

Schedule 1				
Londonderry Core Demand Estimates				
Domestic Demand	Volume/Flow		Comments	
Londonderry Core Existing Demand	382,402	GPD	Based on 2015 water use data	
Londonderry Core Future Demand	89,616	GPD	Projected from increased customer growth 2006 through 2015	
Woodmont Commons Demand	405,488	GPD	Based on information provided by Pillsbury consultants	
Total Future Average Day Demand	877,506	GPD		
Maximum Day to Average Day Factor	1.4		Based on historic metered data	
Estimated Maximum Day	1,228,508	GPD		
Fire Flow Requirements Tank Volume				
	Flow (GPM)	Duration (MIN)	Volume (GAL)	Comments
Sector				
Londonderry Core	2,400	120	288,000	Based on existing PEU Londonderry Core requirements
Woodmont Commons (in conjunction with Londonderry Core)	1,100	120	132,000	Part of Woodmont fire flow is included with existing Londonderry Core requirements
Woodmont Commons (in addition to Londonderry Core)	3,500	60	210,000	Woodmont flow and volume in excess of the existing Londonderry Core requirements
Total Fire Flow Volume			630,000	
Tank Capacity				
Average Day Demand	877,506	GAL	Comments	
Supply Pumping Capacity	405,000	GAL	Supply pumping capacity during 180 minute fire flow.	
Required Domestic Volume	472,506	GAL	Averaged Day Demand - Supply Pumping	
Fire Flow Volume	630,000	GAL		
Calculated Volume	1,102,506	GAL	Tank volume is "Required Domestic Volume" plus "Fire Flow Volume"	
Nominal Volume	1,100,000	GAL	Final tank size is based on nominal tank volumes furnished by suppliers and in consideration of pumping (supply capacity)	

Schedule 2		
Woodmont Commons Demand	Wastewater Flow GPD	Comments
Woodmont Commons Phase/Section		
1-GL	26,428	Redevelopment of Existing Properties - No New Demand
Phase 1	59,265	Redevelopment of Existing Properties - No New Demand
1	100,361	New Development
2	64,640	New Development
3	-	No Development
4	12,850	New Development
5	4,950	New Development
6	7,200	New Development
7	10,800	New Development
8	106,960	New Development
9	23,400	New Development
10	30,740	New Development
11	10,800	New Development
12	280,675	New Development
Total Woodmont Commons Demand	653,376	
Less Redevelopment 1-GL & Ph1	567,683	
Additional Woodmont Commons Demand	567,683	Divide WW by 1.4 Max. Day Factor for Ave. Day of 405,488 GPD

*Flow Estimates provided to PEU by Woodmont Commons

Schedule 3							
Estimated Cost							
	Estimated Cost	Pennichuck Share		Pillsbury Share		Comments	Schedule
Design & Permitting							
Local & NHDES Permitting	\$ 25,000.00	49.156%	\$ 12,289	50.844%	\$ 12,711	Civil/Site	Summer- Fall 2018
Tank Design	\$ 60,000.00	49.156%	\$ 29,494	50.844%	\$ 30,506	Geotechnical & Structure	Summer- Fall 2018
Project Bidding	\$ 5,000.00	49.156%	\$ 2,458	50.844%	\$ 2,542	Plans & Specifications	Fall 2018
Construction							
Site and Utilities	\$ 200,000.00	49.156%	\$ 98,312	50.844%	\$ 101,688		Spring 2019
Tank Foundation & Structure	\$ 2,500,000.00	49.156%	\$ 1,228,905	50.844%	\$ 1,271,095		Summer 2019 - Summer 2020
Testing and Inspection Services	\$ 45,000.00	49.156%	\$ 22,120	50.844%	\$ 22,880		Summer 2019 - Summer 2020
Totals	\$ 2,835,000.00		\$ 1,393,579		\$ 1,441,421		

Schedule 4 Cost Share	Allocated Cost		PEU Londonderry Core %	Cost Share PEU	
	Volume				
Fire Flow Volume	630,000	gallons	\$ 1,623,682	45.714%	\$ 742,255
Domestic Volume	470,000	gallons	\$ 1,211,318	53.770%	\$ 651,324
Estimated Tank Cost			\$ 2,835,000		\$ 1,393,579

Woodmont Commons %	Woodmont Commons Cost Share
54.286%	\$ 881,427
46.230%	\$ 559,994
	\$ 1,441,421
\$ 2,835,000.00	

PEU share Financing			Attachment JJB A - Schedule 5			
COBANK						
Term	25	Years				
	300	Months				
Interest Rate	5.5	% Annual				
	0.4583	% Monthly	Monthly (as decimal)		0.004583	
Principal	\$ 1,393,579					
P&I	\$8,557.79	per Month				
P&I	\$102,693.51	per Year				
NH State Revolving Fund (SRF)						
Term	30	Years				
	360	Months				
Interest Rate	2.424	% Annual				
	0.202	% Monthly	Monthly (as decimal)		0.00202	
Principal	\$ 1,393,579					
P&I	\$5,451.41	per Month				
P&I	\$65,416.96	per Year				
NH Drinking Water & Groundwater Trust Fund (NHDWGTF)						
Term	40	Years				
	480	Months				
Interest Rate	3.34	% Annual				
	0.2783	% Monthly	Monthly (as decimal)		0.002783	
Principal	\$ 1,393,579					
P&I	\$5,265.69	per Month				
P&I	\$63,188.28	per Year				
Annual Purchased Water Volume						
Tank complete						
Average Day	382,402	Gallons				
Yearly	139,576,800	Gallons	186,600	CCF per Year		
MWW Rate without Tank	\$ 1.450	per CCF		Cost per Year without Tank	\$ 270,570.00	
MWW Rate with Tank	\$ 1.109	per CCF		Cost per Year with Tank	\$ 206,939.40	
				Savings per Year	\$ 63,630.60	
Buildout						
Average Day	877,506	Gallons				
Yearly	320,289,530	Gallons	428,195	CCF per Year		
MWW Rate without Tank	\$ 1.450	per CCF		Cost per Year without Tank	\$ 620,882.11	
MWW Rate with Tank	\$ 1.109	per CCF		Cost per Year with Tank	\$ 474,867.77	
				Savings per Year	\$ 146,014.34	



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Testimony of John J. Boisvert
Attachment JJB-B



Robert R. Scott, Commissioner

January 9, 2018

DONALD WARE
PENNICHUCK EAST UTILITIES
PO BOX 1947
MERRIMACK NH 03054-1947

Subject: MWS Londonderry, PEU Londonderry EPA # 1391010
Sanitary Survey 2017

Dear Mr. Ware:

On December 19, 2017 a staff member from the Department of Environmental Services (DES) conducted a sanitary survey on the PEU Londonderry Core water system. The purpose of the sanitary survey is to review the capacity of the system's source, treatment, distribution, and management to continuously produce safe drinking water. We would like to thank Chris Countie Water Supply Manager, for his assistance in conducting this survey.

SUMMARY

The PEU Londonderry Core water system obtains all of its water from the Manchester Water Works. The system is well maintained and is overseen by competent and conscientious operators. Water quality meets all drinking water quality standards, and the system is in compliance with action levels for lead and copper at customers' taps.

We note that substantial expansion and growth is proposed for this area of Londonderry. Pennichuck East Utility (PEU) holds the franchise rights to serve water to any new development. PEU has documented that addition pumping capacity along with substantial water main upgrades or storage is needed to address this growth. For any new development which requires DES approval, PEU and/or the developer will need to document that there is sufficient capacity, pressure, and storage to meet both existing and proposed water users demands.

Be advised that Manchester Water Works is developing a new source of water supply and is subject to Env-Wq 2101 Water Conservation. In accordance with Env-Wq 2101.02(c)(7), a consecutive water system that receives water from a wholesale system is also subject to Env-Wq 2101 as of the new source activation date. For more specific information contact Stacey Herbold at 271-6685 or Stacey.herbold@des.nh.gov.

SYSTEM DESCRIPTION

The PEU/Londonderry core water system serves an estimated population of about 4,765 through about 1,243 service connections primarily in the southeasterly section of the Town of Londonderry. The system also serves about 200 service connections within the Mountain Home

Estates complex connected to the Londonderry system via a pumping station master meter, and the town's municipal center, which includes the Town Offices and the Londonderry Public Schools along Mammoth Road.

The existing metering point is read monthly and flows into the distribution system. Pennichuck East Utility (PEU) estimates maximum day demand of approximately 624,000 gallons per day (gpd).

The system obtains all of its supply from the Manchester Water Works by way of the former PEU/Cohas water system. From a meter pit near the intersection of Mammoth Road and Rockingham Road (Route 28), an 8-inch main serves the area of Cohas Landing. A 16-inch main extends from the terminus of the 8-inch main along Mammoth Road to a booster station located at Mountain Home Estates. From the pumping station, the main continues southerly along Mammoth Road and connects to the distribution system at the entrance to the Junior High School. There is no atmospheric storage in the distribution system.

The Mountain Home Estates booster is equipped with two 30-HP and two 75-HP centrifugal pumps with variable speed drives. This pump station has a pumping capacity of 2,400 gallons per minute (gpm) with all pumps available. However, due to suction pressure limitations entering the Mountain Homes Station, the pumping capacity is limited to 1,500 gpm. The station includes a tee to Mountain Home Estates (MHE) equipped with PRV, backflow preventer and a master meter, as MHE does not have individual meters. The station also is equipped with diesel generator and SCADA connection to the Pennichuck filtration plant.

The Londonderry Core water system has two pressure zones. The higher zone (elevation 610) is established by the Mountain Homes pump station. A pressure reducing valve reduces the pressure to the lower zone (elevation 498) along the south end of Gilcreast Road. This PRV station serves as the hydraulic boundary between the low and high pressure zones within the distribution system. We note that there is no means to pump water up into the higher pressure zone.

The South Road pump station has been converted to an emergency supply station which can pump to the lower zone of the Londonderry Core water system from the Derry Water Department, activated by a loss of system pressure in this zone. This station has an installed pumping capacity of 1,300 gpm (two pumps at 650 gpm each) This station can also be bypassed manually to serve water to Derry's water system, which operates at a lower hydraulic grade line. This station is equipped with dual boosters to supply fire flow to the new Home Depot in Londonderry. The South Road station is connected to the Pennichuck SCADA system. According to the operator, this station is exercised once per week.

Service connections in this system are totally metered and include backflow control devices. Distribution maintenance includes water main flushing twice each year.

CERIFIED OPERATOR VERIFICATION

State rules require Distribution Grade 2 for this water system. Following are operators listed in our database for this system:

<u>Operator</u>	<u>Certificate No.</u>	<u>Treatment Level</u>	<u>Distribution Level</u>
Chris Countie	1426	4	4

ISSUES AND RECOMMENDATIONS

Growth and Expansion of Distribution System

Currently a new development is proposed in the Town of Londonderry entitled Woodmont Commons. In a letter dated October 10, 2017, PEU provided estimated water demand for the Londonderry core water system. This proposed development will increase water demand by an estimated 227,000 gpd. In addition, Future growth in Londonderry is expected to increase demand by 89,000 gpd over the next decade. Total future demand is estimated at 940,000 gpd.

According to the letter, Woodmont Commons also requires 3,500 gpm. Fire flow protection. New development cannot be approved until an agreement is reached and PEU can confirm sufficient flow and pressure is available.

The PEU letter identified two options to address the need for future capacity throughout the distribution system. One option is to upgrade the existing pumping capacity along with significant pipeline upgrades. The second option is to construct an elevated storage tank at a strategic location which would be designed to provide 100% fire flow required by Woodmont Commons and as well as buffer peak daily demand fluctuations.

I can be reached at 271-2948 or Richard.skarinka@des.nh.gov if there are any questions regarding this survey report.

Sincerely,



Richard Skarinka, P.E.
Drinking Water and Groundwater Bureau
cc. Chris Countie, Water Supply Manager

SPECIAL CONTRACT – WATER
CONTRACT NO. NHPUC 2018-__
PENNICHUCK EAST UTILITY, INC.

WITH

PILLSBURY REALTY DEVELOPMENT, LLC
FOR
WOODMONT COMMONS

Date of Execution: _____

Effective Date: _____

Date of Termination: _____

Authorized in Docket No. DW _____

NHPUC Order No. _____

Dated: _____

SPECIAL CONTRACT FOR WATER SUPPLY SERVICE

This special contract for water supply service (“Agreement”) is made and entered into this _____ day of _____, 2018 by and between Pennichuck East Utility, Inc. (“PEU”), a regulated public utility pursuant to RSA 362:2, with an address of 25 Manchester Street, Merrimack, New Hampshire 03054, and Pillsbury Realty Development, LLC (“Pillsbury”), a registered New Hampshire business and principal developer of the Woodmont Commons Planned Unit Development (“Woodmont Commons”) (together, “Parties”).

RECITALS

WHEREAS, PEU was authorized by the N.H. Public Utilities Commission (“NHPUC”) to provide water service in portions of the Town of Londonderry. See, Docket No. DE 86-230, Order No. 18,691, *Southern New Hampshire Water Company, Inc.*, (May 29, 1987) (approving transfer of franchise to Pennichuck Corporation), Docket No. DE 86-230, Order No. 18,760, *Southern New Hampshire Water Company, Inc.*, (July 14, 1987) (approving Southern’s request to provide service to undisputed area of Londonderry and conditionally approving franchise to disputed area), and Docket No. DE 86-230, Order No. 18,807, *Southern New Hampshire Water Company, Inc.*, (Sept. 1, 1987) (rescinding awarding disputed franchise area and ordering that disputed area is not awarded to either Southern or Manchester Water Works).

WHEREAS, Pillsbury has received approval from the Town of Londonderry to construct the Woodmont Commons on approximately 603 acres of land near Rt. 102 and Interstate 93 at Exit 4 and proposed Exit 4A. The \$1 billion development is being constructed over the course of several phases and will include new mixed-use buildings, homes, offices, a hotel, retail space, medical and professional offices, and agricultural areas.

WHEREAS, the Woodmont Commons development is located within PEU’s authorized franchise area in the Town of Londonderry.

WHEREAS, to meet the future water service needs of PEU and the commercial and residential customers within Woodmont Commons, and, in particular, the Woodmont Commons’ fire protection needs, and to satisfy the requirements of the New Hampshire Department of Environmental Services (“NHDES”), PEU is upgrading its system and is constructing an elevated composite-style (concrete pedestal and steel tank) water storage tank (“Water Storage Tank”) with a capacity of 1.1 million gallons on PEU-owned land adjacent to Woodmont Commons. The construction budget for the Water Storage Tank is approximately \$2.835 million dollars.

WHEREAS, absent the Woodmont Commons development and based on its growth projections, PEU would not have a present need to construct a water storage tank, and would not necessarily size the water storage tank as proposed.

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

CAPITAL CONTRIBUTIONS

1. Pillsbury agrees to provide a proportionate capital contribution (“Capital Contribution”) to defray the cost of PEU’s construction of the Water Storage Tank.
2. In consideration of Pillsbury’s Capital Contribution, PEU agrees to accelerate its construction of the Water Storage Tank and to enlarge the tank size to provide water and fire protection service with sufficient capacity to supply water to the entirety of Woodmont Commons.
3. Construction of the Water Storage Tank is planned to provide an in-service date of October 1, 2020 (“Operational Date”) that is anticipated to coincide with the water and fire protection service needs of the Woodmont Commons Development and otherwise supplement existing capacity available to Woodmont Commons and others.
4. PEU and Pillsbury agree that Pillsbury’s payment of the Capital Contribution will be periodic and that the payments will be based on the bid price of the successful bidder selected by PEU through its competitive bidding process.
 - a. Pillsbury agrees to make the periodic payments according to Schedule A, Anticipated Project Phases and Fee Schedule. PEU and Pillsbury acknowledge that time is of the essence with respect to PEU’s construction of the Water Storage Tank and Pillsbury’s payments to PEU.
 - b. Pursuant to Schedule A, Pillsbury agrees to pay PEU fifty-one (51%) percent of the estimated fees associated with the design, permitting, bidding, construction, and construction administration of the Water Storage Tank project. Pillsbury agrees to pay PEU the Pillsbury Share within ten (10) days from the date PEU notifies Pillsbury that PEU intends to commence each Anticipated Project Phase.
 - c. In the event the estimated fees depicted on Schedule A differ from the actual fees of such phases, PEU agrees to inform Pillsbury of the updated fee at least thirty (30) days prior to Pillsbury’s payment of the Pillsbury Share to PEU.
5. Notwithstanding the Operational Date set forth above, the terms of this Agreement shall not take effect or bind either party until any necessary approvals of the NHDES and the New Hampshire Public Utilities Commission (“NHPUC”), as well as the Company’s Board of Directors and Shareholder, have been obtained. The final order of the NHPUC approving the Agreement shall constitute the approval date (“Approval Date”) of the Agreement.

WATER SERVICE

6. PEU agrees to operate the Water Storage Tank to the benefit of Woodmont Commons and PEU’s other customers in accordance with all applicable laws and regulations.
7. Pillsbury and PEU agree that service provided by PEU to customers within the Woodmont Commons development shall be according to the rates, fares, charges, and terms of service applied to other customers and as contained in PEU’s approved tariff, as amended from time to time, on file with the NHPUC and according to all applicable laws and regulations, including, NHPUC Chapter Puc 600, *Rules for Water Service* and Chapter Puc 1200, *Uniform Administration of Utility Customer Relations*.

REFUNDS

8. In the event that the Water Storage Tank project costs come in lower than the total of the Anticipated Project Phases estimates such that there is an overpayment by Pillsbury, PEU shall refund Pillsbury the appropriate percentage of unused funds no later than forty-five (45) days after the Operational Date.

9. PEU shall maintain financial and operating records of the construction and use of the Water Storage Tank and these records shall be available for inspection by Pillsbury or its agent at the office of PEU during regular business hours.

CONSTRUCTION OF TANK

10. PEU agrees to apply for and obtain all required permits and government approvals, including but not limited to, those required by the NHPUC and the NHDES, in addition to required State and local permits.

11. PEU agrees to prepare all plans, specifications, and other design documents necessary for the tank project, and to make such documents available to Pillsbury for review and comment.

12. PEU agrees to issue an invitation to bidders for the tank project to pre-qualified contractors acceptable to PEU, to secure bids for the required construction services through a competitive bidding method, and to award the contract(s) for construction to the lowest, responsible and responsive bidder.

13. PEU agrees to supervise, administer, coordinate, and oversee construction of the tank project.

LAWS AND REGULATORY APPROVAL

14. GOVERNING LAW AND VENUE

This Agreement shall be governed, construed, and interpreted by, and in accordance with, the laws of the State of New Hampshire. Any actions concerning enforcement of this Agreement or in any way relating to the subject matter of this Agreement shall be adjudicated by the NHPUC, or its successor for resolution of the dispute. Each party to this Agreement expressly agrees to submit to such jurisdiction and venue as required by the NHPUC or its successor.

ADDITIONAL PROVISIONS

15. AMENDMENT

No waiver or modification of this Agreement or of any covenant, condition, or limitation contained herein shall be valid unless it is in writing and of a subsequent date, duly signed by the Parties hereto, and subject to any required approval of the NHPUC. 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 signed by the Parties.

16. WAIVER

Failure of either party to exercise any right under this Agreement shall not be deemed a waiver of such party to exercise at some future time said rights or another right it may have hereunder.

17. DURATION AND TERMINATION

This Agreement shall be exclusive and binding on the Parties from the Approval Date until the Operational Date. Once it is signed and in effect, this Agreement shall supersede and replace all prior agreements between the Parties with respect to the subject matter hereof. The Parties may terminate this Agreement by mutual agreement or as otherwise provided in this Agreement.

18. BINDING EFFECT

The terms and provisions of this Agreement, and the benefits and burdens associated therewith, shall inure to the Parties to this Agreement and their assigns, grantees, and successors in interest 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 and the approval of the NHPUC.

19. NOTICES AND PAYMENTS

All notices, requests, demands, and other communications given pursuant to the Agreement shall be in writing and shall be deemed to have been given if they are delivered by hand or by a nationally recognized overnight courier or mailed by certified or registered mail with postage prepaid to either party 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 Pennichuck East Utility, Inc. shall be delivered to the following address:

Donald L. Ware, Chief Operating Officer
Pennichuck East Utility, Inc.
25 Manchester Street
Merrimack, NH 03054

Notices to Pillsbury Realty Development, LLC shall be delivered to the following address:

Michael L. Kettenbach, Member
Pillsbury Realty Development, LLC
100 Ferry Street
Hudson, NH 03051

All payments for Capital Contributions required by this Agreement shall be made by cashier's check and be made payable to "Pennichuck East Utility, Inc."

20. COOPERATION TO COMPLETE TRANSACTION

PEU and Pillsbury each covenant and agree to execute and deliver all such other documents and 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 herein, and otherwise to carry out the intent of the Parties herein.

21. HEADINGS

The headings in each section of this Agreement are for the 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.

22. COMPLIANCE WITH THE LAW

Each party hereto agrees that it is responsible at its own expense for compliance with all laws and agrees to 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.

23. COUNTERPARTS

This Agreement may be signed in several counterparts, each of which shall be deemed anoriginal and such counterparts shall constitute one and the same instrument.

24. SEVERABILITY

If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

25. AUTHORITY

Each party represents that it has undertaken all actions necessary for corporate approval of this Agreement, and that the person signing the Agreement has the authority to bind the respective party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their authorized representatives:

PILLSBURY REALTY DEVELOPMENT, LLC

Witness

By: _____

Name: _____

Title: _____

PENNICHUCK EAST UTILITY, INC.

Witness

By: _____

Name: _____

Title: _____

Schedule A: Anticipated Project Phases and Fee Schedule

Phase	Date Range		Estimated Cost	Pillsbury Share (51% of Estimated Cost)
Design	May 2018	August 2018	\$60,000	\$30,506.00
Permitting (Town)	August 2018	October 2018	\$25,000	\$12,711.00
Bidding	November 2018	January 2019	\$5,000	\$2,542.00
Construction	March 2019	September 2020	\$2,700,000.00	\$1,372,783.00
Construction Admin.	March 2019	September 2020	\$45,000	\$22,880.00
(Rounded) Total:			\$2,835,000.00	\$1,441,422.00

STATEMENT OF THE SPECIAL CIRCUMSTANCES

1. Pursuant to N.H. Code Admin. R. Puc 1606.02(b), Pennichuck East Utility, Inc. (“PEU”) submits this statement that special circumstances exist that warrant a departure from its general tariff schedules.
2. Woodmont Commons Planned Unit Development (“Woodmont Commons”) in Londonderry has asked PEU to provide water service to the development. Demand from the development is anticipated to be approximately 405,488 GPD which is much larger than the projected growth in the Londonderry core system.
3. PEU anticipated building a water storage tank to meet the projected growth needs of the core system, however, a larger storage tank will be needed to serve Woodmont Commons.
4. PEU’s tariff does not directly address the costs to provide service to Woodmont Commons. PEU’s tariff (Original Page 35 and First Revised Page 36) enables PEU to collect from customers, in advance, for the cost of constructing main extensions necessary to serve the new customer. Also, System Upgrade Fees (Second Revised Page 37) may be charged to customers for the construction of new water facilities. Neither of these provisions, however, fit the circumstance at hand. Pursuant to paragraph 5 on First Revised Page 36, “[s]pecial contracts will be negotiated whenever in the opinion of the Company this regular extension tariff should not be used or is not feasible or economical. Each special contract shall be submitted to the Commission for approval.”
5. Because a larger storage tank is necessary to serve Woodmont Commons, it is of considerable expense, it does not benefit the entire water system, and it is not a main extension project, PEU believes the situation fits paragraph 5 of First Revised Page 36 and that special circumstances exist.

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