

**STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION**

Re: Pennichuck East Utility, Inc.

DW 11-\_\_\_\_\_

Verified Petition for Approval of Increase of Short Term Debt Limit

Pennichuck East Utility, Inc. ("PEU" or the "Company") hereby petitions the New Hampshire Public Utilities Commission (the "Commission") for a temporary waiver of the short term debt limit under N.H. Code Admin. Rule Puc 608.05 and for authority to increase its short term debt limit up to 17% of its net fixed plant for the period through December 31, 2012. In support of its Petition, PEU states as follows:

1. PEU is a public utility providing retail water service to approximately 6,800 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 located in New Hampshire. PEU is wholly owned by Pennichuck Corporation ("Pennichuck").

2. Pursuant to Puc 608.05, a utility is authorized to have short term debt up to 10% of the utility's net fixed plant without Commission approval. *See* N.H. Code Admin. Rule Puc 608.05. As of September 30, 2011, PEU's net fixed plant totaled approximately \$30.1 million and net short term debt totaled approximately \$2 million or 6.7% of PEU's net fixed plant in service. Based on the latest financial information available, as of October 31, 2011, PEU's net short term debt totaled approximately 7.21% of PEU's net fixed plant in service. A portion of PEU's short term debt is attributable to the fact that it was necessary for PEU to use short term advances from Pennichuck when a 2006 promissory note in the principal amount of

\$725,389 to Pennichuck matured in May 2011 in accordance with its terms and was not renewed because of the pending acquisition of Pennichuck by the City of Nashua.

3. Beginning with December 2011 or in early 2012, PEU expects its short term debt to increase beyond the 10% limit set forth in Puc 608.05 due to several circumstances. First, PEU expects to have only nominal positive net income or suffer a small loss for 2011. In addition, PEU is currently projecting that it is likely to incur an operating loss for 2012.

4. Second, in the nine-month period ended September 30, 2011, PEU made capital expenditures of approximately \$700,000. In 2012, PEU expects to make additional necessary capital expenditures of approximately \$3 million. PEU expects approximately \$1 million of those capital expenditures to be funded through long term State Revolving Fund ("SRF") loans, with the remaining \$2 million being funded by short term debt. The Company has not, as of yet, issued the SRF long term debt necessary for the 2012 capital expenditures.<sup>1</sup>

5. Third, as a result of PEU's having nominal net income or a net operating loss in 2011, PEU is currently unable to issue new long term debt, including the SRF long term debt mentioned above, because the loan covenants under PEU's existing Business Finance Authority of New Hampshire ("BFA") loan requires PEU to have earnings of at least 1.5 times the interest expense at the time of issuance of any new long term debt. Although PEU is continuing to evaluate its alternatives relative to issuing long term debt in light of the BFA loan covenant requirement, PEU believes that repayment of the BFA loan and thus, elimination of the covenant requirement would be its preferred solution to allow it to obtain the SRF loans in 2012, which offer low interest rates and other favorable terms. The increase in short term debt being requested by PEU is designed to be sufficient to enable PEU to pay

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<sup>1</sup> The Company has, however, filed a petition requesting Commission approval of one of its long term SRF loans for 2012, which is currently pending in Docket DW 11-262.

off the BFA loan if necessary, in addition to meeting other short term cash requirements.

6. Fourth, pursuant to the settlement agreement approved in Order No. 25,051 in Docket DW 08-052, *Request to Transfer Assets and Franchise Rights and Assumption of Long-Term Indebtedness*, the Company is required to “continue to undertake efforts to reduce the amount of equity in its capital structure”. Order No. 25,051 at 8. To continue to comply with Order No. 25,051 and the settlement agreement with Commission staff, PEU plans to pay a dividend of approximately \$900,000 from PEU’s retained earnings to Pennichuck, thereby reducing the amount of equity in PEU’s capital structure from its current 44.2% to approximately 40.7%. This dividend payment will also necessarily require short term borrowing.

7. Finally, pursuant to the settlement agreement approved by the Commission in Docket DW 11-026, PEU does not plan to seek rate relief during 2012. *See* Order No. 25,292. As a result, an increase in revenues and, therefore, cash flow is not anticipated to be a viable option to meet these additional cash requirements during the coming year.

8. The foregoing circumstances require PEU to temporarily increase its short term borrowings in order for the Company to fund its ongoing operating and capital requirements. Based on the Company’s financial projections, the Company believes that establishing a short term debt level of 17% of its net fixed plant will be sufficient to meet the Company’s cash needs for the period through December 31, 2012, at which time the Company believes a 10% limit will again be sufficient. If a different limit is appropriate at that time, the Company will petition for a new short term debt limit based on the circumstances at that time.

9. PEU plans to continue to borrow under its existing Money Pool Agreement with Pennichuck to meet its short term debt requirements.

10. Puc 201.05 provides that the Commission shall waive the provisions of any of its

rules upon request by an interested party and if the Commission finds that the waiver serves the public interest and will not disrupt the orderly and efficient resolution of matters before the Commission. *See* N.H. Code Admin. Rule Puc 201.05.

11. In the instant case, waiver of the 10% short term debt borrowing limit under Puc 608.05 will serve the public interest. The requested increase is appropriate and constitutes an adequate alternative to Puc 608.05's 10% short term debt limit given the circumstances of this case. The only alternative to PEU's increasing its short term debt in order to meet its near term cash needs would be for PEU to obtain long term financing, something which the Company cannot seek until the BFA loan is paid in full and which would not be appropriate at this time given the pending acquisition of Pennichuck by the City of Nashua, the likely transaction costs associated with such a borrowing and the short term nature of the Company's cash requirements.

12. Further, waiver of Puc 608.05 will not disrupt the orderly and efficient resolution of any proceeding before the Commission.

13. The requested waiver is in the public interest and satisfies the standard under Puc 201.05, and thus, the Commission should temporarily waive the 10% limit set forth in Puc 608.05 and authorize the Company to increase its short term debt limit to 17% of its net fixed plant until December 31, 2012.

14. In further support of this Petition, the Company submits the following exhibits:

Exhibit 1 - The Company's balance sheet as of September 30, 2011.

Exhibit 2 - The Company's income statement for the nine months ended September 30, 2011.

Exhibit 3 - A statement of the Company's capitalization ratios as of September 30, 2011 after giving effect to the December 2011 dividend.

WHEREFORE, Pennichuck East Utility, Inc. respectfully requests that the Commission:

- A. Waive the 10% short term debt borrowing limit set forth in Puc 608.05 for the period through and including December 31, 2012; and
- B. Authorize PEU to increase its short term debt borrowing limit to 17% of its net fixed plant for the period through and including December 31, 2012; and
- C. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

PENNICHUCK EAST UTILITY, INC.

By Its Attorneys,

MCLANE, GRAF, RAULERSON &  
MIDDLETON, P.A.

Date: December 9, 2011

By: 

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I, Thomas C. Leonard, Vice President and Chief Financial Officer of Pennichuck East Utility, Inc., being first duly sworn, hereby depose and say that I have read the foregoing Verified Petition for Approval of Increase of Short Term Debt Limit, and the facts alleged therein are true to the best of my knowledge and belief.

Dated: December 8, 2011

  
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Thomas C. Leonard

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

Sworn to and subscribed before me this 8 day of December, 2011.

  
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Notary Public  
My Commission Expires: \_\_\_\_\_



Certificate of Service

I hereby certify that a copy of this Verified Petition for Approval of Increase of Short Term Debt Limit has been forwarded to Meredith Hatfield, Esq. of the Office of Consumer Advocate via electronic mail.

Dated: December 9, 2011

  
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Jinjue Pak