

**Upton
& Hatfield**^{LLP}
ATTORNEYS AT LAW

Concord Office

10 Centre Street
PO Box 1090
Concord, NH
03302-1090
603-224-7791
1-800-640-7790
Fax 603-224-0320

Attorneys At Law

Robert Upton, II
Gary B. Richardson
John F. Teague
Russell F. Hilliard
James F. Raymond
Barton L. Mayer
Charles W. Grau
Margaret-Ann Moran
Thomas T. Barry*
Bridget C. Ferns
David P. Slawsky
Heather M. Burns
Matthew H. Upton
Lauren Simon Irwin
Kenneth J. Barnes
Matthew R. Serge
Justin C. Richardson
Beth A. Deragon
*Also Admitted In Virginia

Of Counsel

Frederic K. Upton

Hillsborough Office

8 School Street
PO Box 13
Hillsborough, NH
03244-0013
603-464-5578
1-800-640-7790
Fax 603-464-3269

Attorneys At Law

Douglas S. Hatfield
Margaret-Ann Moran
Paul L. Apple

North Conway Office

23 Seavey Street
PO Box 2242
North Conway, NH
03860-2242
603-356-3332
Fax 603-356-3932

Attorney At Law

Robert Upton, II

Portsmouth Office

159 Middle Street
Portsmouth, NH
03801
603-436-7046
Fax 603-431-7304

Attorneys At Law

Russell F. Hilliard
Justin C. Richardson

Please respond to the Portsmouth office

January 10, 2007

Via Hand Delivery

Debra A. Howland, Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: City of Nashua: *Petition for Valuation Pursuant to RSA 38:9*
Docket No. DW 04-048

Dear Ms. Howland:

Enclosed please find an original and seven copies of Nashua's *Objection to Motion for Reconsideration* for filing in this proceeding, as well as an electronic copy on compact disc.

A complete copy of the foregoing has been sent by electronic mail to all persons on the Commission's official service list in this proceeding, and to Ms. Claire McHugh by first class mail.

If you have any questions, please contact me.

Very truly yours,

Justin C. Richardson, Esq.
JRichardson@upton-hatfield.com

cc: Official Service List DW-04-048

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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

Docket No.: DW 04-048

OBJECTION TO MOTION FOR RECONSIDERATION

NOW COMES the City of Nashua (“Nashua”) and objects to Pennichuck Water Works, Inc.’s (“PWW”) *Motion for Reconsideration of Order No. 24,488*, and in support hereof states as follows:

1. Order No. 24,488 correctly determined that the law and rules of evidence relied on by Pennichuck Water Works do not apply in this proceeding. While Pennichuck offers its opinion that Nashua’s valuation witnesses are biased, the evidence will not support Pennichuck’s opinion.
2. Pennichuck’s *Motion in Limine* and its *Motion for Reconsideration* are simply an effort to prejudice the Commission by alleging bias prior to trial and distract the Commission from the significant errors and bias contained in the opinion of its own appraiser, Robert F. Reilly, who opines that the assets of the Pennichuck Water Works should be valued at over \$270 million, a value that significantly exceeds the value of the entire Pennichuck Corporation.
3. The law does not support Pennichuck’s request to exclude Nashua’s valuation testimony. Indeed, one of Nashua’s two valuation witnesses, George Sansoucy, P.E., has been found qualified to present expert testimony by the New Hampshire Court in PSNH v. Bow, 139 NH 105,108 (1994) and Southern NH Water v. Hudson, 139 NH 139,143 (1994), both decided after Daubert v. Merrill-Dow

Pharmaceuticals, 509 US 579 (1993) relied upon by PWW. He further has been found qualified to testify in the NH Superior Court and many administrative agencies, including this Commission.

4. Pennichuck obviously does not like Nashua's valuation testimony but it will be afforded an opportunity to cross examine Nashua's valuation witnesses concerning their conclusions.

WHEREFORE, Nashua respectfully requests that the Commission:

- A. Deny PWW's *Motion for Reconsideration of Order No. 24, 706*; and
- B. Grant such other relief as justice may require.

Respectfully submitted,

CITY OF NASHUA
By Its Attorneys
UPTON & HATFIELD, LLP

Date: January 10, 2007

By: 

Justin C. Richardson, Esq.
10 Centre St., P.O. Box 1090
Concord, NH 03301-1090
(603) 224-7791


Robert Upton, II, Esq.
23 Seavey St., P.O. Box 2242
North Conway, NH 03860
(603) 356-3332

David Connell, Esq.
Corporation Counsel
229 Main Street
Nashua, NH 03061-2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent this day by e-mail and first class mail to all persons on the Commission's official service list in this proceeding.

Date: January 16, 2007



Justin C. Richardson, Esq.