

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

NO. 2009-0274

Appeal of City of Nashua et al.

**PENNICHUCK'S 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 state as follows:

1. Pursuant to the Court's scheduling Order dated July 15, 2009, the City of Nashua's opening brief was filed Friday, August 14, 2009 and Pennichuck's opposing brief is due on September 14, 2009. Pennichuck seeks a 15-day extension to file its brief, which must both answer (oppose) Nashua's opening brief and serve as the opening brief for Pennichuck on its cross appeal.

2. This appeal concerns Nashua's attempt to take by eminent domain the assets of Pennichuck Water Works, Inc., which the Public Utilities Commission valued at more than \$200 million. It is a very complex case. The certified record exceeds 17,000 pages. There are 11 questions on appeal between Pennichuck and Nashua. The proceedings at the Public Utilities Commission included rulings on a motion to dismiss, a motion for summary judgment, and many other matters. The Commission received prefiled testimony from over 30 witnesses, and held 12 hearing days for cross examination of those witnesses.

3. Given the multitude and complexity of issues, given the number of individuals representing Pennichuck who must review the brief, including counsel from several law firms (Pennichuck Corporation is publicly traded), and given the schedules of the parties and counsel involved, it would be very difficult to provide the Supreme Court with a well-considered brief without obtaining an extension of time.

4. Accordingly, pursuant to Supreme Court Rule 21(6-A), Pennichuck seeks a 15-day extension, to September 29, 2009, to file its opposing brief. Pursuant to Supreme Court Rule 21(6-A) Pennichuck sought the consent of the City of Nashua to this extension of time. Pennichuck's counsel had earlier indicated a willingness to consent to a similar request for an extension of time from Nashua's counsel. Still, Nashua responded that it will **not** assent to Pennichuck's requested extension of time.

5. Pennichuck seeks expedited consideration of this Motion, given the time deadlines involved. Nashua's counsel is receiving a copy of this Motion by electronic mail as well as first class mail.

WHEREFORE, Pennichuck requests that this Court:

A. Give expedited consideration to this Motion; and

B. Grant Pennichuck a 15-day extension of time, from September 14, 2009 to September 29, 2009, for it to file its opposing brief.

Respectfully submitted,

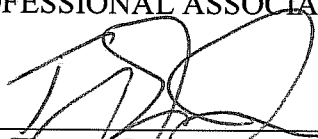
Pennichuck Water Works, Inc.
Pennichuck East Utility, Inc.
Pittsfield Aqueduct Company, Inc.
Pennichuck Water Service Corporation
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: August 17, 2009

By:



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Certificate of Service

I hereby certify that on August 17, 2009, I served the foregoing 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 8/17/09
THE STATE OF NEW HAMPSHIRE
SUPREME COURT
NO. 2009-0274
Appeal of City of Nashua et al.

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