

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

PENNICHUCK EAST UTILITY, INC

VS.

SANDRA J. CRANE, DANIEL A. CRANE & FELIZ E. QUINTAL

**PETITION FOR CONDEMNATION**

NOW COMES PENNICHUCK EAST UTILITY, INC., a public utility engaged in the business of gathering and distributing water to the public within the towns of Pelham, NH, and through its associated entities in cities and towns including the city of Nashua and the towns of Amherst, Bedford, Bow, Derry, Epping, Hollis, Lee, Merrimack, Milford and Plaistow, and having its principal place of business at 25 Manchester Street, Merrimack, NH (hereinafter the “Company”) and respectfully represent to the commission as follows:

1. Sandra J. Crane and Daniel A. Crane are the owners of record of a certain tract of land with certain improvements thereon within the Town of Pelham, Hillsborough County, NH, shown as Lot 12-122, Map 16 on the Tax Assessor’s records in the Town of Pelham described in the deed recorded act Hillsborough County Register of Deeds, Volume 5658, Page 365, and otherwise shown on the Plan titled “6 Radcliff Drive, Pelham, NH”, prepared for Pennichuck East Utility, Inc., by Hayner/Swanson, Inc. and dated April 1, 2004, said plan being attached to the Prefiled Testimony of Donald L. Ware, as DLW-1 and incorporated herein by reference.
2. Felix E. Quintal, 4 Radcliff Drive, Pelham, Hillsborough County, New Hampshire is the record owner of a certain tract of land shown as Lot 12-121, Map 16 with certain improvements thereon, in Pelham, Hillsborough County, New Hampshire, shown as Lot 12-121, Map 16 on the tax assessors records in the Town of Pelham, and as described in a deed recorded at the Hillsborough County Registry of Deeds at Volume 2750, Page 726,

and as otherwise shown on a Plan titled “4 Radcliff Drive, Pelham, New Hampshire”, prepared for Pennichuck East Utility Inc., by Hayner/Swanson, Inc., dated April 1, 2004, said plan being attached to the Pre-filed Testimony of Donald L. Ware, as DLW-2 and incorporated herein by reference.

3. The Company owns and operates a water system in the Town of Pelham generally known as the Gage Hill Community Water System, which serves the above referenced lots, and other lots located in the area surrounding Radcliff Drive and Vassar Drive serving 25 customers. The System is comprised of a well, pump house, water mains and a buried steel storage tank located at the intersection of the above described lots and 14 Vassar Drive, Map 16, Lot 12-117, owned by Robert and Kathleen Saitow and 16 Vassar Drive, Map 16, Lot 12-118, owned by the Beaucage Living Trust. The Saitow and Beaucage lots are shown on the attached plans referenced above as DLW-1 and 2.
4. Since January 9, 2003, The Company has been attempting to contact Mr. and Mrs. Crane and Mr. Quintal and to obtain by negotiations a signed easement document in the form attached to the Pre-filed testimony of Donald L. Ware, as 1A and 2A, and incorporated herein by reference, over and across the proposed easement area on both lots as shown on DLW-1 and 2, hereinafter the “Proposed Easement Area”, in order to clarify the Company’s rights of use and access on and over said lots.
5. The Company has acquired signed easements from neighboring parcels without incident.
6. The Company has informed each party to this action of its intent to file this action, and the reason for the proposed action, by certified mail return receipt requested. Various letters have previously been forward to each property owner, describing the need to clarify the easement issue. Copies of the proposed easement documents, DLW-1A and 2A, and a copy of the proposed easement plans for each lot have also been supplied.

7. Despite repeated attempts to contact Mr. and Mrs. Crane and Mr. Quintal by telephone, in person, and through repeated correspondence, the Company has not received responsible replies to its efforts to clarify its rights to make the necessary upgrades and repairs to the System equipment, and to maintain the System in its current location.
8. The attempts include the following efforts made to date:
  - a) On August 19, 2002, letter sent by The Company to the Cranes and to Mr. Quintal;
  - b) In September of 2002, Rebecca McEnroe of The Company had a telephone conversation with Ms. Crane indicated she would like to speak to an attorney. She also indicated that she was not inclined to grant an easement right but maybe a license;
  - c) On September 3, 2002, Ms. McEnroe called and left a message for Mr. Quintal on his answering machine;
  - d) On March 14, 2003, another letter sent by The Company to the Cranes and to Mr. Quintal;
  - e) On March 31, 2003, additional letter sent by The Company to Mr. Quintal;
  - f) On June 11, 2003, a letter attempting to initiate contact and requesting a response was sent by The Company's counsel Attorney John Pendleton to the Cranes;
  - g) On March 29, 2004, two attempts were made by Attorney Pendleton, by telephone, to speak with the Cranes;
  - h) On April 28, 2004, a follow-up letter was sent by Attorney Pendleton to the Cranes and to Mr. Quintal;

- i) On March 11, 2005, a certified letter sent by Attorney Pendleton to the Cranes and to Mr. Quintal. On March 12, 2005, Mr. Quintal accepted service of the certified letter but no response was received;
  - j) On March 19, 2005, Attorney Pendleton received a returned certificate of service from the Cranes. The Cranes failed to accept service of the letter. Attorney Pendleton then contacted the Pelham Town Clerk and confirmed the Quintal and Crane addresses;
  - k) On March 28, 2005, a telephone call was made to a Daniel Crane in Massachusetts matching Mr. Crane's basic information and a message was left on his answering machine. No response was ever received.
  - l) On or about February 16, 2006, Attorney Pendleton caused a final letter and a copy of a draft Petition for Condemnation attached to be forwarded to both Daniel and Sandra Crane, at their address, and to Felix Quintel, at his address. Those letters have been signed for and received by the Respondents.
  - m) That on or about February 17, 2006, Attorney Pendleton received a telephone message from an individual who identified herself as Sandra Crane, who indicated to a staff member, she would not be granting the Company an easement. Attorney Pendleton immediately attempted to return the telephone call, and spoke with a male at the number left, asking for Ms. Crane to return his call to discuss the matter. No return call has been received.
9. The Company asserts that the rights prayed and described in DLW-1A and 2A are both in the public good and necessary in order to meet the reasonable requirements of service to the Gage Hill Community and the public in general. The easement rights requested by condemnation are across limited portions of the above described lots owned by Sandra

and Daniel Crane and by Felix Quintal in the area described as shown for that purpose on the Plans, DLW-1 and 2.

10. While reserving any prescriptive property rights acquired by the Company over the lots in question due to the System being located in its current location for a number of decades open and notoriously, the Company, asserts that it is reasonable and necessary to grant limited ownership as described in DLW-1A and 2A to the Company, through the takings process, for the reasons set forth herein, and in the attached Pre-filed Testimony from the Company.

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

A. Issue an Order pursuant to RSA, 371: 1, et. seq. granting the Company the easement rights set forth in DLW-1A and 2A, and as otherwise shown on DLW 1 and 2, by condemnation for use and access in the limited portions of Lots 12-122, Map 23 and Lot 12-122, Map 16; and

B. Determine any compensation to be paid for the taking of said easement rights on Lots 12-122, Map 23 and Lot 12-122, Map 16.

Respectfully submitted,  
PENNICHUCK EAST UTILITY, INC.  
By its attorneys,

DWYER, DONOVAN & PENDLETON, PA

Dated: \_\_\_\_\_

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