



McLane, Graf,  
Raulerson & Middleton  
Professional Association

900 Elm Street | P.O. Box 326 | Manchester, NH 03105-0326  
Tel: 603.625.6464 | Fax: 603.625.5650 | www.mclane.com

OFFICES IN:  
MANCHESTER  
CONCORD  
PORTSMOUTH  
WOBBURN, MA

THOMAS J. DONOVAN  
(603) 628-1337  
tdonovan@mclane.com

August 21, 2009

**VIA HAND DELIVERY**

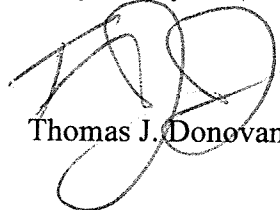
Eileen Fox, Clerk  
New Hampshire Supreme Court  
One Charles Doe Drive  
Concord, NH 03301

**Re: *Appeal of City of Nashua et al.*; No. 2009-0274**

Dear Ms. Fox:

Enclosed please find the original and one copy of Pennichuck's Motion to Permit Reply to its Motion for 15-Day Extension of Time to File Opening Brief and Request for Expedited Consideration, with Reply attached.

Very truly yours,



Thomas J. Donovan

TJD:dap  
Enclosures

cc: Service List



THE STATE OF NEW HAMPSHIRE

SUPREME COURT

NO. 2009-0274

Appeal of City of Nashua et al.

**PENNICHUCK’S MOTION TO PERMIT REPLY TO ITS MOTION FOR  
15-DAY EXTENSION OF TIME  
TO FILE OPENING BRIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

NOW COME Cross-Appellants Pennichuck Water Works, Inc., Pennichuck Corporation, Pennichuck East Utility, Inc., Pennichuck Water Service Corporation, and Pittsfield Aqueduct Company, Inc. (collectively “Pennichuck”) in this matter and in reply to the objection filed by the City of Nashua to the Motion for 15-Day Extension, states as follows:

1. Defendant, Nashua, filed today an objection to plaintiff’s Motion For 15-Day Extension Of Time To File Opening Brief, alleging the motion was not specific enough as to “exceptional circumstances”. While the standard under Supreme Court Rule 21 (6-A) for a 15-day extension does not require “exceptional circumstances”, in the interest of completeness, “exceptional circumstances” are set forth in detail in the attached reply.
2. Since Supreme Court Rule 21(3-A) does not permit replies without prior permission of the Court, this motion seeks that permission.

WHEREFORE, Pennichuck requests that this Court be permitted to file the attached  
reply.

Respectfully submitted,


Pennichuck Water Works, Inc.  
Pennichuck East Utility, Inc.  
Pittsfield Aqueduct Company, Inc.  
Pennichuck Water Service Corporation  
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,  
PROFESSIONAL ASSOCIATION

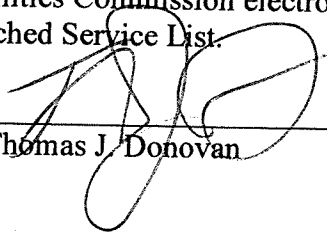
Date: August 21, 2009

By:

  
\_\_\_\_\_  
Thomas J. Donovan, NH Bar No. 664  
Steven V. Camerino, NH Bar No. 33  
Sarah B. Knowlton, NH Bar No. 12891  
11 South Main Street, Suite 500  
Concord, NH 03301  
Telephone (603) 226-0400

**Certificate of Service**

I hereby certify that on August 21, 2009, I served the foregoing Pennichuck's Motion to Permit Reply to Its Motion For 15-Day Extension Of Time To File Opening Brief by electronic mail (to those parties on the Public Utilities Commission electronic mailing list) and by first class mail, postage prepaid, to the attached Service List.

  
\_\_\_\_\_  
Thomas J. Donovan

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

NO. 2009-0274

Appeal of City of Nashua et al.

**PENNICHUCK’S REPLY IN SUPPORT OF ITS MOTION FOR  
15-DAY EXTENSION OF TIME  
TO FILE OPENING BRIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

NOW COME Cross-Appellants Pennichuck Water Works, Inc., Pennichuck Corporation, Pennichuck East Utility, Inc., Pennichuck Water Service Corporation, and Pittsfield Aqueduct Company, Inc. (collectively “Pennichuck”) in this matter and in reply to the objection filed by the City of Nashua to the Motion for 15-Day Extension, states as follows:

1. Nashua’s objection references a conversation between the in-house counsel for Nashua and Pennichuck in which, apparently, the in-house lawyer for Nashua stated it would not consent to an extension. While avoiding the specifics of conversations between outside counsel for Pennichuck and Nashua—the counsel who have to write the briefs—suffice it to say that the tenor of the conversations concerning the desirability of extensions of time to file briefs went quite differently.

2. The standard to grant a fifteen day extension does not require a showing of “exceptional circumstances”. See, Supreme Court Rule 21 (6-A)(c). In fact, the rule is structured to permit just such an extension.

3. Still, “exceptional circumstances” exist here. Pennichuck has been reluctant to set forth all of the reasons for its request, well known to Nashua counsel. They include:

a) an intervenor in the underlying hearing that had not filed an appeal petition, Merrimack Valley Regional Water District, filed a lengthy brief on August 14, 2009, that also requires a response from Pennichuck;

b) the lawyer at this firm most familiar with the issues on appeal, Steven V. Camerino, is trying a utility rate case at the Massachusetts Department of Public Utilities. After extensive preparations, the hearings began on August 3, 2009 and will continue at least through September 4, 2009. Mr. Camerino as a result is not able to devote any time until after then to briefing;

c) Pennichuck is a publicly traded company, and this matter is material to Pennichuck such that additional counsel must review the brief, resulting in the need for additional time;

d) other “exceptional circumstances” exist which are not appropriate to disclose in a public pleading.

WHEREFORE, Pennichuck requests that this Court grant an extension of time for filing Pennichuck's opening and answering brief to September 29, 2009.

Respectfully submitted,

Pennichuck Water Works, Inc.  
Pennichuck East Utility, Inc.  
Pittsfield Aqueduct Company, Inc.  
Pennichuck Water Service Corporation  
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,  
PROFESSIONAL ASSOCIATION

Date: August 21, 2009

By: 

Thomas J. Donovan, NH Bar No. 664  
Steven V. Camerino, NH Bar No. 33  
Sarah B. Knowlton, NH Bar No. 12891  
11 South Main Street, Suite 500  
Concord, NH 03301  
Telephone (603) 226-0400

**Certificate of Service**

I hereby certify that on August 21, 2009, I served the foregoing Pennichuck's Reply in Support of Its Motion For 15-Day Extension Of Time To File Opening Brief by electronic mail (to those parties on the Public Utilities Commission electronic mailing list) and by first class mail, postage prepaid, to the attached Service List.

  
Thomas J. Donovan

Service List 8/21/09  
THE STATE OF NEW HAMPSHIRE  
SUPREME COURT  
NO. 2009-0274  
Appeal of City of Nashua et al.

Eileen Fox, Clerk  
New Hampshire Supreme Court  
One Charles Doe Drive  
Concord, NH 03301

Michael Delaney, Attorney General  
Office of Attorney General  
33 Capitol Street  
Concord, NH 03301-6397

Debra A. Howland  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301

Robert Upton, II, Esquire  
Upton & Hatfield  
23 Seavey Street, P.O. Box 2242  
North Conway, NH 03860

Meredith A. Hatfield, Esquire  
Office of Consumer Advocate  
21 S. Fruit Street, Suite 18  
Concord, NH 03301

Marcia A. B. Thunberg, Esquire  
NH Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, NH 03301-2429

Bryan K. Gould, Esquire  
Brown, Olson & Gould  
2 Delta Drive, Suite 301  
Concord, NH 03301

Edmund J. Boutin, Esquire  
Boutin & Altieri, PLLC  
1 Buttrick Road, P.O. Box 1107  
Londonderry, NH 03053-1107

Eugene F. Sullivan, III, Esquire  
11 South Street  
Concord, NH 03301

William R. Drescher, Esquire  
Drescher & Dokmo  
21 Emerson Road, P.O. Box 7483  
Milford, NH 03055-7483

Laura A. Spector, Esquire  
Mitchell & Bates, PA  
25 Beacon St., East  
Laconia, NH 03246

Jay L. Hodes, Esquire  
Hage & Hodes P.A.  
440 Hanover Street  
Manchester, NH 03104

Town of Hollis  
Mark Johnson  
7 Monument Square  
Hollis, NH 03049-6121

Town of Londonderry  
David Caron  
268B Mammoth Road  
Londonderry, NH 03053

Nashua Reg. Planning Commission  
Steven Williams  
115 Main St., P.O. Box 847  
Nashua, NH 03061

Stephen J. Judge, Esquire  
Wadleigh, Starr & Peters, PLLC  
95 Market Street  
Manchester, NH 03101

Merrimack River Watershed Council, Inc.  
Christine Tabak, Executive Director  
600 Suffolk Street, 5th Floor  
Lowell, MA 01854

Daniel J. Mullen, Esquire  
Ransmeier & Spellman, PA  
One Capitol St., P.O. Box 600  
Concord, NH 03302-0600

Business & Industry Association  
Michael Licata  
122 N. Main Street  
Concord, NH 03301

Barbara Pressly  
11 Orchard Avenue  
Nashua, NH 03060

Claire McHugh  
61 Dublin Avenue  
Nashua, NH 03063-2045