any time that the Commission may require for public notice. The Company avers that it is vitally important to have the renewal of the FALOC approved and in place, without interruption. PWW expects to obtain all necessary approvals and consents, and satisfy all other conditions, to allow closing on the transaction prior to March 1, 2025. PWW would expect to be able to close on the FALOC as soon as it can receive an Order *NISI* from the Commission (including its perfection at the end of the public comment period). The Company requests this timing so the extended and increased FALOC can be closed before the effectuation of a merger and consolidation in Docket No. DW 23-101 to ensure the adequate ability of the Company to fund capital expenses for PWW, PEU, and PAC, as necessary. In order to accomplish this, and given the timing to fully prepare, vet and review the loan documents for closing, the Company needs a perfected and effective Order from the Commission no later than January 29, 2025, in order to close upon this line renewal by the expiration date. As such, the Company respectfully requests an Order *NISI* no later than January 29, 2025 (if the 30-day public comment period is being upheld), or an effective Order no later than February 28, 2025 (without a public comment period requirement). See *Id.* at 9.

12. The FALOC is subsequently paid off in the following year's bond offering, in support of the Company's annual Qualified Capital Project Adjustment Charge (QCPAC) surcharge process. It is also important to note that, if the renewal and extension is not approved timely, all amounts due on the existing line of credit would become immediately due and payable to the bank, for which the Company would be hard-pressed to be able to fund out of its available cash resources. Additionally, it would cause the Company to immediately cease any capital budget projects in process or committed to, along with any penalties associated with such an action. See *Id.* at 5.

13. Finally, the Company avers that it is entitled to issue promissory notes and renewal of the FALOC 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 Company asserts that the renewal of the FALOC is consistent with public good pursuant to RSA 369:1 and RSA 369:4, because it will allow for the short-term financing of necessary capital construction projects, which in-turn will then be replaced with long-term debt financing, with favorable interest rates and maturities that are aligned with the useful lives of the funded capital assets, to the long-term benefit of PWW's ratepayers. Additionally, the FALOC facilitates the Company's ongoing responsibilities to its customers to maintain its systems, fully comply with regulations set by the NHDES, and properly maintain and/or replace existing infrastructure to the ongoing and long-term benefit of its customers. The short-term funding of capital projects through the line of credit and payment annually by a bond issuance is also in conformity with the approved Qualified Capital Project Adjustment Charge ("QCPAC") mechanism. See *Direct Testimony of George Torres* at 9, 10

14. 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) and in Docket DW 18-133, regarding Pennichuck Water Works, Inc. See Order No. 26,197 (December 3, 2018). 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 loan will not be fully

utilized and paid off annually as part of the Company's annual bond financing, as stated above. Finally, this financing is an integral part of the Company's ability to request annual recovery through the QCPAC mechanism, and it allows the Company to fulfill its duty under RSA 374:1 to provide safe and adequate water service with the short-term proceeds used for necessary capital investments and account for inflationary cost pressures and unanticipated contingencies. See *Direct Pre-filed Testimony of George Torres* at 10. Finally, the Commission previously found the Company's request for renewal and increase of the FALOC facility as routine and in the public good in Order No. 26,827 (May 25, 2023) in Docket No. DW 23-040. See *Order 26,827* at 5, 6.

WHEREFORE, by this petition, PWW requests that the Commission:

- i. Find that the renewal and increase of the FALOC in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with the public good;
- ii. Find that the renewal and increase of the FALOC with TD Bank, NA in accordance with the terms and purposes described in this petition and in the pre-filed testimony is consistent with a routine financing.
- iii. Pursuant to RSA 369:1, 3 and 4, grant PWW the authority to renew the FALOC in place with TD Bank, NA, set to expire on June 30, 2025 for two (2) years and three (3) months, with an increased \$16 million annual borrowing capacity on the existing terms and purposes described herein;
- iv. Authorize PWW to do all things, take all steps, and execute and deliver all documents necessary or desirable to consummate, implement and carry out the FALOC renewal in accordance with the proposed financing;

v. Approve the financing request with sufficient time for PWW to complete the steps necessary to close on the FALOC renewal on or before March 1, 2025 by finding the request: (1) is routine and in the public good; (2) by Order *Nisi* issued by January 29, 2025 (with a 30-day public comment period), or (3) in the alternative, issue an Order of Notice 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 or prior to February 28, 2025;

vi. 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 WATER WORKS, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: October 28, 2024

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 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: October 28, 2024



James J. Steinkrauss