

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 04-048

In the Matter of:
City of Nashua
Petition for Valuation
Pursuant to RSA 38:9

Reply Testimony

Of

Brendan Cooney

May 22, 2006

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

City Of Nashua: Petition For Valuation Pursuant To RSA 38:9

Docket No. DW04-048

REPLY TESTIMONY OF BRENDAN COONEY

1 **Q. Please state your name and position as they relate to this proceeding.**

2 A. My name is Brendan Cooney, I am the sole proprietor and member/manager of
3 BroadReach Research & Consulting, LLC.

4 **Q. What is your professional background and experience?**

5 A. I received a Master of Arts degree in Applied Experimental Psychology in 1997,
6 having specialized in measurement and statistics. Since 1998 I have worked at
7 various positions involving public opinion polling, public relations message
8 development, and marketing research. My employment history and experience are
9 described in more detail in the attached resume. BC Exhibit 1.

10 **Q. What is the purpose of your testimony today?**

11 A. I have been asked to review the telephone survey questionnaires and other
12 information related to the January 12, 2006 testimony submitted by R. Kelly
13 Meyers on behalf of the Pennichuck Corporation, and to provide my professional
14 opinion concerning the purpose of those surveys and conclusions drawn from
15 them.

16 **Q. What information did you review in preparing your testimony?**

17 A. I reviewed a total of eight reports, including survey results and the questionnaires
18 used in each survey, submitted by RKM to Pennichuck Water Works. The reports

1 detailed the findings from an initial "Strategic Image Survey" conducted in
2 December 11, 2003; three follow-up surveys conducted between December 2003
3 and May 2004; and four "Strategic Communications" surveys conducted between
4 June/July 2004 and October 6, 2005.

5 **Q. Based on your review, how would you describe the purpose of the surveys**
6 **conducted by RKM?**

7 A. The first survey reported December 11, 2003 sets a baseline of Nashua voter
8 awareness, perceptions and attitudes toward PWW and toward the City of
9 Nashua's efforts to purchase PWW, and then identifies specific messages and
10 strategies that PWW can use to erode public support for the City's efforts. BC
11 Exhibit 2 at page 23. "Efforts to counter the City's effort to acquire Pennichuck
12 Water Works should focus on select messages."
13 Subsequent surveys evaluated the effectiveness of various message points and
14 strategies at moving public opinion toward greater opposition to the City's efforts,
15 to refine messaging strategies, and to measure the reach and impact of various
16 media initiatives in local papers and on cable television. As stated in the April 15,
17 2005 report on page iii, "The primary purpose of this research is to provide
18 Pennichuck Water Works with systematic information to guide its current
19 informational campaign." BC Exhibit 3.

20 **Q. What are the differences between an independent, objective survey designed**
21 **to measure public opinion and the RKM surveys you reviewed?**

22 A. Some well-known examples of independent, objective surveys designed to
23 measure public opinion are the CBS News/New York Times Poll or the Gallup

1 Poll. The purpose of these polls is to evaluate public opinion and sentiment on a
2 variety of current topics in a way that is balanced and gives equal attention or
3 emphasis on both sides of any given issue, so that people can give a fully-
4 informed response and to ensure that the results reflect actual public sentiment.
5 Question wording is particularly important, and it is probably the greatest source
6 of bias and error in data, followed by question order. To minimize bias,
7 particularly in new question areas, polling companies such as Gallup will test
8 several different wordings, and they may ask several different questions about a
9 content area of interest. In the analysis phase, analysts can then make note of the
10 way people respond to different question wordings and present a more complete
11 picture of the population's underlying attitudes.

12 The surveys that RKM conducted for PWW were not designed so much to
13 measure the Nashua population's underlying attitudes as they were to evaluate the
14 effectiveness of strategic communications in changing public sentiment toward
15 more favorable views of PWW's position. Rather than testing several different
16 wordings of key questions to evaluate potential bias and to develop a "more
17 complete picture" of Nashua voter attitudes, the PWW surveys instead tested
18 various topics and phrasings to identify messages that would have the strongest
19 impact in building opposition to the City of Nashua's position. While objective
20 public opinion surveys seek to minimize item bias by avoiding emotionally
21 charged language, the RKM/PWW surveys actively identified language and
22 messages that would have the most impact on public opinion.
23

1 **Q. In your opinion, what information should have been included in a telephone**
2 **survey in order to objectively measure public opinion?**

3 A. To objectively measure public opinion on the issue of Nashua acquiring PWW,
4 survey respondents would need to evaluate arguments on both sides. For
5 example, in a series of items asking about "eminent domain" (BC Exhibit 2, q40
6 through q44, PW 10308-10309), respondents are asked whether they would
7 "support or oppose efforts by the City of Nashua to try and take control" of PWW,
8 given an increasing number of arguments *against* (using eminent domain; it
9 would take 2 years; it could cost \$100k's; outcome uncertain). With the exception
10 of the initial survey in December 2003, where respondents evaluate a series of
11 arguments for and against municipal ownership, the surveys do not explore
12 people's reactions to any countering arguments, nor is there ever any evaluation of
13 reactions to potential benefits of the City's efforts.

14 **Q. R. Kelley Meyers states on Pages 6 to 7 of his testimony that “[t]he polling**
15 **conducted by RKM has consistently shown that voters are opposed to the**
16 **takeover of Pennichuck Water Works through acquisition or eminent**
17 **domain.” Do you agree with this statement?**

18 A. Not entirely. The question Mr. Meyers is referencing seems to contain a "double-
19 barrel," in that it asks whether people would vote for or against a measure
20 authorizing the City to take control of PWW "through acquisition or eminent
21 domain". The respondents seem to show different levels of support depending on
22 whether the city will make that acquisition via purchase or via eminent domain.
23 In other words, support or opposition to the City of Nashua taking over the water

1 works depends on how you ask the question, and the results have not been
2 entirely consistent over time. Regarding the City's efforts to purchase PWW, the
3 question as asked in all of the surveys is "Do you generally support or oppose
4 efforts by the City of Nashua to purchase Pennichuck Water Works?" Support for
5 the City's efforts generally outweighed opposition from December 2003 thru
6 April 2004, but starting in June 2004, following PWW's television campaign,
7 opposition outweighed support.

8 Regarding eminent domain, the question as asked in all of the surveys is, "Do
9 you support or oppose efforts by the City of Nashua to try and take control of
10 Pennichuck Water Works through a legal challenge using eminent domain?"
11 Opposition, as measured by this question, ranged between 45% and 50% of
12 Nashua voters prior to June 2004, and between 55% and 62% thereafter .

13 **Q. R. Kelley Meyers states on Page 7 of his testimony that "[i]n March 2004,**
14 **60% of voters said that they would vote against the measure, and 24% would**
15 **vote for it. In September 2005, 64% of voters said that they would vote**
16 **against the measure, and 22% would vote for it."**
17 **Do you agree with this statement?**

18 A This is what the data show in answer to the question, "If there were an election
19 held today, would you vote for or against a measure that would authorize the City
20 of Nashua to take control of Pennichuck Water Works through acquisition or
21 eminent domain." The data also show that in April 2004 50% would vote against
22 the measure as stated, and 30% would vote for it. BC Exhibit 4.

1 **Q. What is the significance of the inclusion of terms such as “legal challenge”,**
2 **“uncertain” and “eminent domain” in the RKM survey questions?**

3 A. The significance is illustrated when you look at differences in structure between
4 the question of purchase and the question of eminent domain: The question of
5 purchase is worded in a straightforward and simple manner: "Do you generally
6 support or oppose efforts by the City of Nashua to purchase Pennichuck Water
7 Works?" On the other hand, the question of eminent domain is more complicated
8 and contains language that could be more provocative: "Would you support or
9 oppose efforts by the City of Nashua to try and take control of the Pennichuck
10 Water Works through a legal challenge using eminent domain?". The potentially
11 provocative phrases, such as "try and take control" and "legal challenge" could
12 lend a more negative tone to the question, possibly biasing respondents toward
13 answering, "oppose."

14 **Q. What conclusions can be drawn from the order in which the survey questions**
15 **were asked?**

16 A. It would be difficult to draw specific conclusions about question order without a
17 scientific evaluation of question order impact – for example, using a split-half
18 sample design where half the respondents see a question sequence as A then B,
19 while the other half sees the sequence as B then A, and then statistically
20 comparing the findings to evaluate any sequence effects. In the case of the
21 RKM/PWW surveys, however, there is at least one instance where the sequence
22 of questions could have had a biasing effect on respondents' answers to
23 subsequent questions. Referring to the March 2004 survey (BC Exhibit 5),

1 questions q15 through q25 (PW 010415 to 010417), the series begins by asking
2 voters' awareness of the projected budget deficit of 5 million dollars, then
3 proceeds through q16-q20 to ask whether people support or oppose various
4 spending cuts to education, busing, or City of Nashua employees. The very next
5 questions (q21-q22) ask whether voters would support or oppose "the City's effort
6 to purchase, or acquire Pennichuck Water Works if the rate you pay for water
7 increased by 10 percent" and "by 25 percent", respectively. The next two
8 questions (q23-q24) link the issue of the City's financial situation with "a legal
9 challenge to take control of Pennichuck Water Works through eminent domain."
10 Finally respondents are asked the "If an election were held today..." question
11 (q25).

12 In my opinion the initial set of financial questions (q16-q20) may have "primed"
13 respondents with negative opinions about the City's financial situation and this in
14 turn could have biased responses to the subsequent set of questions (q21 through
15 q25).

16 **Q. What issues did RKM identify as having a potential to influence public**
17 **opinion?**

18 A. In the conclusions to the December 11, 2003 report (BC Exhibit 2, page 23, PW
19 010181), RKM details "several specific messages that could be used to counter
20 the City's effort to acquire Pennichuck Water Works." The most effective
21 messages for countering the City's efforts, according to RKM, should emphasize
22 the potential for rate increases, PWW's longer experience, and the uncertainty of
23 outcome regarding a long and expensive legal challenge.

1 These issues are reiterated in a memorandum accompanying the December 24,
2 2003 report (PW 010319), wherein R. Kelly Myers identifies "significant
3 opportunities to continue to frame the issue in ways that favor the interests" of
4 PWW. BC Exhibit 6. In particular, the last paragraph on Page 2 (PW 010320)
5 details opportunities "to continue to erode public support for the City's effort to
6 purchase Pennichuck Water Works..."

7 **Q. Have you seen any evidence that the Pennichuck Water Works attempted to**
8 **exploit the issues identified by RKM in its media campaign to influence**
9 **public opinion?**

10 A. I have reviewed some of the press releases by Pennichuck Water Works, and I
11 have seen several of the advertorials that were used as part of PWW's media
12 campaign and that are posted on the SmartWater.org website. It is pretty clear that
13 PWW uses the information from the RKM surveys to formulate the message
14 content for the advertorials. Some of the advertorials I reviewed directly cite the
15 results from RKM surveys in their attempts to persuade readers against the City's
16 position. BC Exhibit 7.

17 **Q. In your opinion, do the results of RKM's telephone surveys indicate that**
18 **registered voters in Nashua support or oppose the creation of a regional,**
19 **locally controlled water utility operated by a highly skilled, professional**
20 **contract operator?**

21 A. I am not able to answer this question based on the information I have before me.

22 **Q. Does this conclude your testimony?**

23 A. Yes it does.