

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

October 22, 2018 - 10:04 a.m.  
Concord, New Hampshire

NH-PUC 5NOV18-14:16

RE: DW 18-101  
PENNICHUCK EAST UTILITY INC.:  
Petition for Approval of Special  
Contract for Woodmont Commons  
in Londonderry.  
(Prehearing conference)

**PRESENT:** David K. Wiesner, Sr. Hearings Examiner  
(Presiding as Hearings Examiner)

Jody Carmody, Clerk  
Doreen, Borden, Clerk

**APPEARANCES:** Reptg. Pennichuck East Utility, Inc.:  
Marcia A. Brown, Esq. (NH Brown Law)

Reptg. Pillsbury Realty Development:  
Ari B. Pollack, Esq. (Gallagher...)

Reptg. PUC Staff:  
Christopher Tuomala, Esq.  
F. Anne Ross, Esq.  
Jayson Laflamme, Asst. Dir./Gas&Water  
Robyn Descoteau, Gas & Water Division  
Anthony Leone, Gas & Water Division

Court Reporter: Steven E. Patnaude, LCR No. 52

**CERTIFIED  
ORIGINAL TRANSCRIPT**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

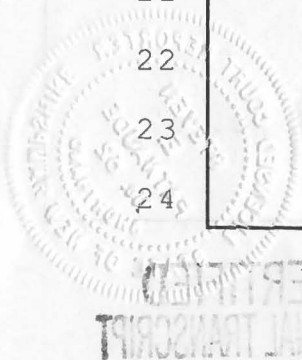
**I N D E X**

**PAGE NO.**

**STATEMENTS OF PRELIMINARY POSITION BY:**

Ms. Brown 5

Mr. Tuomala 10



ORIGINAL TRANSCRIPT

## P R O C E E D I N G

1  
2 HEARINGS EXAMINER WIESNER: Good  
3 morning. I'm David Wiesner. I'm the Senior  
4 Hearings Examiner here at the Commission, and  
5 I'm going to be serving as the Hearings  
6 Examiner for today's prehearing conference.  
7 This is Docket DW 18-101, Pennichuck East  
8 Utility' Petition for Approval of a Special  
9 Contract for the Woodmont Commons Project in  
10 Londonderry.

11 An Order of Notice was issued  
12 scheduling today's prehearing conference back  
13 in August. That notice was published in the  
14 newspaper a few days later, and we have an  
15 affidavit of that publication.

16 I don't believe the OCA is  
17 participating in this case, and there don't  
18 appear to be any motions for intervention. Are  
19 there any parties here today or prospective  
20 parties, I should say, seeking intervention?

21 *[No verbal response.]*

22 HEARINGS EXAMINER WIESNER: Seeing  
23 none, it looks like we have -- sorry, Marcia --  
24 looks like we have the Company and Staff.

1                   Why don't we begin by taking  
2 appearances. Ms. Brown.

3                   MS. BROWN: Good morning, Hearings  
4 Examiner Wiesner. Marcia Brown, on behalf of  
5 Pennichuck East Utility. And with me today is  
6 John Boisvert, who is the Chief Engineer for  
7 the Pennichuck companies; and to his right is  
8 Carol Ann Howe, who is the Director of  
9 Regulatory Affairs; and directly behind me is  
10 Jay Kerrigan, who is a regulatory and treasury  
11 financial analysis -- analyst. Thank you.

12                   And when you had mentioned potential  
13 intervenors, we had -- not that Pillsbury  
14 Realty Development, LLC, expects to intervene,  
15 but we had hoped to have their counsel here,  
16 and he has not yet arrived, but he is part of  
17 our team for the tech session. Thank you.

18                   HEARINGS EXAMINER WIESNER: They  
19 filed comments supporting the Petition, as I  
20 understand it, is that correct? They filed a  
21 letter supporting the Petition?

22                   MS. BROWN: Yes. Yes.

23                   HEARINGS EXAMINER WIESNER: Thank  
24 you. And for Staff?



1 MR. TUOMALA: Good morning, Mr.  
2 Hearing Examiner. My name is Christopher  
3 Tuomala representing the Staff of the Public  
4 Utilities Commission. With me today and  
5 co-chairing, Anne Ross, from the Legal  
6 Division. I have also with me Jayson Laflamme,  
7 Assistant Director of the Gas & Water Division;  
8 Utility Analyst Anthony Leone also of the Gas &  
9 Water Division; and Utility Analyst Robyn  
10 Descoteau also of the Gas & Water Division.

11 HEARINGS EXAMINER WIESNER: Thank  
12 you.

13 And why don't we have the Company and  
14 the Staff make a brief presentation about their  
15 positions in this matter.

16 MS. BROWN: Thank you. Is this on?  
17 Okay.

18 As the Commission is aware,  
19 Pennichuck East Utility provides water service  
20 in a portion of the Town of Londonderry. And  
21 the Town of Londonderry has approved a very  
22 large-scale development on about 633 acres  
23 called the "Woodmont Commons". And the  
24 developer is Pillsbury Reality Company, and

1 they will be here momentarily. And this  
2 development is a planned unit development. It  
3 has mixed use.

4 The Department of Environmental  
5 Services is very aware of this development.  
6 And in a sanitary survey for Pennichuck East  
7 Utility in 2017 made note that, in order to  
8 provide fire protection flows, which the  
9 development will need about 3,500 gallons per  
10 minute, that Pennichuck East Utility would need  
11 to either upsize its pump station and mains or  
12 build a stationary tank in a location proximate  
13 to Woodmont Commons.

14 And so, the discussion about the  
15 options of addressing the fire flows commenced,  
16 and Pillsbury, the developer of Woodmont,  
17 decided, along with Pennichuck East, that  
18 Option 2, which was to build the tank, would be  
19 a more economic solution than upsizing the pump  
20 station and building more robust mains.

21 So, with the Company and the  
22 developer electing to go with Option 2, the  
23 financing and contribution became a topic of  
24 discussion, which led to the formation of a

1 draft special contract. And so, Pennichuck  
2 East is here today for Commission approval of  
3 that special contract. The special contract is  
4 only for the construction of the project. As  
5 soon as the project is fully constructed, in  
6 service, and payments have been made, then the  
7 Company seeks to have the special contract  
8 terminate, and then have customers use the  
9 rates that are in the tariff for the service in  
10 this development.

11 The Commission usually weighs  
12 benefits to the Company, to the customers,  
13 future customers, and the immediate parties,  
14 and we've spelled out in the Petition and in  
15 Mr. Boisvert's testimony that there are  
16 benefits to each of those groups. There are  
17 benefits to Pennichuck's customers, in that  
18 there is a cost-share arrangement with  
19 Pillsbury to help finance this tank.

20 This tank, there would have been a  
21 need for a tank in the future. Pennichuck East  
22 had not set a date yet for that future tank.  
23 It would not have been built to the scale of  
24 the present proposed one. But having the

1 contribution from Pillsbury helps defray that  
2 inevitable tank construction.

3 The tank construction is also the  
4 cheapest alternative for Pillsbury to get water  
5 to Woodmont Commons. It is cheaper than  
6 upsizing the mains and constructing the pump  
7 station. And then there is another added  
8 benefit to overall customers, in that  
9 Pennichuck East Utility obtains water from  
10 Manchester Water Works, and fire flow rates are  
11 much higher than regular domestic rates. And  
12 so, with a storage tank, the Company can store  
13 the water at the lower rate, and paying lower  
14 rates to Manchester Water Works for water  
15 supply benefits everyone.

16 The cost sharing has been detailed in  
17 the special contract and Mr. Boisvert's  
18 testimony. Pennichuck would pay 49.156 percent  
19 and Woodmont Commons would be responsible for  
20 50.8. So, there's roughly a 50/50 cost share.

21 The financing alternatives that were  
22 set forth in the attachment to Mr. Boisvert's  
23 testimony are still presently available, that  
24 includes the SRF financing and CoBank

1 financing, and I forget get the last one. It's  
2 the water source fund.

3 MR. BOISVERT: Drinking and  
4 Groundwater Trust Fund.

5 MS. BROWN: Thank you. The Drinking  
6 and Groundwater Trust Fund. So, thank you for  
7 refreshing my memory here.

8 I know that the Commission is also  
9 aware of tax changes this year affecting water  
10 companies. That tax change was not in the  
11 special contract filing, because we still --  
12 the Company still doesn't know whether there's  
13 going to be a fix at the Congressional level to  
14 avoid the tax on contributions in aid of  
15 construction. But, even if there was a tax  
16 imposed, it wouldn't change the decision  
17 between Option 1 or Option 2, because it's just  
18 a tax on the same cost numbers there.

19 Staff has conducted discovery on  
20 Pennichuck already, and Pennichuck has  
21 responded with -- or, responded to those  
22 discovery requests. We have a tech session  
23 after this prehearing, and the Company looks  
24 forward to talking with Staff and answer any



1 questions Staff may have on the filing, the  
2 contract, or the project in general.

3 And thank you very much for your time  
4 and consideration on this docket.

5 HEARINGS EXAMINER WIESNER: Thank  
6 you, Ms. Brown.

7 And, Chris -- Attorney Tuomala, for  
8 Staff.

9 MR. TUOMALA: Thank you, Mr. Hearings  
10 Examiner.

11 Staff has reviewed the filing and  
12 identified some issues that it hopes to  
13 investigate with the Company during the  
14 subsequent tech session and discovery. Such as  
15 the Company's cash flow during the period of  
16 construction, and also, as Attorney Brown had  
17 mentioned, the CIAC tax implications.

18 We also wanted to note the issue of a  
19 future tariff change. But understanding that  
20 Staff's position will not be determined until a  
21 completion of this project, which I believe is  
22 set for 2020. And it will be at that time when  
23 the final numbers are received and the tariff  
24 change can be examined by Staff.



1                   We also will work with the Company  
2 today to develop a further procedural schedule,  
3 which we will submit shortly to the Commission  
4 for its approval.

5                   Thank you.

6                   HEARINGS EXAMINER WIESNER: Thank  
7 you, Attorney Tuomala. Off the record for a  
8 moment.

9                   *[Brief off-the-record discussion*  
10                   *ensued.]*

11                   HEARINGS EXAMINER WIESNER: Okay. I  
12 understand that counsel for Pillsbury has  
13 joined us now. Would you care to make a  
14 statement for the record? I understand that  
15 Pillsbury is not intervening in the case as a  
16 party, but are you interested in making a  
17 statement for the record while you're here?

18                   MR. POLLACK: No. I'll just announce  
19 that I'm Ari Pollack. I'm with the law firm  
20 Gallagher, Callahan & Gartrell. I'm counsel to  
21 Pillsbury Reality Development, the developer of  
22 the Woodmont Commons Project, and the party  
23 that has been discussing this special contract  
24 with Pennichuck. I'm available to the

1 Commission and to Staff as a resource.

2 HEARINGS EXAMINER WIESNER: Thank  
3 you. Is there anything else we need to address  
4 during today's prehearing conference before you  
5 begin your technical session?

6 MR. TUOMALA: No.

7 MS. BROWN: No.

8 HEARINGS EXAMINER WIESNER: In that  
9 event, I'll prepare a report on behalf as  
10 Hearings Examiner of the results of the  
11 prehearing conference. Wish you good luck in  
12 your technical session. And with that, we'll  
13 close the record. Thank you.

14 MR. TUOMALA: Thank you.

15 MS. BROWN: Thank you.

16 *(Whereupon the prehearing*  
17 *conference was adjourned at*  
18 *10:15 a.m., and a technical*  
19 *session was held thereafter.)*

20

21

22

23

24