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July 6, 2020

Mr. Christopher R. Tuomala
Staff Attorney
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

**Re: DW 20-080, Pennichuck East Utility, Inc.
Transfer of Assets and Franchise to Town of Salem
Responses to Staff Set 1 Data Requests**

Dear Mr. Tuomala:

Enclosed are the responses of the Town of Salem and Pennichuck East Utility, Inc. to Staff's Set 1 Data Requests propounded June 24, 2020, in the above-captioned proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Thomas B. Getz". The signature is stylized and includes a large flourish at the end.

Thomas B. Getz

TBG:sm
Enclosures

cc: Discovery Service List (DW 20-080)

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-1

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

In various locations, the Petition (Bates page 1 & 4), Testimony of Mr. Roy Sorenson (Bates page 138) and Attachment C (Bates page 125), it was described that the Town of Salem intends to charge customers in the Town of Windham rates both higher than, and not higher than, 15% of the rates charged in the Town of Salem per CCF, pursuant to applicable NH Laws. Please clarify and explain the Town of Salem's intended rates to the new customers in the Town of Windham specifically referencing the percentage over Town of Salem rates the Town of Windham residents will be charged.

RESPONSE:

Consistent with RSA 362:4, III-a. (a) (1), the Town of Salem does not intend to charge rates to customers in the Town of Windham higher than 15% above the rates charged in the Town of Salem. In the various locations in the Petition, Testimony and Attachment C, it was pointed out that (1) the Town of Salem would not be a public utility because it would not charge customers in Windham rates higher than 15 percent above rates in Salem, and (2) that it had agreed with the Town of Windham to charge rates at a level 15 percent higher than charged in Salem. To the extent there is any statement in the Petition or its attachments which could be construed to mean that Salem would charge rates higher than 15% above what it charges in Salem, that is not Salem's intent.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-2

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

Does the Town of Salem's current water rates contain a fixed charge? If so, will that charge also be extended to the new Town of Windham customers? What will be the differential, if any, expressed as a percentage, of the charge imposed on the Town of Windham customers over customer customers located within the municipal boundaries of the Town of Salem?

RESPONSE:

The Town of Salem uses a fixed rate per HCF. The Town of Salem will charge retail customers in Windham all other customary charges established by Salem in its schedule of fees and set forth in Chapters 455 and 477 of its Municipal Code, as may from time to time be amended, in the same amount and manner as that assessed against Salem customers plus 15%.

See Attachment A, Schedule of Fees for Fiscal Year 2020.



Town of Salem, NH Schedule of Fees for Fiscal Year 2020

(Adopted by the Board of Selectmen on 9/30/19 - effective 1/1/20)

**Municipal Services Department
Utilities/Public Works**

<u>Type</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>LAST UPDATED</u>	<u>FEE GOVERNED BY</u>
Administrative	Assessed every billing period and includes the cost of reading meters, billing, collection and administrative expenses	\$5.80		Board of Selectmen
Sewer Usage	Based on water consumption into building from meter readings	\$4.85/100 cubic foot effective Jan 1, 2020	9/10/2018	
Sewer	Flat fee charge if no meter on water supply	\$99.38/quarter		
Water Usage	Based on water consumption into building from meter readings	\$3.65/100 cubic foot effective Jan 1, 2020	9/25/2017	
Meter Costs (for home, lawn, or business)	5/8" standard size meter and horn (for 3/4" service)	\$454.00	8/13/2018	
	1" size meter and horn	\$714.00		
	1 1/2" meter and horn	\$790.00		
	2" meter and horn	\$968.00		
	other sizes	call for pricing		
Final Fee	Charge for reading meter for a sale of property or change in tenancy	\$25/manual reading \$10/automated reading		
Bad Check Fee	Charge for check returned from bank for insufficient funds, etc	\$25		
Backflow Inspection	Charge for state-required inspection of backflow device - done annually or semi-annually based on degree of hazard. If the test fails, there will be a full charge for the retest after repairs.	\$40 first device tested or retest of faulty device \$21.25 discount rate for additional units in a building after the first full rate charge		
Certified Fee	Charge for certified letters sent for notification of potential water shut off for non-payment (current U S Postal Service rate at time of charge)	refer to Postal Service for rate		
Shut Off for Nonpayment Fee	Charge to customer for nonpayment	\$50	9/30/2019	
Shut Off Fee	Charge to shut off water upon request of owner	\$15		
Turn On Fee	Charge to turn on water upon request of owner	\$15		
Sewer Betterments	Existing betterment contracts from 1988 through 2006	\$254 - \$350		
Water Betterments	Existing betterment contracts for 1999 through 2007	\$132 - \$207		
Sewer Assessment after Feb 9, 2004	single family home	\$7,500 lump sum or *		
	single family home w/in-law/acc	\$10,200 lump sum or *		
	existing single family home adding in-law/acc only	\$2,700 lump sum or *		
residential properties	mobile (manufactured) home (on single parcel)	\$7,500 lump sum or *		
	mobile (manufactured) home (in park)	\$5,100 lump sum or *		
	two family/condex	\$11,100 lump sum or *		
	three family	\$13,500 lump sum or *		
	one bedroom apartment	\$3,750 lump sum or *		
	two bedroom apartment	\$5,000 lump sum or *		
	three bedroom apartment	\$7,500 lump sum or *		
Water Assessment	single family home	\$5,000 lump sum or *		
	single family home w/in-law/acc	\$6,800 lump sum or *		

after Feb 9, 2004	existing single family home adding in-law/acc only	\$1,800 lump sum or *
residential properties	mobile (manufactured) home (on single parcel)	\$5,000 lump sum or *
	mobile (manufactured) home (in park)	\$3,400 lump sum or *
	two family/condex	\$7,400 lump sum or *
	three family	\$9,000 lump sum or *
	one bedroom apartment	\$2,500 lump sum or *
	two bedroom apartment	\$3,333 lump sum or *
	three bedroom apartment	\$5,000 lump sum or *

* May be paid in annual installments for 20 years with interest calculated on Municipal Bond Bank summer/fall sale rate applied to the preceeding calendar year

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-3

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

For all other charges imposed, or that may be imposed, such as connection, reconnection, termination, late fee, MSDC, etc... what will be the differential, if any, expressed as a percentage, the Town of Salem intends to charge the Town of Windham customers compared to customers located within the municipal boundaries of the Town of Salem?

RESPONSE:

The Town of Salem will charge retail customers in Windham all other customary charges established by Salem in its schedule of fees and set forth in Chapters 455 and 477 of its Municipal Code, as may from time to time be amended, in the same amount and manner as that assessed against Salem customers plus 15%.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-4

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

Are there any other fees or charges to the Town of Windham customers that are either billed and or collected by any other party besides the Town of Salem?

RESPONSE:

No.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-5

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

How often does the Town of Salem plan to bill the new customers in the Town of Windham?
Does the Town of Salem anticipate any challenges in this regard?

RESPONSE:

The Town of Salem bills residential customers quarterly and commercial customers monthly.
We anticipate additional staff time and related expenses.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-6

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Petition Attachments, Bates page 16

Are there currently any known wholesale water customers in the Town of Windham who are expected to take service from the Town of Salem under a wholesale agreement?

RESPONSE:

There are currently no known wholesale water customers in the Town of Windham although the Town of Salem and PEU have discussed an arrangement for emergency back-up service or supplemental supply when there is insufficient water, which would be provided by the Town of Salem at the retail rate that applies to customers in the Town of Windham.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-7

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Petition Attachment, Bates page 16

Will the Town of Salem be providing fire protection / fire flow capacity to customers in the Town of Windham? Please explain further.

RESPONSE:

Although hydrants will be located in Windham, the purpose of said structures is for water quality, not fire suppression. It was established early within the SNHRW planning process that the town of Derry could not support fire flows to the town of Windham. The Town of Windham service area would need a water storage tank within Windham in order for water system to achieve fire flow within the town.

See Attachment B, Weston & Sampson memorandum, February 21, 2020.



100 International Drive, Suite 152, Portsmouth, NH 03801
Tel: 603 431 3937

MEMORANDUM

TO: Roy Sorenson, Town of Salem

FROM: Jeff McClure & Sam Kenney, Weston & Sampson

DATE: February 21, 2020

SUBJECT: SNHRW – Fire Flow Availability in the Town of Windham

This memorandum summarizes previous correspondence between Southern New Hampshire Regional Water (SNHRW) project stakeholders regarding fire flow availability in the town of Windham. It was established early within the SNHRW planning process that the town of Derry could not support fire flows to the town of Windham. Discussions during the NHDES coordinated stakeholder meetings were consistent that the infrastructure necessary to support fire flows direct from Derry's water system were not included in the project goals.

Whereas NHDES maintains meeting minutes for the monthly stakeholder meetings, the following documents also specifically mention the overall water supply goals for the project and the lack of fire flow availability within Windham:

1. **Letter from David R. Caron, Derry Town Administrator to Clark Freise, Deputy Commissioner, NHDES – March 21, 2018.** Mr. Caron outlines the following: "The State and its engineers represent that Derry will not be responsible for fire flow beyond its borders, and that facilities will be installed as part of this project to maintain fire flow pressure in the Town of Derry. Based on representations made by W&S, communities south of Derry shall be responsible for their own fire flows, and a pressure reducer valve at the Town line will ensure Derry's fire flow within its boundaries."
2. **Regional Supply Basis of Design – January 4, 2019.** This document provided the engineering basis from which the SNHRW project would be constructed and was distributed by NHDES to all project stakeholders. The document contained the following statements which state fire flow was not provided to the Town of Windham:

"SNHRW Supply Limitations

The SNHRW supply conceptual design is based on supplying domestic demand only (no fire flow) to all end users defined in Table 2. The domestic demand provided will be to satisfy or supplement (depending on the user) maximum day demands only, except for Windham where all conditions of domestic demand including peak hour, will be met with SNHRW supply.

Water storage tanks are present or are proposed as part of the SNHRW project in Salem, HAWC and Plaistow. Storage tanks, by definition, are designed to provide storage to meet peak hour demands in a water system. Since a water storage tank is not present or proposed under the SNHRW project for Windham, peak hour demands need to be satisfied via pumping capacity at the Rockingham Road Pump Station in Derry. **The estimated peak hour demand for Windham under Phase I is 417 gpm.** Upgrades to Rockingham Road Pump Station, however, should be limited to 1.0 MGD (694 gpm) capacity (for Phase 1 of the SNHRW project) because the impacts on the Derry water system were only evaluated for 1.0 MGD under Phase 1. Any additional SNHRW supply flow under Phase 1 could require additional upgrades to the Derry water system. During a peak hour event in Windham, storage tanks in Salem, HAWC and Plaistow should be able to meet domestic demand for all normal conditions of flow in those water systems while the peak hour demand in Windham is being satisfied by the Rockingham Road Pump Station. Back pressure sustaining valves or other flow control valves should be incorporated into the SNHRW designs to allow this hydraulic condition to occur. It should be noted that in addition to the SNHRW demand, the Rockingham Road Pump Station is satisfying all normal conditions of flow (including peak hour demands) and fire flow in South Derry."

3. **Southern Interconnect Agreement (SIA) – April 2019.** Page 10 of this document contains the following statement as it relates to Salem's fire flow responsibility in the Town of Windham under the SIA agreement: "All Water Recipients shall be responsible for maintaining their own fire flows and Salem will not be liable for any damages resulting from inadequate fire flows as a result of this agreement."

The above documents memorialized the project stakeholder meetings during which it was discussed that providing fire flow to the Town of Windham was not provided under the SNHRW project. Two mechanical limitations prevent fire flow to the town of Windham, 1) the backpressure sustaining feature on the pressure reducing valve at the Northland Road PRV building will limit large flows from passing into Windham, thereby protecting the water pressure within the Derry water system and 2) the Rockingham Road Pump Station in Derry does not contain pumps of sufficient size to pump fire flows into Windham.

The town of Windham will need to construct a water storage tank within Windham's water system in order to achieve fire flow within the town.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-8

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

Does the Town of Salem require any additional authorization, right of way, easement or any other legal authority to own, operate, maintain and replace the new water main and associated services within the Town of Windham?

RESPONSE:

No.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-9

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Testimony of Mr. Roy Sorenson, Bates Page 136

The testimony describes that the Phase I infrastructure in the Town of Windham, the water main along Route 28 and the smaller portion along Route 111, is anticipated to be complete and in service by mid-June 2020 and December 31, 2020 respectively. Is this timeframe still accurate? Are there any other infrastructure limitations, additions, etc. that would prohibit customers from taking service at the time of anticipated completion? Are there any other legal or regulatory prohibitions?

RESPONSE:

The Route 28 Water Main from the Derry Line to the Salem line, including two Pressure Relief Valve Stations, is in service. The Town of Salem is receiving 300,000 GPD of water from the new main.

The Route 111 project has been bid and awarded with a Notice of Award to the contractor. We anticipate a start date of July 13th. We do not anticipate any obstacles that would prevent it from being in service by December 31, 2020.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-10

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

When does the Town of Salem intend to begin offering service to the new customers in the Town of Windham? Has the Town of Salem and PEU created a plan to address the change-over in water service for those customers affected? Briefly explain the impact, if any, to the customers due to the switch over?

RESPONSE:

Assuming timely approval of its Petition, Salem anticipates that it will be able to offer service to customers in Windham by the end of October. Salem has discussed the transition with PEU and believes that beyond swapping out meters and setting up new billing arrangements there will be minimal, if any, impact on customers.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-11

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Mr. Roy Sorenson, Town of Salem

Will the new main along Route 28 in the Town of Windham interconnect with any existing Town of Salem owned water mains? Are customers along the new main being served by only the new main or are there other water supplies interconnecting in the immediate area? Please explain further.

RESPONSE:

The Route 28 water main connects to the Salem distribution system at the Range Road intersection. The customers along the new main will be served by the new main only.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-12

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Testimony of Mr. Roy Sorenson, Bates Page 137

Please provide a list of the job titles, certifications and years of relevant experience of any and all employees who are assigned water duties at least part-time.

RESPONSE:

Service Time for Salem:

Fred Wallace, Utilities Manager – Primary Operator	24 YRS	D3, T3, CB, CCCS
Maria Poor, Lab Chemist	12 YRS	
Scott Witkowski, Meter Foreman	17 YRS	D1, T2, CB, CCCS
Jeff Young, Systems Foreman	3 YRS	D1, T1
Tom Donahue, Distribution Foreman	3YRS	D2, T1
Jacque Sandner, Plant Operator	2 YRS	D1, T1
Luis Armas, Plant Operator	6 MOS	D2, T2
Russell Gosselin, Heavy Equipment Operator	15 YRS	D1
John Hackett, Heavy Equipment Operator	12 YRS	D1
Kelly Demers, Meter Repair	33 YRS	D1, CB, CCCS
Peter Parrino, Certified Backflow Inspector	13 YRS	CB, CCCS
Kyle Fox, Meter Repair	5 YRS	D1, T1
Andy Ramos, Meter Technician	3 YRS	CB

*Distribution- D, Treatment – T, Certified Backflow Prevention Device Inspector - CB, Certified Cross Connection Surveyor - CCCS

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-13

Date of Response: 7/6/20
Roy Sorenson

REQUEST:

Testimony of Mr. Roy Sorenson, Bates Page 138

Once the Town of Salem has had time to adequately address the additional costs and risks involved with serving the additional customers outside of its municipal boundaries, does it intend to revisit the planned rate differential of customers outside its municipal boundaries and those within its municipal boundaries?

RESPONSE:

The Town of Salem water rate is in place through 2020. The Board of Selectmen reviews rates for the coming year based on the financial statements, fund balance and staff recommendations. As for the 15% differential between Salem and Windham customers, it is intended to remain in place until such time as the Towns agree otherwise.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-14

Date of Response: 7/6/20
Donald Ware

REQUEST:

Petition, Bates Page 3 and Testimony of Mr. Donald Ware, Bates Page 131

How many customers are within the proposed area PEU is proposing to transfer to the Town of Salem? Does PEU anticipate a decrease in revenue from the transfer of these customers to the Town of Salem? Please estimate this decrease.

RESPONSE:

There are 17 customers within the section of W&E that PEU is proposing to transfer to the Town of Salem.

In 2019, those 17 customers generated just over \$29,700 of revenues and used an average of 4,140 gallons per day with a peak usage day estimated at slightly over 10,000 gpd. I have attached a spreadsheet detailing the customer location, the meter size, the 2019 usage and 2019 charges. PEU will lose all of the revenues from the customers that are transferred to Salem.

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

**DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1**

Date Request Received: 6/24/20
Staff 1-15

Date of Response: 7/6/20
Donald Ware

REQUEST:

Testimony of Mr. Donald Ware, Bates Page 131

Relative to the immediately preceding question, does PEU anticipate a decrease in expenses, either property taxes or other, from the transfer of Company owned assets to the Town of Salem? Please estimate this decrease.

RESPONSE:

Yes. The following is an estimate of PEU's direct operating expenses associated with the surrendered customers, along with a revenue ratable portion of PWW Mgt. Fee:

1. Meter reading (204 annually)	- \$ 170
2. Billing (204 annually)	- \$ 180
3. Power (8% of total)	- \$ 1,500
4. Chemicals (8% of total)	- \$ 3,500
5. Estimated PT (Est value of \$70K)	- \$ 1,884
6. Hydrant Maint (2)	- \$ 400
7. Dig Safe	- \$ 120
<u>Sub Total</u>	- \$ 7,754
8. Mgt Fee (revenue ratio)	- \$ 7,422
<u>Total Decrease</u>	- \$15,176

DW 20-080 PEU Transfer of Assets and Franchise to Town of Salem

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-16

Date of Response: 7/6/20
Donald Ware

REQUEST:

Testimony of Mr. Donald Ware, Bates Page 131

Does PEU anticipate entering a wholesale agreement with the Town of Salem to provide water, if, or, when necessary, through the planned, NHDES funded interconnection, between the portion of the W&E Community Water System (CWS) that PEU will retain and the portion of the W&E CWS that will be transferred to the Town of Salem?

RESPONSE:

PEU has discussed with the Town of Salem an arrangement for emergency back-up service or supplemental supply when there is insufficient well water, which would be provided by the Town of Salem at the retail rate that applies to customers in the Town of Windham. This arrangement would be similar to the one that PEU has with the Town of Merrimack.

Please note that in recent discussions NHDES indicated that they are not sure whether they will fund some, all or none of the cost of the interconnection. PEU should know about what portion of the interconnection the NHDES is willing to fund within the next 30 to 45 days.



THOMAS B. GETZ
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October 15, 2020

Mr. Christopher R. Tuomala
Staff Attorney
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

**Re: DW 20-080, Pennichuck East Utility, Inc.
Transfer of Assets and Franchise to Town of Salem
Supplemental Responses to Staff Set 1 Data Requests**

Dear Mr. Tuomala:

Enclosed are supplemental responses of the Town of Salem and Pennichuck East Utility, Inc. to Staff's Set 1 Data Requests, Numbers 1-6 and 1-16, which were propounded on June 24, 2020, in the above-captioned proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Thomas B. Getz". The signature is stylized and cursive.

Thomas B. Getz

TBG:sm
Enclosures

cc: Discovery Service List (DW 20-080)

McLane Middleton, Professional Association
Manchester, Concord, Portsmouth, NH | Woburn, Boston, MA

McLane.com

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-6

Date of Response: 7/6/20
Supplemental Response: 10/7/20
Roy Sorenson

REQUEST:

Petition Attachments, Bates page 16

Are there currently any known wholesale water customers in the Town of Windham who are expected to take service from the Town of Salem under a wholesale agreement?

RESPONSE:

There are currently no known wholesale water customers in the Town of Windham although the Town of Salem and PEU have discussed an arrangement for emergency back-up service or supplemental supply when there is insufficient water, which would be provided by the Town of Salem at the retail rate that applies to customers in the Town of Windham.

SUPPLEMENTAL RESPONSE:

See supplemental response to Staff 1-16.

DW 20-080
PENNICHUCK EAST UTILITY, INC.
TRANSFER OF ASSETS AND FRANCHISE TO TOWN OF SALEM
Staff Data Requests- Set 1

Date Request Received: 6/24/20
Staff 1-16

Date of Response: 7/6/20
Supplemental Response: 10/7/20
Donald Ware

REQUEST:

Testimony of Mr. Donald Ware, Bates Page 131

Does PEU anticipate entering a wholesale agreement with the Town of Salem to provide water, if, or, when necessary, through the planned, NHDES funded interconnection, between the portion of the W&E Community Water System (CWS) that PEU will retain and the portion of the W&E CWS that will be transferred to the Town of Salem?

RESPONSE:

PEU has discussed with the Town of Salem an arrangement for emergency back-up service or supplemental supply when there is insufficient well water, which would be provided by the Town of Salem at the retail rate that applies to customers in the Town of Windham. This arrangement would be similar to the one that PEU has with the Town of Merrimack.

Please note that in recent discussions NHDES indicated that they are not sure whether they will fund some, all or none of the cost of the interconnection. PEU should know about what portion of the interconnection the NHDES is willing to fund within the next 30 to 45 days.

SUPPLEMENTAL RESPONSE:

Subsequent to the filing of the original response and in light of changed circumstances, including the extreme drought in southern New Hampshire, PEU has reconsidered the nature of its intended water supply agreement with the Town of Salem and has determined to enter into an agreement more in the nature of a traditional wholesale water supply arrangement. The parties have reached an agreement in principle that requires approval by the Salem Board of Selectmen before it can take effect. A copy of the proposed agreement is provided as Attachment A to this supplemental response.

The Southern New Hampshire Regional Water Interconnection Project Agreement provides, among other things, that Salem shall charge wholesale customers in Windham, such as PEU, a volumetric rate equal to Manchester Water Works' out-of-town rate plus \$1.50, resulting in a current rate of \$3.337, which is less than the Town of Salem's proposed retail rate for Windham customers of \$4.20 per CCF (Salem in-town rate of \$3.65 per CCF plus 15%).

CONFIDENTIAL DRAFT**WATER SUPPLY AGREEMENT
BETWEEN
TOWN OF SALEM, NEW HAMPSHIRE
AND
PENNICHUCK EAST UTILITY, INC.**

WHEREAS, the Town of Salem (“Salem”) and Pennichuck East Utility, Inc. (“PEU”), as well as the Towns of Derry, Plaistow, and Windham, Manchester Water Works (“MWW”), and Hampstead Area Water Company, Inc. have entered into an “Agreement Regarding the Southern New Hampshire Regional Water Interconnection Project” (“Regional Agreement”); and

WHEREAS, pursuant to the Regional Agreement Salem will provide water to portions of the Town of Windham via an interconnection with the Town of Derry and through water mains installed by Salem in Route 28 from the Derry/Windham Town line to the Windham/Salem Town and along Route 111 from Route 28 to the intersection of Route 111 and Range Road; and

WHEREAS, PEU petitioned the New Hampshire Public Utilities Commission (“PUC”) in Docket No. DW 20-080 to transfer to Salem the portion of the W&E Community Water System (“W&E”) franchise along Range Road westerly from its terminus at the intersection of Route 111 and Range Road to a point along the PEU Range Road water main about 150 feet westerly of the intersection of Range Road and Edgewood Road; and

WHEREAS, PEU will retain the franchise for supplying water to W&E customers along Range Road just to the west of its intersection with Route 111, where the Route 111 water main will terminate; and

WHEREAS, PEU experiences seasonal water supply shortages for its W&E customers in the Town of Windham and needs additional water supply to supplement and back-up the existing groundwater wells that provide water to W&E; and

WHEREAS, PEU desires to purchase water directly from Salem by interconnecting to the 12” water main that Salem is installing along Route 111, and which Salem will own and operate pursuant to the Regional Agreement; and

WHEREAS, Salem and PEU (together, “Parties” or individually, “Party”) now desire to enter into this Water Supply Agreement (“Agreement”) to set forth the terms, conditions, and rates with respect to Salem’s supply of water to PEU for the purpose of supplying PEU’s W&E customers in Windham.

NOW, THEREFORE, in consideration of the mutual agreements and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term

This Agreement shall be in effect, beginning thirty (30) days following approval by the Salem Board of Selectmen and ending on a date which is fifteen (15) years following

commencement. In the twelve months preceding the termination of this Agreement, either party may initiate negotiations for a new agreement for a new term.

2. **Definitions**

- (a) Excess Water Use is water use in excess of 30,000 gallons per day (“GPD”) in any monthly metering period as set forth in Section 5 (c).
- (b) Interconnection Point is the point of interconnection between the Salem and PEU water systems as described in Section 3 and depicted in Attachment A.
- (c) MDD is the Maximum Daily Demand as defined in Section 5 (a).
- (d) MPD is the Maximum Peak Demand as defined in Section 5 (b).
- (e) MSDC is the Merrimack Source Development Charge as set forth in the Regional Agreement, which is a capital charge assessed by the Manchester Water Works in accordance with its rules and regulations for the purpose of constructing, acquiring, improving, enlarging and/or operating the Manchester Water Works” system.
- (f) Regional Agreement is the Agreement Regarding the Southern New Hampshire Regional Water Interconnection Project among the Town of Derry, Manchester Water Works, the Town of Plaistow, the Town of Windham, the Town of Salem, Hampstead Area Water Works, Inc., and Pennichuck East Utility, Inc., fully executed April 17, 2019.
- (g) Vault is the underground structure that will be constructed and maintained by PEU to house the meter/pressure reduction valve as described in Sections 3 and 4.

3. **Delivery Point**

The water to be sold by Salem to PEU under this Agreement shall be delivered by Salem to PEU at the point of interconnection (“Interconnection Point”) between the Salem and PEU water systems as shown on the attached plan, which is made a part hereof as Attachment A. PEU owns the pipes and other facilities from, but not including the first 6” gate valve located on the inlet side of the meter/pressure reduction valve located in the vault (“Vault”) in Windham, continuing through the vault to the existing W&E CWS distribution system on Range Road. Salem will retain ownership of the water main up to and including the 6” gate valve referenced above, said 6” gate valve being the Interconnection Point.

4. **Metering**

PEU shall purchase and install a meter and pressure reducing valves in the Vault according to Salem’s specifications and shall contribute the meter to Salem. Salem will be responsible for maintaining and testing the metering equipment (“Meter”) within the Vault, which shall be used to measure the quantity of water taken by PEU on a monthly basis. PEU shall maintain the Vault to ensure that the station remains warm (in excess of 45°F), dry, and accessible year-round. PEU shall provide Salem with a vault key and Salem shall be allowed to access the Meter as reasonably necessary to read, operate, and maintain the Meter.

The Meter shall be inspected and calibrated by Salem in accordance with the applicable regulations of Salem. A copy of any inspection and calibration reports shall be available at Salem's principal office for examination by PEU during normal business hours on reasonable prior written notice from PEU.

PEU may have the accuracy of the Meter tested by an independent third party at PEU's expense at any time, but not more frequently than once each month, provided that PEU gives Salem at least seven (7) days advance written notice of its desire to test the Meter for each test. PEU shall have the right to be present during any such test and shall be provided a written copy of all test results (whether or not PEU was present).

If the Meter reads within the specifications established by the Salem, then the cost of such test shall be borne by PEU. If the Meter does not meet the specifications established by Salem, then Salem shall have the option to re-test the Meter using an independent third-party inspector at its sole cost within seven (7) days of receiving the results from PEU.

If there is a discrepancy between the tests, then Salem's independent inspector's test results shall control. If PEU accepts the results provided by Salem or if Salem's independent results also reflect that the Meter does not meet the specifications established by Salem, then Salem shall adjust its next bill to PEU accordingly.

When the percentage error of registration exceeds 103% of the correct amount, Salem shall refund an amount equal to the charge for the excess billed for the shorter of the following:

- (1) The previous 12 months;
- (2) A period equal to 1/2 the time elapsed since the last test; or
- (3) The period of occupancy by the customer.

When the percentage error of registration is below 97% of the correct amount, Salem shall charge PEU for the unbilled amount for the shorter of:

- (1) The previous 12 months;
- (2) A period equal to 1/2 the time elapsed since the last test; or
- (3) The period of occupancy by the customer

5. Quantity of Water

Water to be made available under this Agreement shall be strictly limited to the quantity of Merrimack Source Development Charge ("MSDC") credits purchased by PEU from the Town of Windham's allotment as set forth in the Regional Agreement.

(a) Maximum Daily Demand

Subject to the provisions of Section 5 (b), PEU shall have the right to take up to, but not in excess of, thirty thousand (30,000) GPD at the Interconnection Point (provided, however, that water taken for non-training firefighting purposes and other declared emergencies shall not be counted toward such maximum quantity). The Maximum Daily Demand ("MDD") shall be calculated by taking the total water used during the month and dividing it by the number of days between the meter reading dates for that month.

(b) Maximum Peak Demand

At all times, PEU's peak draw at the Interconnection Point shall be limited to two hundred twenty five (225) gallons per minute (or 324,000 GPD maximum peak demand hour (provided, however, that water taken for non-training firefighting purposes and other declared emergencies shall not be counted toward such allowable draw).

If Salem, in its sole discretion, determines: (i) that its water supply is inadequate to serve the needs of PEU; or (ii) that, due to circumstances beyond Salem's reasonable control, its water supply is impaired, Salem may, upon twenty-four (24) hours' notice to PEU, reduce the maximum volume that may be taken by PEU. Salem will promptly notify PEU when such circumstances cease to exist, and, thereupon, the rights of PEU to take water as set forth in Section 5 (a) shall be restored.

In exercising its discretion concerning a reduction in the amount of water thereafter to be taken by PEU, Salem shall afford at least as favorable treatment to PEU as to other wholesale water supply customers, if any. Salem will promptly employ commercially reasonable efforts to cure such inadequacy or impairment. PEU shall not be entitled to compel Salem to supply it with any specific quantity of water nor shall it be entitled to any damages as a result of Salem's determination that its supply is inadequate or impaired. Under no circumstances will Salem be obligated to supply water other than that from the MWW source.

(c) Excess Water Use

Should PEU use water supplied by Salem in excess of the MDD of 30,000 GPD during any monthly metering period, PEU shall pay, in addition to the wholesale usage rate set forth in Section 7 (a), an excess water use charge to Salem calculated in a manner similar to that set forth in the Regional Agreement, Exhibit A, section 17.19. The excess water use charge under this Agreement shall be equal to the wholesale rate set forth in section 7 (a) multiplied by GPD in excess of 30,000.

6. Increase in Quantity of Water

If PEU wishes to increase the maximum quantity of water that it is permitted to purchase under Section 5, it shall provide Salem with written notice sufficient for Salem to evaluate the capacity of its facilities to produce water to meet such increased demand in light of existing and reasonably anticipated additions to demand on Salem's own system. Such notice shall be given at least one (1) year in advance of the desired implementation date of the increase.

Salem shall respond to such a request within ninety (90) days, indicating whether it agrees to provide the additional supply. If, in its sole discretion, Salem agrees to increase the maximum quantity of water that may be taken by PEU, Salem and PEU shall negotiate in good faith to determine the price of any such increase based on the cost of the incremental capacity.

If the parties are unable to agree on the cost of the incremental capacity, Salem shall not be required to increase the maximum quantity provided for in Section 5. Any increase in the

maximum quantity of water to be purchased under this Agreement shall be reflected in a written amendment to this Agreement, signed by the Parties.

7. Rates, Fees and Expenses

PEU shall pay Salem the following amounts for the water supplied or to be supplied by Salem under this Agreement:

(a) Water Usage Rate

PEU shall pay the wholesale water usage rate set forth in the Regional Agreement, which is currently \$0.50 more per CCF than the combined rates charged by MWW and Derry for water usage. This rate will only be adjusted when the combined rate charged by MWW and Derry changes.

(b) Customer Charge

PEU shall pay a monthly customer charge equivalent to what PEU charges its customers in the Town of Windham. Currently, the monthly charge for a 3-inch compound meter is \$427.09, plus \$44.03 for a 3/4-inch meter, which totals \$471.12. The monthly fixed charge will increase consistent with any PUC approved change in PEU's customer charge.

(c) Invoices, Payments, and Disconnection of Service

Salem shall bill PEU in arrears on a monthly basis for water taken by PEU pursuant to this Agreement. Payment shall be due on delivery of each invoice and amounts unpaid after thirty (30) days shall be subject to one (1%) percent interest per month on the unpaid balance from the date of such invoice. The procedures set forth in the Town of Salem's rules and regulations shall govern disconnection of service to PEU for non-payment.

(d) Construction and Regulatory Expenses

(i) PEU will pay for all the costs associated with the construction of the Meter/PRV vault interconnection.

(ii) PEU will purchase 30,000 gallons of MSDC credits from the existing MSDC credits acquired by the Town of Windham via the Regional Agreement.

(iii) PEU will buy a three-inch compound meter and associated meter radio reader, meeting Salem's specifications and contribute it to Salem.

8. Assignment and Sale

This Agreement and all of the provisions hereof shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either Party hereto without the prior written consent of the other Party.

For the avoidance of doubt, PEU agrees and acknowledges that any water provided to it by Salem shall be used only to provide service to customers within the Town of Windham who are connected to W&E. No water shall be sold by PEU, either directly or indirectly, to any

private or investor owned water utility, municipality, village district, or individual doing business or residing outside of PEU for any purpose without Salem's prior written consent.

9. Termination

Subject to the provisions of Section 9 (b) of this Agreement, either Party may terminate this Agreement at any time in the event of any material breach of this Agreement by the other Party which is not cured, if curable, within the applicable cure period, or in the event that any covenant, warranty, or representation made herein by a Party is untrue or inaccurate in any material respect (any of the foregoing events, a "Material Breach").

In the event either Party wishes to terminate this Agreement by reason of a Material Breach by the other Party pursuant to this Section 9, the Party wishing to terminate shall provide prior written notice of breach to the other Party ("Notice of Breach"). The Notice of Breach shall contain details of the alleged Material Breach and shall provide a thirty (30) day period from the date of the Notice of Breach in which to cure same, or such longer time period as the Party giving notice, at its sole and absolute discretion, may wish to provide (the "Cure Period"). The Party giving the Notice of Breach may terminate this Agreement pursuant to Section 9 (a) above by written notice to the other Party in the event that the other Party fails to cure the Material Breach within the Cure Period, provided, however, that any such termination shall not be effective until six (6) months from the date of the Notice of Breach.

10. Severability

If any provision contained in this Agreement shall for any reason be held invalid, illegal or unenforceable by a court of competent jurisdiction and venue in any respect, then such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless the invalidity of any such provision substantially deprives either party of the practical benefits intended to be conferred by this Agreement. Notwithstanding the foregoing, any provision of this Agreement held invalid, illegal, or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable, and the determination that any provision of this Agreement is invalid, illegal, or unenforceable as applied to particular circumstances shall not affect the application of such provision to circumstances other than those as to which it is held invalid, illegal, or unenforceable.

11. Amendment and Modification

No waiver or modification of this Agreement or of any covenant, condition, or limitation contained herein shall be valid unless in a writing of subsequent date hereto referencing this Section 11, duly executed by the Parties hereto. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the Parties hereto arising out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing and duly executed as aforesaid.

12. Governing Law

This Agreement shall be governed, construed and interpreted by, and in accordance with, the laws of the State of New Hampshire.

13. Notices

All notices, requests, demands, and other communications given pursuant to this Agreement shall be in writing and shall be deemed to have been given if they are delivered by hand or by nationally recognized overnight courier or mailed by certified or registered mail with postage prepaid to PEU or Salem, as the case may be, at the following address or to such other address as the receiving party may have given written notice to the other Party:

Notices to Salem should be delivered as follows:

Town of Salem
Salem Municipal Services
21 Cross Street
Salem, NH 03079
Attn: Director, Roy E. Sorenson

Notices to PEU should be delivered as follows:

Pennichuck East Utility, Inc.
25 Manchester Street
Merrimack, NH 03054
Attn: Mr. Donald L. Ware, COO

14. Action Necessary to Complete Transaction

PEU and Salem each covenant and agree to execute and deliver all documents or instruments and take any action that may be reasonably necessary or advisable to evidence or effectuate the consummation of the transactions contemplated hereby, assist and facilitate the provision of the services to be provided hereunder, and otherwise to carry out the intent of the Parties hereunder.

15. Headings

The headings in each section of this Agreement are for convenience of reference only, and do not form a part hereof and in no way modify or shall be used to interpret or construe the meaning of this Agreement.

16. Compliance with the Law

Each Party hereto agrees that it is responsible at its own expense for compliance with all laws, and shall indemnify, defend and save harmless the other Party from any claim by a third Party arising out of or related to non-compliance with law.

17. Integration

This Agreement constitutes the entire agreement and understanding between the Parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings, agreements, statements, and representation, whether written or oral, between or made by the Parties.

18. Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed on signature pages exchanged by facsimile, in which event each party shall promptly deliver to the others such number of original executed copies as the others may reasonably request.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives.

PENNICHUCK EAST UTILITY, INC.

Witness

By: _____
Name: Donald L. Ware
Title: Chief Operating Officer

TOWN OF SALEM, NH

Witness

By: _____
Name: _____
Title: _____

<END OF DOCUMENT>