

Fred S. Teeboom
24 Cheyenne Drive
Nashua, NH 03063
 (603) 889-2316
 fredtee@comcast.net

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Debra A. Rowland
 Executive Director
 New Hampshire Public Utilities Commission
 21 N. Fruit Street, Suite 10
 Concord, NH 03301

Subject: Petition to Intervene in Hearings on Acquisition of Pennichuck Corporation.

Ref: (1) NH RSA 541-A:32, I, (b)
 (2) PUC Rule Puc 203.17



Dear Director Howland:

The City of Nashua and Pennichuck Corporation aim to jointly file a Docket with the PUC to obtain approval of a Definitive Merger Agreement (DMA) concerning Nashua's acquisition of Pennichuck Corporation through the purchase of stock authorized under New Hampshire law.¹

I have consistently been against Eminent Domain, in favor of acquisition of the entire company through purchase of its stock.

There are a number of troubling aspects to the proposed Agreement that appear greatly disadvantageous to the ratepayers. For example:

- The financial terms and conditions of the acquisition. Attached is my Op. Ed. published in the Sunday Telegraph on 16 January 2011 (see attached) that summarizes my concerns over the cost of the acquisition totaling \$220 Million, of which \$160 million represents new debt that must be repaid by the ratepayers.
- The DMA establishes an independent **for-profit taxable** corporation. It is unclear why the consultants now propose this arrangement, **of great cost to the ratepayer**.
- Previous discussion always contemplated for the water utility to become a part of the city, thus taking advantage of the city's non-profit status. IRS Section 115 permits a utility that is part of a political subdivision such as a city to operate non-profit, thus requiring no payment of corporate or property taxes.²

¹ Chapter 347 of the Acts of 2007, as amended and supplemented by Section 118 of Chapter 1 of the Special Session of the Acts of 2010.

² US Title 26 Internal Revenue Code Chapter 1, Subchapter B, Part III, Section 115 Income of States, municipalities, etc.: Gross income does not include "income derived from any **public utility** or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof....."

- **Nothing under RSA 38, the NH Special Laws cited or the IRS Code cited prevent organizing the newly acquired water utility under the city's Division of Public Works**, same as the Solid Waste and Wastewater Treatment utilities currently operate. The arrangement proposed during the Eminent Domain Hearings for the city to hire Veolia and Beck to manage and operate the water services during a transitional period would apply equally well under the stock acquisition.
- The proposed arrangement to keep the entire Pennichuck operation intact **as a for-profit entity**, except for its top managers, may favor Pennichuck's current employees and its unions but is highly disadvantageous to the ratepayers. Furthermore, the ratepayers do not elect the directors of the new for-profit entity. Discussion in the unsealed minutes to change federal tax law to favor the Nashua acquisition seems irrelevant if not naïve. Communities who currently receive property taxes from Pennichuck Corporation could be compensated through negotiated "payment in lieu of taxes."
- The Financial Model prepared by the city's consultants project that revenues under city ownership will **always** be less than under Pennichuck ownership, starting day one following the acquisition (see attachment #2). Close examination of this model indicates manipulation of data to contrive a desired outcome, such as deferral of taxes and borrowing capital expenses of \$7.75 million annually on a 30-year schedule so that new debt accumulates up to \$149 million after 30 years.

As a water utility ratepayer in the City of Nashua with an interest in obtaining a lowest possible cost of water services following the acquisition I herewith petition to be granted Intervenor status at the PUC Hearing when it is docketed, under PUC Rule Puc 203.17 Intervention³ and under NH RSA 541-A:32, I, (b).⁴

I am a former Intervenor in the Pennichuck Corporation Eminent Domain Hearings before I resigned following my election as alderman-at-large in the City of Nashua for the period 2006-2009. I was not associated with the DMA which was negotiated in year 2010, after I left office.

Please let me know when this petition will be considered, the schedule of hearings on the Pennichuck Corporation stock purchase, and who must be on distribution of this petition.

Sincerely,



Fred S. Teeboom

Former Alderman-at-Large

Former Intervenor in Pennichuck Eminent Domain Hearing

Water Ratepayer in City of Nashua

Attached: (1) Op. Ed. Sunday Telegraph, 16 January 2011.

(2) Projected Revenue Requirements, Pennichuck Corp. vs. City of Nashua Ownership.

³ Puc 203.17 Intervention, "The commission shall grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32."

⁴ RSA 541-A:32, I, (b) Intervention, "The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding...."