

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

**Pennichuck East Utility, Inc.**

**Petition for Approval of Special Contract for Service to Woodmont Commons**

**DW 18-101**

**Direct Testimony of Larry D. Goodhue**

**March 28, 2019**

1 **I. Professional and Educational Background**

2 **Q. Please state your name and position with Pennichuck Water Works, Inc.?**

3 **A.** My name is Larry D. Goodhue. I am the Chief Executive Officer and Chief  
4 Financial Officer of Pennichuck East Utility, Inc. (“Company” or “PEU”). I have  
5 been employed with the Company since December 2006. I also serve as Chief  
6 Executive Officer (“CEO”), Chief Financial Officer, and Treasurer of PEU’s  
7 parent, Pennichuck Corporation (“Pennichuck”). I am a licensed Certified Public  
8 Accountant in New Hampshire, which is currently in inactive status.

9 **Q. Please describe your educational background.**

10 **A.** I have a Bachelor’s of Science degree in Business Administration with a major in  
11 Accounting from Merrimack College in North Andover, Massachusetts.

12 **Q. Please describe your professional background.**

13 **A.** Prior to joining Pennichuck, I was the Vice President of Finance and  
14 Administration and previously the Controller with METRObility Optical Systems,  
15 Inc. from September 2000 to June 2006. In my more recent role with  
16 METRObility, I was responsible for all financial, accounting, treasury and  
17 administration functions for a manufacturer of optical networking hardware and  
18 software. Prior to joining METRObility, I held various senior management and  
19 accounting positions with several companies.

20 **Q. What are your responsibilities?**

21 **A.** In my roles, including my primary responsibilities as CEO, with ultimate  
22 responsibility for all aspects of the Company, I am responsible for the overall

1 financial management of the Company, including, among other things, financing,  
2 accounting, compliance, budgeting, issuance and repayment of debt.

3 **II. Purpose of Testimony**

4 **Q. What is the purpose of your testimony?**

5 **A.** The purpose of my testimony is to explain the impact of the federal 2017 Tax  
6 Cuts and Jobs Act, which was passed in December of 2017, on the Company's  
7 receipt of Contributions in Aid of Construction ("CIAC"). In addition, I will  
8 explain how this tax change affects PEU's receipt of CIAC from Pillsbury Realty  
9 Development, LLC, ("Pillsbury"), the principal developer of Woodmont  
10 Commons. I will also explain how PEU and Pillsbury wish to resolve the CIAC  
11 tax issue as to the Woodmont Commons development. This resolution changes  
12 the proposed special contract under review in this proceeding. A new special  
13 contract is attached to this testimony. (Attachment LDG-A) PEU and Pillsbury  
14 seek the Commission's approval of this revised special contract.

15 **III. Description of Relevant Tax Changes Caused by the 2017 Tax Cuts and Jobs**  
16 **Act**

17  
18 **Q. Please describe how the 2017 Tax Cuts and Jobs Act affects PEU.**

19 **A.** The 2017 Tax Cuts and Jobs Act amended, among other things, Section 118 of the  
20 Internal Revenue Code ("IRC") by removing the exemption from taxable income  
21 of CIAC received by regulated water utilities. These changes became effective  
22 January 1, 2018. As a result, CIAC received by PEU after that effective date, in  
23 the form of either property or cash towards the cost of construction, is now  
24 includable as taxable income for PEU. Therefore, if PEU were to accept CIAC at  
25 only the value of its cost or contributed value, receipt of the CIAC without giving

1 economic consideration to the taxation assessed on that value, would transfer a  
2 cost to PEU and its existing ratepayers because PEU would be responsible for  
3 paying the CIAC tax, which would be currently or eventually paid by ratepayers.

4 **IV. Description of Tariff Changes to Address CIAC Tax**

5 **Q. Please explain what PEU has done in response to this change in the tax law.**

6 **A.** PEU, along with its affiliates, Pennichuck Water Works, Inc. and Pittsfield  
7 Aqueduct Company, Inc. filed requested changes to their respective tariffs which  
8 would allow them to collect the CIAC tax from the contributor of the CIAC  
9 property or cash, in the form of a “gross-up” of the value of the CIAC, as a  
10 monetary sum to be paid by the CIAC contributor. For PEU, this affected tariff  
11 pages 28, 28-A, 35, 36, and 46. The tariff change request was docketed by the  
12 New Hampshire Public Utilities Commission (“Commission”) as Docket No. DW  
13 18-189.

14 **Q. Please explain the mechanism proposed in Docket No. DW 18-189 for**  
15 **collecting this CIAC tax.**

16 **A.** PEU and its affiliates have proposed a CIAC “gross-up” formula, based upon the  
17 statutory tax rates, inclusive of both the effective State Business Profits Tax rate  
18 and the Federal Corporate Income Tax rate, as follows:

19 **Current Effective Tax Rate = Current Business Profits Tax Rate + (Current**  
20 **Federal Tax Rate \* (1 - Current Business Profits Tax Rate))**

21 The gross-up formula for the tax cost for plant and equipment contributed is:

22 **Tax Cost = (CIAC - [CIAC\*(1/Tax Life)\*.5]) / (1-Current Effective Tax**  
23 **Rate)) – CIAC**

1 The gross-up formula for the tax cost for land or cash contributed is:

2 **Tax Cost = ((CIAC)/(1-Current Effective Tax Rate)) – CIAC**

3 The “gross-up” rate derived from either calculation is calculated as follows:

4 **CIAC “Gross-Up” Rate: Tax Cost/CIAC**

5 On March 25, 2019, in Docket No. DW 18-189, the Commission’s Staff filed a  
6 letter recommending the Commission approve the tariff changes.

7 **V. Proposed Resolution of CIAC Tax Issue for Woodmont Commons**

8 **Q. Did Pillsbury participate in Docket No. DW 18-189?**

9 **A.** Yes.

10 **Q. Have PEU and Pillsbury come to a resolution on how much CIAC tax**  
11 **Pillsbury should pay PEU for the CIAC associated with the Woodmont**  
12 **Commons development? If so, please explain.**

13 **A.** Yes. Pillsbury agrees to pay PEU fifty-one (51%) percent of the gross-up tax  
14 liability for the CIAC associated with the Water Storage Tank, based upon the  
15 following formula:

16 **Tax Cost = ((CIAC - [CIAC\*(1/Tax Life)\*.5]) / (1-Current Effective Tax**  
17 **Rate)) – CIAC**

18 This is based on a Current Effective Rate of 27.08% (comprised of 21% Federal  
19 and 6.08% net State rate, after consideration for Federal deductibility for State  
20 taxes). The gross-up percentage is 34.39386%.

21

1 **Q. Does this CIAC formula deviate from the formula contained in the proposed**  
2 **CIAC tariffs?**

3 **A.** The formula itself is the same as that proposed by PEU and recommended for  
4 approval by Staff, however, Pillsbury is paying the grossed-up CIAC tax at the  
5 same percentage of the cost sharing agreement. This cost share of the CIAC tax  
6 deviates from the tariff. It is important to note that the cost sharing sections of the  
7 Woodmont Commons special contract apportion the cost of constructing the  
8 Water Storage Tank 49% to PEU and 51% to Pillsbury. PEU and Pillsbury have  
9 used this same cost sharing percentages for allocating the CIAC tax.

10 **Q. Please explain why special circumstances exist which render this departure**  
11 **from PEU's general rate schedules just and consistent with the public**  
12 **interest.**

13 **A.** Construction of the Water Storage Tank is a significant undertaking for PEU and  
14 Pillsbury. The project is estimated to cost \$2.8 million. The CIAC tax on the  
15 project is estimated to be \$495,760. Pillsbury and PEU reached agreement on  
16 allocating the cost of the Water Storage Tank before the passage of the 2017 Tax  
17 Cuts and Jobs Act. The CIAC tax is thus an unanticipated additional cost. PEU  
18 and Pillsbury believe allocating this cost in the same manner as the cost of  
19 construction was the fairest way to address this issue. And, sharing the cost in  
20 this manner, under this special contract, is consistent with the overall request by  
21 the Company and its sister subsidiaries, in that the allocation of the tax is  
22 equivalent to the shared contribution of the overall cost of the project. For items  
23 involved in the overall project buildout by Pillsbury, for which they will be

1 paying for a different prorata share or 100% of the cost of the assets, and  
2 contributing them in total to PEU, Pillsbury will be obligated to pay that  
3 otherwise designated *pro rata* share or 100% of the CIAC tax burden to PEU. As  
4 a result, both PEU and Pillsbury propose sharing this added cost of the project  
5 commensurate with the benefit the Water Storage Tank will bring to PEU's  
6 customers and Woodmont Commons. Pillsbury has supplied its letter of support  
7 for this resolution. See Attachment LDG-B.

8 **Q. Please describe what changes were made to the revised PEU-Pillsbury special**  
9 **contract for Woodmont Commons.**

10 **A.** PEU and Pillsbury agreed to strike the last "whereas" paragraph on page 2. PEU  
11 and Pillsbury agreed to add Sections 4 (c), (d), (e), and (f) on pages 3 and 4 to the  
12 special contract. There were no other substantive revisions.

13 **Q. Do you believe the revised special contract is just and consistent with the**  
14 **public interest?**

15 **A.** Yes.

16 **Q. Do PEU and Pillsbury anticipate entering into another special contract for**  
17 **other CIAC associated with Woodmont Commons?**

18 **A.** Yes. As indicated in the revised special contract in Sections 4 (d), (e), and (f), the  
19 PEU and Pillsbury anticipate that construction of a 16-inch water main will  
20 require a separate special contract. In that contract, PEU and Pillsbury will  
21 determine a cost allocation formula. PEU and Pillsbury agree to use that cost  
22 allocation formula for the future CIAC tax on the water main, similar to how the  
23 parties have used the cost allocation for payment of the CIAC tax on the Water

1 Storage Tank. That special contract and resolution of the associated CIAC tax  
2 will be filed for Commission approval before the water main is constructed. PEU  
3 and Pillsbury do not yet have an estimated date for that filing.

4 **Q. Does this complete your testimony?**

5 **A.** Yes.