

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

**PENNICHUCK EAST UTILITY, INC.
TOWN OF SALEM
DOCKET NO. DW 20-___**

**PETITION TO TRANSFER SERVICE TERRITORY AND ASSETS
AND TO COMMENCE BUSINESS**

**DIRECT PREFILED TESTIMONY
OF
DONALD L. WARE**

May 21, 2020

1 **Q. What is your name and what is your position with Pennichuck East Utility, Inc.?**

2 A. My name is Donald L. Ware. I am the Chief Operating Officer of the Pennichuck East
3 Utility, Inc. (“PEU” or the “Company”). I have worked for the Company since 1995. I
4 am a licensed professional engineer in New Hampshire, Massachusetts and Maine.

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

6 A. I have a Bachelor in Science degree in Civil Engineering from Bucknell University in
7 Lewisburg, Pennsylvania and I completed all the required courses, with the exception of
8 my thesis, for a Masters degree in Civil Engineering from the same institution. I have a
9 Masters in Business Administration from the Whittemore Business School at the
10 University of New Hampshire.

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

12 A. Prior to joining the Company, I served as the General Manager of the Augusta Water
13 District in Augusta, Maine from 1986 to 1995. I served as the District’s engineer
14 between 1982 and 1986. Prior to my engagement with the District, I served as a design
15 engineer for the State of Maine Department of Transportation for six months and before
16 that as a design engineer for Buchart-Horn Consulting Engineers from 1979 to 1982.

17 **Q. What are your responsibilities as Chief Operating Officer of the Company?**

18 A. As Chief Operating Officer, I am responsible for the overall operations of the Company,
19 including customer service, water supply, distribution and engineering. I work closely
20 with the Company’s Chief Engineer and other Senior Managers to help develop the
21 Company’s Annual and Three Year Capital Improvement Plans.

22

23

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

2 A. My testimony explains why the transfer of the Company's franchise area along Route 28
3 in Windham between the Town of Derry and the Town of Salem and along Route 111
4 from Route 28 to its intersection with Range Road to the Town of Salem is for the public
5 good.

6 **Q. Please describe the area that PEU proposes to transfer to the Town of Salem.**

7 A. PEU currently owns the franchise rights to provide water service to the entire Town of
8 Windham. The Company is proposing to surrender its franchise rights for a portion of
9 the Town Windham to the Town of Salem. The area that the Company is proposing to
10 surrender generally involves lots that abut Route 28 in Windham from the Derry Town
11 Line to the Salem Town Line as well as lots that abut Route 111 between Route 28 up to
12 the intersection of Route 111 and Range Road and along Range Road between Route 111
13 and Edgewood Drive. Please see Attachment B to the Petition for a map detailing the
14 areas in Windham that PEU is proposing to surrender to the Town of Salem.

15 **Q. Please provide some background on why the transfer is being proposed?**

16 A. As the Commission may be aware, the New Hampshire Department of Environmental
17 Services ("NHDES") is funding a project to extend water from Manchester Water Works
18 through Derry into Southern New Hampshire to provide Safe Drinking Water to the
19 Towns of Windham, Salem, the Hampstead Area Water Company and the Town of
20 Plaistow in response to MTBE contamination of local wells in these communities. A
21 portion of this project is the installation of:

22 1. 16,000+ lineal feet of 20" water main down Route 28 from the
23 Derry/Windham Town line to the Windham/Salem Town line and

1 2. 4,300+ lineal feet of 12” water main along Route 111 to the intersection of
2 Route 111 and Range Road.

3 The total projected cost of the water mains in Windham (inclusive of engineering design,
4 engineering inspection, water main construction and the creation of the final project as-
5 built) is \$14.9 million.

6 **Q. Please explain why it is more efficient for the Town of Salem to serve the area**
7 **identified in the Petition.**

8 **A.** There are three primary reasons why it is in the public good for the Town of Salem to
9 provide service to the customers of Windham within the proposed Franchise transfer
10 area:

11 1. The water mains in question are being paid for 100% by with funds from the
12 New Hampshire Department of Environmental Services (NHDES) Drinking Water and
13 Groundwater Trust Fund. If PEU were to accept these water mains from the NHDES,
14 which are being 100% funded by the NHDES, the water mains would be considered
15 Contributions in Aid of Construction (CIAC). In accordance with the Tax Cuts and Jobs
16 Act of 2017, PEU would be required to treat this CIAC as ordinary income at the time it
17 accepted the water mains from the NHDES which would result in a Federal and State
18 Income tax liability to the Company of about \$5.1 million. Based on its current tariff,
19 PEU would be required to collect the \$5.1 million in tax liability from the NHDES at the
20 time PEU accepted the water mains resulting in the project cost increasing by about 34%.
21 Conversely, if Salem is the owner of these water mains, as a municipality, it is not
22 required to pay the Federal and State taxes on the CIAC, thus resulting in the project

1 costing the NHDES substantially less if Salem is the project owner as opposed to
2 Pennichuck.

3 2. If PEU owns the water main through Windham it would be required to pay
4 property taxes to the Town of Windham and the State of New Hampshire on this water
5 main at a combined rate of \$26.84 per \$1,000 of valuation resulting in an annual property
6 tax expense to Pennichuck of about \$400,000 per year. Whereas 90% of the water
7 through this water main would exclusively benefit the Town of Salem, the Hampstead
8 Area Water Company and the Town of Plaistow about \$360,000 in property taxes would
9 need to be collected from these entities by the Company each year to cover these property
10 tax expenses. At full water main usage (about 2.8 million gallons per day) this would
11 translate to an additional \$0.26 per one hundred cubic feet of purchased water cost for
12 Salem et al. Conversely, if Salem owns the water mains it is not subject to either the
13 local or State property taxes on this section of water main resulting in lower purchased
14 water costs from this section of water main.

15 3. There is MTBE contamination in the vicinity of the intersection of Route 111
16 and Range Road. PEU serves a portion of the contaminated area with water from its
17 W&E Community Water System (W&E). The W&E system's water supply is provided
18 by a number of groundwater wells. The existing wells are at their maximum capacity and
19 cannot provide the additional water necessary to serve the area contaminated by MTBE.
20 The extension of the 12" water main along Route 111 to its intersection with Range Road
21 will provide the Safe Drinking Water to this area (that W&E does not have the supply
22 for) to allow for the development of this area.
23

1 **Q. Are there any advantages to the Company associated with the transfer?**

2 A. Yes. The advantages to the Company are as follows:

3 1. The W&E water supply is currently at its maximum capacity and as such a
4 small leak or minimal outside usage results in the need for the Company to haul water to
5 maintain water service. The section of the W&E system being proposed for surrender to
6 the Town of Salem uses between 10,000 to 15,000 gallons per day of water (about 15%
7 of the W&E system demand). Removing this demand from the W&E system will leave
8 additional supply for the remaining W&E customers allowing for some outside water
9 usage and should eliminate the need to truck water into the system to supplement supply
10 when a small leak occurs.

11 2. The Company will have reduced expenses associated with the local and State
12 property taxes paid by the Company for the value of the assets being transferred to the
13 Town of Salem.

14 3. The NHDES will fund an emergency interconnection between the Salem
15 portion of the W&E system and the PEU portion of the W&E system at no cost to the
16 Company.

17 **Q. What is the value of the assets the Company is proposing to transfer to the Town of**
18 **Salem?**

19 A. The Company will be transferring about 1,400 feet of 8” water main, 17 main-to-stop
20 services and 2 hydrants to the Town of Salem. The value of these assets to the Company
21 is \$0.00 for rate making purposes as all the property proposed to be transferred to the
22 Town of Salem was contributed by developers.

1 **Q. What will happen to the meters and radios owed by the Company that are currently**
2 **located at customer locations that are being transferred to the Town of Salem in the**
3 **proposed Franchise transfer?**

4 A. The Company will remove its meters and radios from service and place them into stock
5 for reuse at other locations. The Town of Salem will install its own meters and radio at
6 each of the locations being transferred to the Town.

7 **Q. Are there any disadvantages to PEU and its customers as a result of this proposed**
8 **franchise modification?**

9 A. No.

10 **Q. Does this conclude your testimony?**

11 A. Yes.

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