

THE STATE OF NEW HAMPSHIRE



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November 30, 2011

Debra A. Howland, Executive Director  
N.H. Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301

Re: DW 11-191 Pennichuck Water Works, Inc. - Harvest Estates, Derry  
Request for Franchise and Rates

Dear Ms. Howland:

The purpose of this letter is to review the petition of Pennichuck Water Works, Inc. (PWW) in the above-referenced docket and to offer Staff's recommendation. PWW seeks to extend its water utility franchise to serve customers in the Harvest Estates development in the Town of Derry, and to charge its currently authorized tariff rates in the new franchise area. PWW asserts it has the requisite managerial, technical and financial abilities to own and operate this water system. Based on Staff's review as detailed below, Staff supports granting of the petition.

On August 31, 2011, PWW filed its petition along with the prefiled testimony of Donald L. Ware, President of PWW. Harvest Estates is a residential development of approximately 30 homes being developed by Keystone Builders, LLC (Keystone), a New Hampshire limited liability company with a principal business address in Billerica, Massachusetts. Harvest Estates is located in the vicinity of Hampstead and Oleson Roads in East Derry and is adjacent to PWW's existing Drew Woods franchise. PWW proposes to serve Harvest Estates by a water main extension from the Drew Woods water system running along a proposed Harvest Road within the new development. The main extension will be constructed by Keystone and turned over to PWW, along with all necessary equipment and easements to operate and maintain the expanded system, in accordance with a Main Extension Agreement (Agreement) between Keystone and PWW attached to the filing as Exhibit DLW-1. Staff posed discovery requests to PWW on September 21, 2011, and the company's responses are attached to this letter.

The Drew Woods system itself is supplied by wells and a recent interconnection with the Town of Derry water system, and the same sources will provide the supply for Harvest Estates. The Drew Woods system serves over 500 customers and operates under a permit issued by the NH Department of Environmental Services. Interconnection with Derry's water system, which was the subject of docket DW 10-105, resulted in sufficient supply and the elimination of water use restrictions in Drew Woods. The Harvest Road extension will impose a minimal additional

impact from a demand perspective, thus satisfying the requirements of RSA 374:22, III regarding the suitability and availability of water for the development. See Staff 1-5 b) and 1-6.

The Derry Town Council approved a motion on October 5, 2010 supporting the proposed franchise, as indicated in correspondence included as Exhibit DLW-2 of the filing. The franchise area to be served consists of current or former lots 10-15, 10-24, and 10-25, as shown on plans included as Exhibit DLW-3 of the filing and as further described in a Foreclosure Deed included as Exhibit DLW-5. The Harvest Road water main has been installed. House services will be installed as individual housing units are constructed, with first service anticipated as early as the end of this year.

PWW proposes to charge its existing general metered rates in Harvest Estates, as it does in Drew Woods. The Agreement also provides that PWW pay Keystone a one time amount equal to the anticipated annual revenue for each connection made within five years of acceptance of the main extension by PWW, as well as a one time payment of the anticipated total annual fire protection revenue associated with the project if the main extension is accepted as part of the Derry municipal fire system within five years of its acceptance by PWW. These payments are in accordance with Section 33(B) of PWW's tariff.

The Agreement further provides that Keystone pay PWW a System Upgrade Fee of \$1,253 per connection in accordance with Section 33(C) of PWW's tariff, to assess proportional costs of the interconnection of the Drew Woods and Town of Derry systems. The fee is applicable because the Drew Woods system could not have served Harvest Estates apart from the additional water supply available from the interconnection. See Staff 1-5 b). The calculation of the fee is included as Exhibit DLW-6 of the filing.

As PWW already owns and operates the adjacent Drew Woods water system, it is familiar with the water system and area. PWW and its regulated sister companies, Pennichuck East Utility and Pittsfield Aqueduct Company, provide water service to some 34,000 customers in various systems throughout New Hampshire. Staff believes PWW, through its operation of such systems, has demonstrated that it has the technical, managerial, financial and other capabilities to enable it to serve the Harvest Estates development. For the reasons indicated above, Staff concurs with PWW's proposal to provide service to, and charge its existing rates in, the development. Staff recommends the Commission approve PWW's petition.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Douglas W. Brogan  
Utility Engineer

Attachments:

Discovery Responses

cc: Docket Related Service List (electronic only)

DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-1

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** Please indicate when each of the following are anticipated to occur in the development:

- a) First water service to customer.
- b) Completion of water system if different than above.
- c) Completion of development, including any phasing.

**RESPONSE:**

- a) Unknown at present. Two foundations have been installed and framing has begun. No applications have been made for water service at present. The customer owned portion of the water main (stop to end) has not been installed at the two lots where foundations have been installed. It is estimated that the first service application will be filed before the end of the year. The acceptance of the service application will be subject to the NHPUC approving the requested franchise expansion.
- b) The portion of the water system within the future public right of way was completed in August of 2011.
- c) Unknown. The infrastructure supporting the development including but not limited to roads, watermains, stormdrains, etc. is substantially complete at this time. Base pavement has been installed on Harvest Road, but not finished pavement.

DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-2

Date of Response: 10/03/11  
Witness: Donald L. Ware

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REQUEST: Please indicate the nature of the development (single family, elderly housing, condominium, etc.).

RESPONSE: Single family housing.

DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-3

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** While most of the filing refers to Harvest Estates, portions of it refer to Harvest Village (Petition at bottom of page 3, Mr. Ware's testimony at top of page 5, Exh. DLW-4). Please indicate which reference is correct.

**RESPONSE:** The correct name for the subdivision is Harvest Estates.

DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-4

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** While most of the filing refers to Harvest Road, portions of it refer to Harvest Drive (Exhs. DLW-2, 3, and 4). Please indicate which reference is correct.

**RESPONSE:** The correct name for the road is Harvest Road.



DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-5

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** Regarding Mr. Ware's testimony at pages 6-7 in relation to the System Upgrade Fee, please indicate the following:

- a) Has the fee been charged to any Drew Woods, Hubbard Hill, Redfields or Hi-Lo customers? If so, please explain.
- b) Please describe the extent of "lessening or elimination of irrigation restrictions to existing customers" meeting condition (v) of Section 33(C)(2)(b) of the tariff, that resulted from the Derry/Drew Woods interconnection.
- c) Please indicate how the system upgrade fees will be treated for accounting purposes.

**RESPONSE:**

- a) No.
- b) The Drew Woods community water system has always operated under an odd/even water ban. In addition over the past 10 years the Drew Woods community water system experienced the following additional water bans:
  - Aug 12, 2002 - Total Ban on irrigation until the end of the season.
  - July 20, 2007 – Ban limiting irrigation to every fourth day until the end of the season.
  - August 24, 2009 - Total Ban on irrigation until the end of the season.
  - April 26, 2010 - Total Ban on irrigation until the end of the season.

The completion of the Derry/Drew Woods interconnection eliminates the need for any restrictions on irrigation unless requested by Manchester Water Works. During the years listed above there were no limitations on irrigation placed by Manchester Water Works.

- c) The system upgrade or tapping fee will be recorded as Contributions in Aid of Construction (CIAC) (Account 271).

DW 11-191  
Pennichuck Water Works Responses to  
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Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-6

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** Has NHDES specifically approved the extension of service to Harvest Estates from the Drew Woods system in relation to the suitability and availability of water requirements of RSA 374:22 III? If so, please provide such approval. If not, please explain or provide.

**RESPONSE:** No. The NHDES does not approve the extension of service in relation to suitability and availability in regards to RSA 374:22 III for expansion of existing permitted CWS' where there is adequate water supply and where the CWS was approved with no specific limitations to the number of bedrooms being served. The NHDES reviews and approves the design of any water main extension and they completed a review of the Derry/Drew Woods interconnection.



DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-7

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** Petition paragraph 4 indicates the Main Extension Agreement has been executed, however, an executed copy has not been provided. Please provide, or indicate when the Agreement will be executed.

**RESPONSE:** An executed copy of the Main Extension Agreement is attached as requested.



# PENNICHUCK WATER

25 Manchester St.  
Merrimack, N.H. 03054  
(603)882-5191

## MAIN EXTENSION AGREEMENT CONSTRUCTION BY CUSTOMER

By and Between:

Pennichuck Water Works, Inc. with an address of 25 Manchester St Merrimack, NH. 03054 (hereinafter referred to as "PENNICHUCK") and Keystone Builders, LLC With an address of 17 Bridge Street Suite 203 Billerica, MA. 01821 (hereinafter referred to as the "CUSTOMER").

The CUSTOMER is present owner/developer of the property identified as

Harvest Estates  
Derry, NH

The CUSTOMER hereby petitions PENNICHUCK for an extension of PENNICHUCK'S facilities to supply domestic service to the above mentioned property. Therefore, for valuable consideration, the parties agree as follows:

1. The Project. The CUSTOMER shall furnish and install: Approximately 70' feet of 8" CL52 DIOL Pipe and other equipment and appurtenances all as describe in, and in accordance with the plan submitted by the CUSTOMER as approved by PENNICHUCK across Hampstead Road and as attached as Exhibit A (the "Project"). The CUSTOMER agrees to supply PENNICHUCK with a copy of said plan on diskette in AutoCad format. In accordance with the Tariff, the size and type of the materials used in the Project shall be purchased by the CUSTOMER and approved by PENNICHUCK prior to commencing construction.

2. The Project. The CUSTOMER shall furnish and install: Approximately 4,160 feet 8" HDPE DR11 DIPS Pipe and other equipment and appurtenances all as describe in, and in accordance with the plan submitted by the CUSTOMER as approved by PENNICHUCK along Harvest Road and as attached as Exhibit A (the "Project"). The CUSTOMER agrees to supply PENNICHUCK with a copy of said plan on diskette in AutoCad format. In accordance with the Tariff, the size and type of the materials used in the Project shall be purchased by the CUSTOMER and approved by PENNICHUCK prior to commencing construction.



a. For each customer served by the Project within five (5) years from the time that service is commenced to the CUSTOMER by PENNICHUCK'S acceptance of the water main extension, PENNICHUCK will invest an amount equal to the estimated annual revenue from each such customer.

b. If, within five (5) years from the time that service is commenced to the CUSTOMER by PENNICHUCK'S acceptance of the water main extension, the main pipe extension and hydrant(s) in the Project are accepted as a part of the municipal fire system, PENNICHUCK will invest a one time amount equal to the estimated annual fire protection revenue associated with the main extension.

10. Indemnification by CUSTOMER. CUSTOMER agrees that all persons furnished by CUSTOMER who perform services in connection with the Project shall be considered CUSTOMER'S employees or agents and that the CUSTOMER shall be responsible for payment of all unemployment, social security and other payroll taxes including contributions from them when required by law.

The CUSTOMER hereby agrees to protect, defend, indemnify and hold PENNICHUCK and its employees, agents, officers and directors free and harmless from any and all claims of any kind including, but not limited to, judgments, penalties, interest, court costs, legal fees and any expenses incurred by PENNICHUCK arising in favor of any party, involving claims, liens, debts, personal injuries, death or damages to property (including property of PENNICHUCK) occurring or in any way incident to, in connection with or arising directly or indirectly out of, this Agreement or the Project, unless such claim, lien, debt, personal injuries, death or damages are caused by the negligence of PENNICHUCK.

The CUSTOMER agrees to investigate, handle, respond to, provide defense for and defend, any such claims, demands, or suits at CUSTOMER'S expense. The CUSTOMER also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false or fraudulent.

11. Insurance Requirements. The CUSTOMER agrees to maintain in full force and effect:

- A. Comprehensive General Liability insurance written on occurrence form, including completed operations coverage, personal injury liability coverage, broad form property damage liability coverage and contractual liability coverage with respect to the Project and the agreements contained herein. The minimum limits of liability carried on such insurance for personal injury and property damage liability shall be \$5,000,000 each occurrence, and, where applicable, in the aggregate annual coverage of \$5,000,000.



- B. Automobile Liability Insurance for owned, non-owned and hired vehicles. The minimum limit of liability carried on such Insurance shall be \$1,000,000 each accident, combined single limit for bodily injury and property damage.
- C. Worker's Compensation Insurance providing statutory coverage and including employer's liability insurance with limits of liability of at least \$500,000 for each accidental injury and, with respect to bodily injury by disease, \$500,000 each employee and \$500,000 per policy year.
- D. X, C, U, Hazards covering collapse of buildings, blasting and damage to underground property.

Insurance similar to that required of CUSTOMER shall be provided by or on behalf of all subcontractors to cover their operations performed under this agreement. CUSTOMER shall be held responsible for any modifications in these insurance requirements as they apply to subcontractors. CUSTOMER agrees to furnish certificates of the above mentioned insurance to PENNICHUCK within fourteen (14) days from the date of this Agreement and, with respect to the renewals of the current insurance policies, at least thirty (30) days in advance of each renewal date. Such certificates shall state that in the event of cancellation or material change, written notice shall be given to Pennichuck Water Works, Inc., 25 Manchester St, Merrimack, New Hampshire 03054 at least thirty (30) days in advance of such cancellation or change.

- E. The CUSTOMER agrees that the CUSTOMER shall not claim that any insurance policies owned by PENNICHUCK provide excess coverage to CUSTOMER.

IN WITNESS WHEREOF, the parties hereto have set their hands on this 12<sup>th</sup> day of Aug., 2011.

PENNICHUCK WATER WORKS, INC.

[Signature]  
Witness

By: Donald L. Ware  
Pennichuck Water Works, Inc.

its President

[Signature]  
Witness

By: Robert McMahon

Keystone Builders LLC  
Company Name

its Managing Member

DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-8

Date of Response: 10/03/11  
Witness: Donald L. Ware

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REQUEST: Could any other water system serve the proposed development?

RESPONSE: No.



DW 11-191  
Pennichuck Water Works Responses to  
Staff Data Requests – Set 1  
Request for Harvest Estates, Derry Franchise and Rates

Date Request Received: 09/21/11  
Request No. Staff 1-9

Date of Response: 10/03/11  
Witness: Donald L. Ware

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**REQUEST:** Would acquisition of Pennichuck by the City of Nashua have any impact on the proposed franchise and rate request?

**RESPONSE:** Not to our knowledge.