

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

**PENNICHUCK EAST UTILITY, INC.  
PETITION FOR CONDEMNATION OF EASEMENT RIGHTS**

**DW 06-\_\_\_\_\_**

**Direct Prefiled Testimony of Donald L. Ware**

1 Q. Please state your name, business address and your position with Pennichuck East Utility,  
2 Inc.?

3 A. My name is Donald L. Ware. My business address is 25 Manchester St., Merrimack,  
4 NH. I am the President and Chief of Operations at Pennichuck East Utility, Inc. (the  
5 “Company”). I have worked for the Company since 1995. I am a licensed professional engineer  
6 in New Hampshire, Massachusetts and Maine.

7 Q. Please describe your educational background.

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

13 Q. Please describe your professional background.

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

19 Q. What are your responsibilities at the Company?

20 A. As President, I oversee the regulated entity and report directly to the CEO Board of  
21 Directors. In my capacity as head of Operations I am directly responsible for the overall  
22 operations of the Company, including water quality and supply, distribution, engineering and  
23 water system capital improvements. With regard to capital improvements overseen by the

1 Company's Engineering Department, I am also responsible for project design, project  
2 management and construction management.

3 Q. What is the purpose of your testimony?

4 A. I will be providing testimony discussing the needs of the Company to acquire limited real  
5 property rights in two parcels of land within the town of Pelham, New Hampshire. The purpose  
6 of this condemnation action is to clarify and/or acquire easement rights on behalf of the  
7 Company so that the Company can continue to meet its obligation of service to the public by  
8 allowing the Company to continue to operate the Gage Hill Community Water System  
9 (hereinafter the "System"). It is necessary for the Company to condemn the proposed limited  
10 easement rights to provide the Company with specific rights to allow it to perform necessary  
11 maintenance and improvement to the System, including the pump house, water tanks, well and  
12 water mains. The Company has been attempting to clarify its real property interest in the two  
13 lots subject to this Petition for over three years. It has not been able to reach an agreement with  
14 the owners of said land as to the necessity or the price to be paid therefore. In fact both land  
15 owners have refused to communicate with the Company concerning the formal acquisition of  
16 easement rights.

17 Q. Please describe the parcels the Company proposes to acquire rights from, and who owns  
18 said parcels?

19 A. I have attached two proposed easement plans showing the proposed easement area and  
20 two corresponding deeds. The first lot is identified as Pelham Tax Map 16, lot 12-122, the  
21 recorded owners being Sandra J. and Daniel A. Crane. The deed reference, in the Hillsborough  
22 County Registry of Deeds is Book 5658, Page 365 and the street address is Radcliffe Drive,  
23 Pelham, New Hampshire. The plan for this lot is titled "6 Radcliffe Drive, Pelham, New

1 Hampshire” and was prepared for Pennichuck East Utilities, Inc., dated April 1, 2004, and last  
2 amended as of April 27, 2004, by Hayner/Swanson, Inc. Attached hereto and incorporated  
3 herein as DLW-1. The proposed easement area is shown in the plan and also described on the  
4 attached proposed easement document, DLW-1A.

5 The Second lot is identified as Pelham Tax Map 16, lot 12-121, the recorded owners  
6 being Felix E. & Josette D. Quintal. It is believed that Josette Quintal is no longer living. The  
7 deed reference, in the Hillsborough County Registry of Deeds is Book 2750, Page 726 and the  
8 street address is 4 Radcliffe Drive, Pelham, New Hampshire. The plan for this lot is titled “4  
9 Radcliffe Drive, Pelham, New Hampshire” and was prepared for Pennichuck East Utilities, Inc.,  
10 dated April 1, 2004, and last amended as of April 27, 2004, by Hayner/Swanson, Inc. Attached  
11 hereto and incorporated herein as DLW-2. The second proposed easement area is shown in the  
12 plan and also described on the attached proposed easement document, DLW-2A. (The combined  
13 easement shown and described on DLW 1 and 2, to be hereafter referred to as the “Proposed  
14 Easement Area”.)

15 Q. Please describe the limited property rights the Company proposes to acquire?

16 A. The proposed easement deeds 1A and 2A describe the specific rights the Company is  
17 seeking to condemn. The proposed easement language comes from the Company’s standard use  
18 and access easement form used by the Company in almost every system it owns or acquires. The  
19 language sets forth the rights the Company reasonable requires in order to allow it to maintain,  
20 expand and upgrade the various water systems the Company owns. The easement rights being  
21 sought or clarified are essential to allow the prompt replacement and future maintenance of a  
22 water storage tank buried under the Crane lot, Lot 12-122, and directly abutting, and/or slightly  
23 intruding upon the Quintal lot, Lot 12-121. In this case, it is also necessary to acquire these

1 rights to allow the Company access to the Proposed Easement Area to service the System in the  
2 future. There is a pump house, well, and water mains located on the intersection of the two  
3 neighboring lot owned by the Beaucage Living Trust and Robert and Kathleen Saitow of 14  
4 Vassar Drive, and shown on the two Plans, DLW 1 and 2, as Map 16, Lot 12-118 and Map 16,  
5 Lot 12-117.

6 The Company will be required to use heavy equipment to complete the replacement of  
7 the tank, and on a limited basis in the future to repair and maintain the tank, the pump house,  
8 well, and water mains associated with the System. It is for this reason that the Proposed  
9 Easement Area includes a buffer around the actual equipment to allow the Company to gain  
10 access to the System's equipment.

11 Q. Please describe why the Company is currently filing this action.

12 A. Currently the steel storage tank located in the Proposed Easement Area is in desperate  
13 need of replacement, as it is showing signs that it is collapsing. There has been a tank used by  
14 the Gage Hill Community Water System on the Crane and Quintal Properties for several  
15 decades. It is believed that the Proposed Easement Area has been used by the Owners of the  
16 System open and notoriously during that time. The System was originally created for the Gage  
17 Hill Development, and was acquired by the Company in 1998 as part of the dissolution of the  
18 Consumers Water Company's assets. The Company began clarifying its easement rights  
19 concerning the System three years ago, and has acquired easements from neighboring parcels  
20 owned by the Beaucage Living Trust and Robert and Kathleen Saitow without incident, and  
21 without the exchange of money. The Company desires that the matter be resolved promptly so  
22 that necessary repairs can be made immediately, noting that if the water storage tank were to fail  
23 the System would not be able to function. The Company further believes this action is necessary

1 to resolve the Company's rights to maintain the System in its current location and repair the  
2 System prior to commencement of the necessary work. Delays once work is commenced could  
3 result in long term interruption of service and great escalation in the cost necessary maintenance  
4 and repair. Failure to resolve prior to the upgrades could also result in lost investment and/or  
5 adverse rate increases to the customers of the System.

6 Q. Please describe the anticipated ongoing use of the Proposed Easement Area.

7 A. The Company anticipates that its easement rights over the Proposed Easement Area do  
8 not and will not materially infringe on the current owners use of the Property or materially affect  
9 the property value in the future. It is necessary to replace the water tank which will require the  
10 use of some large earth moving equipment and temporary storage of earth within the Proposed  
11 Easement Area, replacement of the earth and landscaping to clean up the installation area at the  
12 end of the replacement process. The Company plans to put a new tank of the same size in the  
13 exact location as the old tank. The Company, as required in its proposed easements, DLW-1A  
14 and 2A, will return the property to substantially the same condition as it was prior to the  
15 construction. It is possible that the pump house may need to be expanded in the future, though  
16 the Company does not anticipate locating an expanded pump house on the Proposed Easement  
17 Area at this time.

18 Q. How does the Company plan to establish the proposed value for the Proposed Easement  
19 Area?

20 A. The Company has retained the services of R. G. Bramley & Company, Inc., and its staff,  
21 R. G. Bramley and J. Chet Rogers, both licensed land appraisers. The Company attaches  
22 appraisal reports for each proposed easement obtained from R.G. Bramley, as DLW-3,  
23 addressing the Quintal Property, 4 Radcliff Drive and DLW-4, addressing the Crane property, 6

1 Radcliff Drive. Each report contains relevant data, opinion as to the relevant value of the  
2 proposed taking for each of the proposed easements, and copies of the curriculum vitas for the  
3 above referenced staff of R.G. Bramley & Company, Inc.. Both of the Surveyors who signed the  
4 Reports have extensive experience in the field of land surveying as evidenced by their  
5 curriculum vitas.

6 Q. What is the value assigned to the proposed easement taking?

7 The transmittal letter for the report attached as DLW-3 concludes that the value of the proposed  
8 utility easement taking as to the Quintal property is \$600.00. See DLW-3, at pg. 1 and 30. The  
9 transmittal letter for the report attached as DLW-4 concludes that the value of the proposed  
10 utility easement taking as to the Crane property is \$1,400.00. See DLW-4, at pg. 1 and 30.

11 Q. Do you have any further information to add at this time?

12 A. Not at this time.

13 Q. Does that complete your testimony?

14 A. Yes.