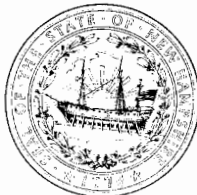


STATE OF NEW HAMPSHIRE

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EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
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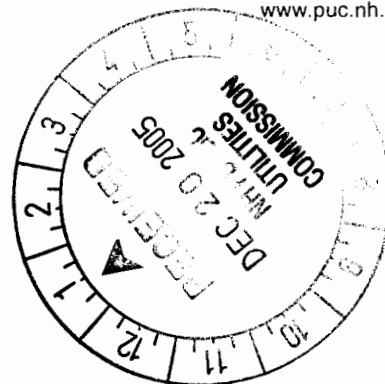
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December 20, 2005

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



Re: DW 04-048 City of Nashua—Taking of Pennichuck Water Works, Inc.
Intervenor Comments

Dear Ms. Howland:

Enclosed please find intervenor Claire McHugh's comments on PWW's Motion to Bar Late Filed Testimony by Nashua and for Extension of Procedural Schedule and City of Nashua's Petition to Intervene and Motion to Consolidate. The comments were directed to Staff's attention and that Staff believes they were instead intended to be filed formally with the Commission.

Thank you. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Marcia A. B. Thunberg".

Marcia A. B. Thunberg
Staff Attorney/Hearings Examiner

cc: Service list

From: Claire McHugh
To: Marcia Thunberg
Date: December 17, 2005

Docket: DW04-048

Subject: Regarding Nashua's Petition for Intervention and Consolidation

1. Despite Pennichuck Water Works assertion that it did not know it was required to provide accounting records to the fourth digit as required by the Uniform System of Accounts: Ignorance is no excuse.
2. Regardless of Pennichuck's declaration that it does not maintain such records: It actually does so when it is convenient and beneficial to them. Pennichuck did provide such a breakdown in both its Annual Report Form F-8 and its August 1996 Depreciation Study by AUS.
3. This reporting information is common practice in the marketplace for determining trended cost, depreciation and life expectancy of utility plants.
4. Ratepayers have shouldered tremendous costs in Pennichuck's pursuits over the years. The Ratepayers are entitled to complete and accurate records as required by law. Pennichuck has a fiduciary responsibility to maintain and provide such records and they have failed in these obligations.
5. Pennichuck's reporting failures have resulted in errors that provided them with an unauthorized and illegal gain of \$557,000.00 in depreciation expenses.
6. Pennichuck has had a history of errors and falsifications in past reports. Please refer to my prior testimony regarding SEC findings raising issues of Pennichuck's integrity. Their checkered history involves dishonest statements in their annual reports, conflicts of interest and illegal and unauthorized profits. This is just more of the same. They should avoid even the appearance of wrongdoing.
7. Pennichuck's request for a waiver is unmerited and unjustifiable. The public, the PUC, and the parties to the eminent domain case are in need of specific detailed information from Pennichuck as provided by law.
8. Please deny Pennichuck Water Works request for a waiver.
9. Kindly grant Nashua's Petition for Intervention and Consolidation.

Respectfully submitted,
Claire B McHugh

From: Claire McHugh
To: Marcia Thunberg
Date: December 16, 2005

Docket: DW04-048

Subject: Pennichuck's Motion to Bar Testimony and Extend Procedural Schedule

1. The information that the City of Nashua now wishes to provide to the PUC regarding the technical and managerial qualifications of their contract operators was unavailable to the City when they first filed their original submittal. This is a complex case. At all times Nashua never intended to use City employees to operate the water system. The testimony that Nashua wishes to share regarding their two contractors is critical for the PUC to understand in order to form a complete and accurate view of the situation.
2. Pennichuck claimed that the City "waited over two years . . . to identify the contractors". They are trying to characterize the City as having sat on its hands. Nothing could be further from the truth. At the time the City filed their original petition to the PUC, Pennichuck was the sole custodian of all pertinent and privileged information of the water system. It alone had exclusive control of its records, such as operational and maintenance costs and schedules. The contractor selection process of developing the specification, qualifying a bid list, soliciting and evaluating proposals, negotiating the terms and selecting the contractors is not "waiting". It was a time intensive process especially considering the complexity and uniqueness related to the eminent domain process vis a vis the water system.
3. This is not a "complete overhaul" nor is it a "whim" as stated by Pennichuck Water Works. This submittal by Nashua will provide missing information that is necessary for the PUC to understand in arriving at a correct conclusion. Nashua simply seeks to supplement its prior filing which is permitted under PUC regulations.
4. Pennichuck Water Works has known all along that the City always planned to contract the water system management. It cannot in one breath state that the City has no experience to manage the water company and preclude the expertise of the very experienced contractors hired by the City to manage the water company. Pennichuck itself initially considered submitting a bid proposal to the City to manage the water company under the city ownership. It is reasonable for the PUC and Pennichuck to have anticipated that the information the City wishes to provide is necessary in understanding the entire eminent domain situation because it is an integral part of the big picture and the information did not exist in 2004. Pennichuck cannot now deny the necessity of the information nor can it claim to be surprised by its introduction.
5. It is not necessary to extend the procedural schedule as Pennichuck is not harmed by adhering to the schedule. It still can request discovery. However, the public is harmed by prolonging this process further.
6. Kindly accept and review the information the City wishes to provide. To refuse this relevant information at this time would result in a different and absurd interpretation of the applicable RSAs. It would be like demanding a building contractor build the roof before the foundation.
7. Please deny Pennichuck's Motion to Bar Testimony and Extend Procedural Schedule.

Respectfully submitted,
Claire B McHugh