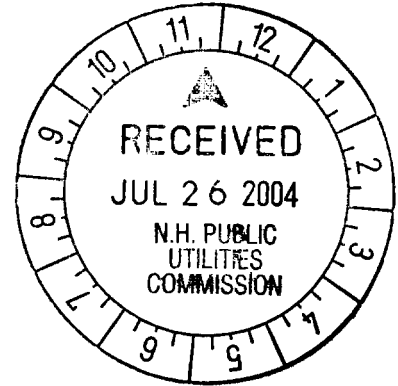




CITY OF NASHUA
OFFICE OF CORPORATION COUNSEL

July 22, 2004



Debra A. Howland, Executive Director
and Secretary
New Hampshire Public Utilities Commission
8 Old Suncook Road
Concord, New Hampshire 03301

RE: DW 04-048; City of Nashua

Dear Ms. Howland:

Enclosed for filing is an Affidavit documenting publication of Order of Notice in the above-referenced matter.

Very truly yours,

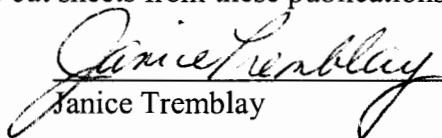
David R. Connell, Esquire
Corporation Counsel

DRC/dlg
Enclosure

AFFIDAVIT

I, Janice Tremblay, being duly sworn, do depose and say:


1. I am the Purchasing Manager for the City of Nashua.
2. I am making this Affidavit in connection with State of New Hampshire Public Utilities Commission DW 04-048.
3. In accordance with the Order of Notice dated June 22, 2004 in this matter, on behalf of the City I caused a copy of the Order of Notice to be published in the following newspapers, all on June 28, 2004: The Telegraph, The Union Leader, and the Concord Monitor.
4. Attached are copies of the cut sheets from these publications.



Janice Tremblay

State of New Hampshire
County of Hillsborough

Subscribed and sworn to before me this 22nd day of July, 2004.



~~Justice of the Peace~~ Notary Public

My Commission expires: 5/5/09

Legal Notice

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
DW 04-048

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Nashua seeks the Commission's determination of a fair market value of the plant and property of Pennichuck Corporation's three regulated utilities: Pennichuck Water Works, Inc. (PWW); Pennichuck East Utilities, Inc. (PEU); and Pittsfield Aqueduct Company, Inc. (PAC) (collectively, the Pennichuck Utilities). The Pennichuck Utilities are all public utilities as defined by RSA 362:2 and RSA 362:4, and are thus regulated by the Commission and subject to RSA 38.

As explained in Nashua's Petition, the Pennichuck Utilities provide utility service across a broad area of New Hampshire including service in the following municipalities: Amherst; Atkinson; Bedford; Derry; Epping; Hollis; Hooksett; Londonderry; Merrimack; Milford; Nashua; Newmarket; Pelham; Pittsfield; Plaistow; Raymond; Salem; Sandown; and Windham. Nashua's Petition sets forth, in detail, the history of its desire to acquire the plant and property of the Pennichuck Utilities. That history will not be recited here, however, interested parties may refer to the Commission's web site, www.puc.state.nh.us where Nashua's Petition can be viewed in full.

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Concurrently, the Pennichuck Utilities and their parent, Pennichuck Corporation, (together, Pennichuck) have challenged the constitutionality of RSA Chapter 38 before the Southern District in a Petition for Declaratory Judgment filed on February 4, 2004. Pennichuck's Superior Court Petition is attached to Nashua's Petition as Exhibit II. In the Petition for Declaratory Judgment, Pennichuck seeks, *inter alia*:

1) a ruling that RSA 38:9-11 fails to provide Pennichuck with equal protection of the law with respect to its fundamental private property right, contrary to N.H. Constitution pt. 1, art. 12;

2) a ruling that Nashua's actions, specifically its alleged delaying behavior, has deprived Pennichuck of its right to engage in commerce and constitutes an unconstitutional temporary and permanent taking of Pennichuck's private property rights, contrary to N.H. Constitution, pt. 1, art. 12, 63;

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On May 3, 2004, the Commission issued a Secretarial Letter stating it would defer issuing an Order of Notice in Docket No. DW 04-048 in order to allow the Superior Court time to act on the Pennichuck Utilities' Motion for Preliminary Injunction. On June 7, 2004, the Superior Court denied the request for a preliminary injunction. Subsequently, on June 10, 2004, Nashua filed with the Commission a letter citing the Superior Court Order and asking the Commission to issue an Order of Notice and to commence proceedings in the instant docket. The Pennichuck Utilities, on June 15, 2004, similarly requested that the Commission convene the parties as soon as possible to consider the status of the docket and address procedural issues, including the Pennichuck Utilities' Motion to Dismiss.

Inasmuch as the Superior Court has denied Pennichuck's Motion for Preliminary Injunction, the Commission has determined, consistent with the May 3, 2004 Secretarial Letter, that it is appropriate to issue an Order of Notice at this time and to hold a Prehearing Conference for the limited purposes of addressing motions for intervention, receiving a report from the City of Nashua and the Pennichuck Utilities on the current procedural status of other court proceedings, and to hear oral argument on certain preliminary matters, namely:

1) Whether it is appropriate for the Commission to proceed to consider Nashua's Petition for Valuation;

2) Whether counsel for the Pennichuck Utilities is disqualified from representing it in this proceeding; and

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The Commission does not intend to entertain statements of position regarding Nashua's valuation petition at the Prehearing Conference. Moreover, there will not be a technical session following the Prehearing Conference. The Commission, therefore, will defer, among other things, hearing statements of position and establishing a procedural schedule, pending resolution of the preliminary matters noted above.

Based upon the foregoing, it is hereby ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.05, be held before the Commission located at 8 Old Suncook Road, Concord, New Hampshire on July 28, 2004 at 10:00 a.m., at which each party will provide oral arguments on issues noticed in this order, and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the City of Nashua shall notify all persons of this docket and the issues presented in this Order of Notice by publishing a copy of this Order of Notice no later than July 7, 2004 in The Telegraph, Concord Monitor, and Union Leader, publication to be documented by affidavit filed with the Commission on or before

July 28, 2004; and it is FURTHER ORDERED, that the Executive Director shall notify all persons desiring to be heard at this hearing by publishing in a newspaper with statewide circulation, no later than July 2, 2004, a display ad setting forth the purpose, time and place of the hearing; and it is

FURTHER ORDERED, that the City of Nashua shall mail a copy of this order, no later than July 14, 2004, by first class U.S. mail, to the clerks of each municipality within which plant and property of the Pennichuck Utilities exists, proof of mailing to be documented by affidavit filed with the Commission on or before July 28, 2004; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.02, any party seeking to intervene in this proceeding who has not previously intervened shall submit to the Commission an original and eight copies of a Petition to Intervene with copies sent to the Office of the Consumer Advocate on or before July 23, 2004, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.02 and RSA 941-A:32.1(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection by filing an original and 8 copies thereof, with a copy provided to the Office of Consumer Advocate, on or before July 28, 2004.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 2004.

Debra A. Howland
Executive Director & Secretary

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(JL - Enc 28)



PUBLIC NOTICES

603.594-6550

www.NHPublicNotices.com



THE STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 04-048

ORDER OF NOTICE

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As explained in Nashua's Petition, the Pennichuck Utilities provide utility service across a broad area of New Hampshire including service in the following municipalities: Atholton; Atkinson; Bedford; Derry; Epping; Hollis; Hooksett; Londonderry; Merrimack; Milford; Nashua; Newmarket; Pelham; Pittsfield; Plaistow; Raymond; Salem; Sandown; and Windham. Nashua's Petition sets forth, in detail, the history of its desire to acquire the plant and property of the Pennichuck Utilities. That history will not be recited here, however, interested parties may refer to the Commission's web site, www.puc.state.nh.us, where Nashua's Petition can be viewed in full.

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Concurrently, the Pennichuck Utilities and their parent, Pennichuck Corporation, (together, Pennichuck) have challenged the constitutionality of RSA Chapter 38 before the Hillsborough County Superior Court, Southern District in a Petition for Declaratory Judgment filed on February 4, 2004. Pennichuck's Superior Court Petition is attached to Nashua's Petition as Exhibit H. In the Petition for Declaratory Judgment, Pennichuck seeks, *inter alia*:

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Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 208.05, be held before the Commission located at 8 Old Suncook Road, Concord, New Hampshire on July 28, 2004 at 10:00 a.m., at which each party will provide oral arguments on issues noticed in this order; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the City of Nashua shall notify all persons of this docket and the issues presented in this Order of Notice by publishing a copy of this Order of Notice no later than July 7, 2004 in The Telegraph, Concord Monitor, and Union Leader, publication to be documented by affidavit filed with the Commission on or before July 28, 2004; and it is

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June 28