

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 18-101

PENNICHUCK EAST UTILITY, INC.

**Petition for Approval of Special Contract for
Woodmont Commons in Londonderry**

SUPPLEMENTAL ORDER OF NOTICE

On June 29, 2018, Pennichuck East Utility, Inc. (PEU or the Company) filed a request for approval of a special contract for water service between PEU and Pillsbury Realty Development, LLC (Pillsbury), the owner and developer of the Woodmont Commons development in Londonderry (Woodmont Commons). Pillsbury plans to substantially expand Woodmont Commons and will require additional water supply from PEU. To meet that demand, PEU proposes installing a 1,100,000 gallon storage tank on land it owns in Londonderry adjoining Woodmont Commons.

The Commission issued an Order of Notice on August 23, 2018, and held a Prehearing Conference and technical session on October 22, 2018. The petition and docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at <http://www.puc.state.nh.us/Regulatory/Docketbk/2018/18-101.html>.

On April 2, 2019, PEU filed a revised special contract, which includes a resolution of an issue related to contributions in aid of construction (CIAC). PEU's current tariff does not provide for the charge or collection of funds from Pillsbury to construct the storage tank in order to provide expanded service. Under the terms of the revised special contract, PEU will collect from Pillsbury 51 percent of the estimated \$2.8 million cost of construction for the storage tank.

The amounts collected from Pillsbury will be recorded by PEU as CIAC. The revised special contract also provides that Pillsbury will be responsible for paying 51 percent of the federal and state income tax liability arising from the CIAC received by PEU, in accordance with an income tax gross-up calculation. PEU would assume the remaining 49 percent of the income tax liability arising from its receipt of the CIAC from Pillsbury. Payment of Pillsbury's share of the tax liability would be due within 10 days from demand by PEU. The revised special contract further references a future Water Main Special Contract between PEU and Pillsbury and similar cost-sharing provisions regarding tax liabilities incurred from the receipt of CIAC.

Construction of the tank is estimated to take about 18 months, and PEU and Pillsbury have forecasted project completion on or about October 2020. After the storage tank is installed and in service, the special contract will terminate, and Woodmont Commons' customers will pay PEU's regular tariffed rates. PEU anticipates seeking Commission approval to institute capital recovery surcharges for new water customers not located in Woodmont Commons.

The filing raises, inter alia, issues related to statutory requirements under RSA chapters 374 and 378, and the regulatory requirements pursuant to N.H. Code Admin. Rules Puc 1203.01(e), and Puc 1600, specifically: RSA 374:1, whether the proposed capital addition is needed to provide safe and adequate water service; RSA 378:10, whether the allocation of both the cost of the tank and the income tax liability resulting from the receipt of CIAC results in an undue or unreasonable preference or advantage to Pillsbury; RSA 378:18, whether the revised terms of the proposed special contract are just and consistent with the public interest, including the allocation of the cost to construct the tank in order to provide service, and the allocation of the tax liability resulting from the CIAC; Puc 1203.01(e), whether provision of service to the Woodmont Commons location is economically feasible; Puc 1606, whether the included terms

referring to an additional, unfiled Water Main Special Contract are appropriate and conform with the requirements of the Commission's administrative rules; and whether the proposed capital additions will benefit PEU's customers, including customers within and outside Woodmont Commons. Each party has the right to have an attorney represent the party at the party's own expense.

Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Code Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on May 7, 2019, at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the April 2, 2019 filing and any of the issues set forth in N.H. Code Admin. Rules Puc 203.15; and it is

FURTHER ORDERED, that, immediately following the Prehearing Conference, PEU, the Staff of the Commission, and any Intervenors hold a Technical Session to review the petition; and it is


FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.12, PEU shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than April 17, 2019, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before May 3, 2019; and it is

FURTHER ORDERED, that consistent with N.H. Code Admin. Rules Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to PEU and the Office of the Consumer Advocate on or before May 3, 2019, such Petition stating the facts demonstrating how its rights,

duties, privileges, immunities, or other substantial interest may be affected by the proceeding, consistent with N.H. Code Admin. Rules Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before May 7, 2019.

By order of the Public Utilities Commission of New Hampshire this twelfth day of April, 2019.


Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

