



ARI B. POLLACK

214 N. Main Street  
Concord, NH 03301

Direct Dial: (603) 545-3630  
General: (603) 228-1181  
Fax: (603) 228-8396  
pollack@gcglaw.com

VIA EMAIL

March 28, 2019

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

Re: Docket No. DW 18-101  
Pennichuck East Utility, Inc.  
Petition for Approval of Special Contract for Woodmont Commons

Dear Director Howland:

This firm represents Pillsbury Realty Development, LLC ("Pillsbury"). Pillsbury, through counsel, submits this letter in support of the revised special contract, the revisions to which are referenced in the Testimony of Larry Goodhue, dated March 28, 2019, and attached as LDG-A.

As the Commission is aware, on June 29, 2018, Pennichuck East Utility, Inc. ("PEU") filed a verified petition for approval of a special contract with Pillsbury for the construction of a 1.1 million gallon water storage tank that would serve existing as well as future PEU Londonderry Core System customers as well as the Woodmont Commons Planned Unit Development ("Woodmont Commons") in Londonderry, New Hampshire. Pillsbury, through counsel, filed a letter of support for the special contract dated June 28, 2018. On November 28, 2018, Staff reviewed the petition and recommended approval of the special contract, as filed. The Commission has taken no further action on the initially-filed petition to date.

At the end of December 2017, the United States Congress voted and the President signed into law major federal tax law changes, which would be effective for tax year 2018. ("2017 Tax Act"). As noted in Larry Goodhue's March 28, 2019 Testimony, the 2017 Tax Act has removed a prior exemption from taxable income for Contributions in Aid of Construction ("CIAC") received by regulated water utilities, thereby impacting how regulated water utilities report CIAC for income tax purposes. This taxation issue formed the basis of a separate docket addressing PEU and its sister companies' tariffs related to the tax treatment of CIAC, in which Pillsbury intervened. See Docket DW 18-189.

In the instant matter, PEU and Pillsbury have reached agreement as to how to address the unanticipated potential tax liabilities associated with CIAC and in regard to the water storage

Deborah A. Howland  
March 28, 2019  
Page 2

tank special contract. As part of this resolution, Pillsbury will pay 51% of the gross-up tax liability for the CIAC associated with the water storage tank, based on the formula set forth in Larry Goodhue's March 28, 2019 Testimony. The cost allocation proposal for tax liabilities arising from CIAC is consistent with the cost sharing sections of the special contract that apportion the costs of constructing the water storage tank between PEU and Pillsbury.

Special circumstances exist that render the proposed allocation just and reasonable and in the public interest. The tax treatment of CIAC, in light of the 2017 Tax Act, reflects an unanticipated additional cost heaped upon an already significant financial undertaking for both PEU and Pillsbury after the parties had negotiated the initially-proposed special contract. Given the timing of the parties' negotiations and the passage of the 2017 Tax Act, special handling is reasonable. Allowing PEU and Pillsbury to allocate the cost of CIAC as outlined in Larry Goodhue's March 28, 2019 Testimony and in the revised special contract will address the new tax treatment of CIAC while also acknowledging the unanticipated nature of this additional cost.

Moreover, the revised special contract—like its predecessor—is in the public interest and will provide benefits to PEU's customers, as outlined in the Testimony of John Boisvert, dated June 27, 2018. The water storage tank will not only serve the development needs of Woodmont Commons, but will also supplement the capacity of PEU to serve its existing and future customers. The water storage tank offers new and additional capacity for non-Woodmont customers served in the surrounding area. As stated in the Testimony of John Boisvert, dated June 27, 2018, the addition of the water storage tank will allow PEU to have improved capacity to meet the growth needs of Londonderry. These benefits remain with respect to the revised special contract.

For the reasons set forth above, Pillsbury supports the revised special contract attached to the Testimony of Larry Goodhue, dated March 28, 2019, and requests that the Commission approve the revised special contract, including its new provisions relative to CIAC.

Very truly yours,



Ari B. Pollack, Esq.  
Counsel for Pillsbury Realty Development, LLC

ABP/mla

cc: Michael L. Kettenbach  
James D'Angelo PE  
Marcia A. Brown, Esq.