

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

City of Nashua: Taking Of Pennichuck Water Works, Inc.

Docket No. DW 04-048

**MOTION TO COMPEL THE CITY OF NASHUA TO RESPOND TO PENNICHUCK
WATER WORKS, INC.'S DATA REQUESTS**

Pennichuck Water Works, Inc. ("Pennichuck") respectfully requests that the Commission compel the City of Nashua ("Nashua") to respond to Pennichuck's Data Requests in the above-captioned proceeding. In support of its Motion, Pennichuck states as follows:

1. Pennichuck propounded its first set of Data Requests to Nashua on May 5, 2005, pursuant to the Commission's Order approving procedural schedule dated April 22, 2005, Order No. 24,457. Nashua submitted its objections and supplemental objections to the Data Requests on May 16, 2005. Copies of those portions of Nashua's objections (with the text of the applicable data requests) that are the subject of this motion are attached as Exhibits A and B.

Background Concerning Scope of Data Requests

2. Nashua submitted specific objections to 55 out of Pennichuck's 173 Data Requests, or 32% of them. Nashua also has submitted general objections, including objections to the number of Data Requests and the Data Requests directed to valuation related issues raised in the public interest testimony filed by Nashua.

3. The standard for discovery in Commission proceedings is broad and extends to information that is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. *Re Investigation into Whether Certain Calls are Local*, 86 NH PUC 167 (2001). The Commission will typically deny discovery requests only when it "can perceive of no

circumstance in which the requested data will be relevant." *Lower Bartlett Water Precinct*, 85 NH PUC 371 (2000). *Accord, Petition for Authority to Modify Schiller Station*, 2004 NH PUC LEXIS 38, *7 (2004). Clearly, a party in a legal proceeding in New Hampshire is entitled to "be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponents and whether the evidence is in the possession of his opponent or someone else." *Scotsas v. Citizens Insurance Co.*, 109 N.H. 386, 388 (1969). The Commission has recognized the "liberality of the applicable discovery rule" in utility condemnation cases. *See, Re Public Service of New Hampshire*, 86 NH PUC 730 (2001) (Commission ordered PSNH to produce a copy of a power supply agreement with a bankrupt paper mill over objection that the data request was not relevant to the public interest inquiry concerning the proposed taking of the Brodie Smith Hydro-Electric Station).

4. With that background in mind, Pennichuck will address in groupings Nashua's general and specific objections, explaining why the data requests are appropriate, and the need to seek a Commission order compelling the production of the requested information.

Data Requests Directed To Valuation Related Issues Raised In The Pubic Interest Testimony
Filed By Nashua.

5. Nashua's General Objection B and its specific objections to Pennichuck Data Request Nos. 9, 18, 20, 21, 23, 24, 31, 50, 51, 52, and 120 are based upon the statement that "the information sought is not relevant to the issue of public interest which is the subject of these Data Requests."

6. While these Data Requests do touch on valuation issues, they relate specifically to the public interest testimony filed by Nashua on November 22, 2004. These Data Requests consist of questions relating to specific statements in the prefiled testimony of George E. Sansoucy, Steven L. Paul, Steven A. Adams, and Philip Munck. Nothing could be more relevant

or likely to lead to the discovery of admissible evidence than questions addressed to testimony already on record. For instance, Mr. Sansoucy's public interest testimony, at pages 14-15 and Exhibits GES 8 and 9, sets forth municipal rate projections based upon a preliminary valuation of Pennichuck assets.

7. Although Pennichuck certainly will serve comprehensive data requests concerning valuation issues after Nashua files its valuation testimony, Nashua has repeatedly intertwined valuation references with its own public interest testimony. Therefore, it should come as no surprise to Nashua that Pennichuck seeks responses to questions, based upon Nashua's own public interest testimony.

Nashua's Operation of Other Enterprises

8. Nashua has objected to a number of Pennichuck Data Requests relating to Nashua's operation of proprietary and customer focused enterprises, specifically Data Requests numbered 56, 57, 127, 130, 131, 132, 133, 134, 135, 136, 139, 140, 141, 142, 143, 144, 145, 146, 147, 164, and 166.

9. Nashua's objection to each of these Data Requests is virtually identical. Nashua broadly contends that since it "does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments have no relevance to the operation of the water system."

10. Nashua's history in operating large, capital-intensive systems serving the public, whether directly or through contractors, certainly is relevant or could lead to the discovery of admissible evidence. Nashua owns and operates a wastewater system, a solid waste landfill, and other capital-intensive municipal services. Nashua's performance in those roles is an indicator of how it may perform as the owner of a water system. Information concerning Nashua's record in

areas such as capital investment, system maintenance, environmental compliance, operational efficiency, customer satisfaction, and other related matters associated with Nashua owned and operated public works and utility facilities is clearly relevant as to whether it is in the public interest for Nashua to condemn Pennichuck assets.

11. Nashua's own public interest testimony touts its operation of its wastewater treatment system as evidence of its ability to operate a water system. See Munck Testimony, p. 3. Pennichuck's Data Requests could not be more relevant, given Nashua's boast: "Most of the municipal water systems in the United States are staffed and operated by dedicated public employees. Nashua's sewer collection and treatment utility is such an operation and Nashua, if it desired, could readily combine the sewer and water systems and operate them as one." *Id.*

12. At this early stage of the proceeding, Pennichuck does not know how much of the requested documentation would filter down into testimony or exhibits in the proceeding. However, that is not the standard for discovery; rather, it is whether the information either is relevant or is likely to lead to the discovery of admissible evidence. On that basis, these requests certainly are appropriate.

13. Nashua argues that because it plans to contract out its operation to provide water services, information relating to how it has handled its own operations should not be discoverable. That argument fails on two fronts. First, neither RSA 38 nor Nashua's petition to the Commission require that Nashua contract out its water operations. The Commission can have no assurance that this will occur. Nashua's own testimony affirms its flexibility to combine its sewer and water systems "if it desired". Munck Testimony, p. 3. Nashua's own announced plans for operation of its water service contemplate that Nashua would retain for itself at least some of the operations, including bill collecting and treasury activities. *Id.* p. 4. Nashua does

not have an agreement with any contractor at this point, and any such contractual relationship is, at best, speculative.

14. Second, even if Nashua were to contract out its services, the operating entity will remain subject to Nashua's oversight. Nashua's experience and performance in its other public enterprises certainly would be relevant to its proposal to subcontract out water services.

Pre-November 26, 2002 and PSC Documents

15. Nashua has objected to Data Request 22 as to the production of any documents relating to the potential acquisition of Pennichuck to the extent they were generated prior to November 26, 2002, and also objects to the production of any documents created at any time relating to the Philadelphia Suburban Corporation transaction. Certainly these documents are all relevant or may lead to the discovery of admissible evidence concerning Nashua's motivation in acquiring Pennichuck, and the background facts and opinions to support its public statements alleging that municipal ownership of Pennichuck was in the public interest. These opinions may well have come to light as part of its consideration of the Philadelphia Suburban Corporation deal, which by Nashua's own admission was the event that sparked Nashua's municipalization efforts. These documents are therefore highly relevant to the public interest phase of this case.

16. Moreover, Nashua has propounded Data Requests to Pennichuck concerning both the Philadelphia Suburban transaction, as well as potential acquisition related material dating back to January 1, 1999. *See*, Nashua DR 1-59 through 1-62. If such documents requested are relevant to Nashua, similar requests should be relevant to Pennichuck.

Work Product Doctrine and Attorney-Client Privilege

17. Nashua objects to a number of Data Requests, to the extent they request work product or attorney-client privileged material, specifically Data Requests number 67, 68, 69, 80, 89, and 173.

18. Pennichuck recognizes that the work product doctrine exists with respect to materials developed in anticipation of litigation not otherwise discoverable (i.e. testifying retained expert witnesses materials are discoverable, non-testifying retained expert materials are not discoverable). Still, Pennichuck is concerned that the work product doctrine not be used as a shield against the production of routine business documents. Moreover, Nashua appears to be using the attorney client privilege and/or work product doctrine as a means to shield the documents of Nashua public officials-, that involve communications with third parties rather than their attorneys.

19. In addition, a number of the objections relate to Data Requests as to Steven L. Paul, an attorney who provided testimony in this litigation, specifically Data Requests number 66, 67, 68, 69 and 70. Mr. Paul has been offered as a witness on public interest issues, and specifically as a witness with expertise on the tax ramifications of a condemnation. Since Nashua has chosen to present him as a testifying expert, of necessity it must waive any attorney-client or other privilege it may have with respect to Mr. Paul. *See*, N.H.R.Ev. 501 (voluntary disclosure waives privilege); RSA 516:29-a (broad scope of discovery permitted with respect to experts in superior court cases). Accordingly, no valid defense exists against production of responses to those Data Requests.

Objections Not Being Contested

20. Based upon the reasons set forth by Nashua in its objections, and/or based upon communications with counsel, Pennichuck will not contest at this time the limited objections

which Nashua has raised to Data Requests 3, 10, 25, 30, 43, 44, 53, 79, 90, 48, 52, and 81.

Pennichuck will review Nashua's actual document production before making a final determination regarding whether to file a further motion to compel.

21. Pennichuck has sought the assent of the other parties to this proceeding, and has heard from only a few of them. It has received the assent of the Town of Merrimack and Mr. Teeboom. The Towns of Litchfield, Hudson, Milford and Pittsfield and the Office of Consumer Advocate take no position. Merrimack Valley Water District does not support the motion.

WHEREFORE, Pennichuck Water Works, Inc. respectfully requests that the Commission:

- A. Grant this Motion to Compel the City of Nashua to Respond to respond to Pennichuck Water Work's Data Requests as set forth herein; and
- B. Grant Pennichuck such other and further relief as the Commission deems necessary and just.

Respectfully submitted,

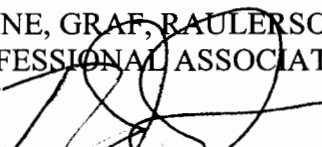
Pennichuck Water Works, Inc.

By Its Attorneys,

McLANE, GRAF, BAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: June 2 2005

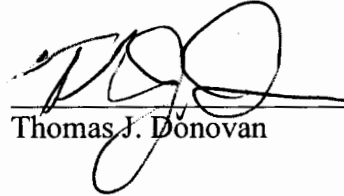
By: _____


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Certificate of Service

I hereby certify that a copy of this Motion has been forwarded to the parties listed on the Commission's service list in this docket.

Dated: June 2, 2005



Thomas J. Donovan

**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

**Objections to Data Requests Propounded by Pennichuck Water Works, Inc.
to City of Nashua—Set 1**

The City of Nashua objects to the Data Requests Propounded by Pennichuck Water Works, Inc., as follows:

GENERAL OBJECTIONS

A. PWW's 173 data requests are overbroad, unduly burdensome and intended to frustrate Nashua's participation in the orderly conduct of this proceeding

A review of PWW's data requests demonstrates that the Company has gone well beyond the limits of what is reasonable or necessary in this proceeding. In its 1st round of requests, PWW has submitted 173 requests covering 27 pages. PWW's data requests more than double the number submitted by staff (68) and Nashua (71) in this proceeding. Careful review of PWW's data requests shows that nearly all of the requests contain a series of separate questions requesting documents, admissions, explanations and/or other information. As a result, the number of actual requests greatly exceeds the 173 numbered requests submitted by PWW.

PWW's requests are not only excessive in terms of the extent, the scope of information requested exceeds what is reasonable or necessary for this proceeding and are contrary to PUC Rule 204.04 which requires it to "identify with specificity the information or materials sought".

B. PWW's First Set of Requests concerning valuation exceed the scope Authorized by the Commission's procedural scheduling order.

In its *Order Approving Procedural Schedule, Waiving Puc 204.04 (b), and Granting Intervention* in this proceeding, the Commission bifurcated discovery by PWW into several phases.¹ In the first phase, data requests by PWW to Nashua were clearly and specifically limited to "technical, financial, and managerial capabilities and public

¹ Order No. 24,457 (April 22, 2005).

interest[.]” As set forth in the Commission’s procedural schedule, data requests on valuation and other issues were not intended to be submitted until October 28, 2005, following “[t]estimony by Nashua on valuation and public interest issues dependent on valuation” on October 14, 2005.

Notwithstanding the Commission’s clear order bifurcating discovery in the first phase to issues related to the public interest, PWW 173 compound data requests include numerous requests related to “valuation and public interest issues dependent on valuation” intended for the second phase of discovery on October 28, 2005. For example, PWW data requests numbered 9, 10, 18, 24, and 31 directed to Nashua’s witness George E. Sansoucy, P.E. all related to the “valuation”, “appraisal” or “fair market value” of property held by, or allegedly comparable to PWW’s property to be acquired by Nashua.

Such requests clearly violate the specific directive of the Commission in this proceeding that discovery on valuation and public interest issues dependent on valuation would occur during the second phase of this proceeding.

C. PWW’S requests are contrary to the Commission’s admonition that it would not “allow attenuated discovery that would not advance our understanding of how the taking would or would not serve the public interest” nor “permit discovery into areas that, while possibly relevant to other disputes among the parties, are not relevant to the issues the Commission must determine.”

SPECIFIC OBJECTIONS

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2. Data Request 9:

9. Does the City and/or Mr. Sansoucy agree that Pennichuck Water Works is entitled to receive in this proceeding the fair market value of all assets that constitute CIAC? If the answer is “No,” please state the basis for that position and identify and provide copies of all documents that support the position.

The information sought is not relevant to the issue of public interest, which is the subject matter of these Data Requests.

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4. Data Request 18:

18. Please provide a copy of any valuation or appraisal ever performed by Mr. Sansoucy of any assets owned by PWW, PEU or PAC. Your response should include copies of all work papers, notes, computer runs, spreadsheets and other documents that provided the basis of such valuation or appraisal or were prepared as part of such work.

The information sought is not relevant to the issue of public interest which is the subject of these Data Requests.

5. Data Request 20:

20. Please provide copies of all publications and speeches referred to on page 3 of Mr. Sansoucy's curriculum vitae that is included with his testimony. Also, identify all prior appraisals that were performed for the clients listed on Mr. Sansoucy's curriculum vitae and indicate which appraisals Mr. Sansoucy has a copy of or can obtain a copy of. If Mr. Sansoucy does not have a copy or cannot obtain one, please explain why.

The information sought is not relevant to the issue of public interest which is the subject of these Data Requests. The information sought is subject in many instances to Confidentiality Orders and Agreements

6. Data Request 21:

21. Please provide copies of the valuations prepared in the matters identified as numbers 7, 11, 55, 100 and 102 on Mr. Sansoucy's curriculum vitae as well as any other valuations of water utility property by Mr. Sansoucy or his company.

The information sought is not relevant to the issue of public interest which is the subject of these Data Requests. The information sought is subject in many instances to Confidentiality Orders and Agreements.

7. Data Request 23:

23. Please provide a list of all clients or employers for whom Mr. Sansoucy or his company have provided utility property valuation or appraisal services, including a description of the extent and nature of the services provided, identification of the client or employer and the year the services were provided. Please specify which, if any, of the engagements related to a matter before any court, administrative agency or other tribunal and give the name of the case, court and docket number.

The information sought is not relevant to the issue of public interest which is the subject of these Data Requests.

8. Data Request 24:

24. Has Mr. Sansoucy or his company performed valuation or appraisal services relating to any water utility assets other than the two cases referred to on page 1 of his testimony? If so, please provide the name of the utility, the year the services were provided, the extent and nature of the services and, if the matter was

before any court, administrative agency or other tribunal, the name and docket number of the case.

The information sought is not relevant to the issue of public interest which is the subject of these Data Requests.

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11. Data Request 31:

31. Does Mr. Sansoucy agree that the assets of PWW constitute special purpose property? If not, please explain why not.

The information sought is not relevant to the issue of public interest, which is the subject of these data requests.

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14. Data Request 50:

50. Identify all special purpose properties that Mr. Munck has been involved with valuing as an associate of George E. Sansoucy, P.E., LLC.

The information sought is not relevant to the issue of public interest, which is the subject of these Data Requests.

15. Data Request 51:

51. Does Mr. Munck agree that the assets of PWW constitute special purpose property? If not, please explain why not.

The information sought is not relevant to the issue of public interest, which is the subject of these Data Requests.

19. Data Request 80:

80. Provide a copy of all documents that reflect, refer and/or relate to communications between any City representative and the consultants referred to on page 2 of Mr. McCarthy's testimony.

Nashua objects to providing any documents which constitute communications between the City and its attorneys which are privileged and/or work product.

20. Data Request 89:

89. Please provide copies of all documents that reflect, refer and/or relate to communications between any City representative and the third party referred to on page 6 of Mr. McCarthy's testimony.

Nashua objects to providing any documents which constitute communications between the City and its attorneys which are privileged and/or work product.

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22. Data Request 120:

120. Provide all documents in files maintained by or on behalf of the City, each Alderman of the City and the City's Mayor that concern, refer and/or relate to:

- i. The Philadelphia Suburban Corporation transaction that was the subject of Docket DW 02-126;
- ii. the proposed acquisition by the City of the assets of Pennichuck Corporation, PWW, PEU and/or PAC;
- iii. negotiations for the acquisition of the assets of Pennichuck Corporation, PWW, PEU and/or PAC;
- iv. the Pennichuck Water Special Committee; and
- v. any valuation and/or appraisal of Pennichuck Corporation, PWW, PEU and/or PAC assets.

Nashua objects generally to any document which constitutes a communication from Nashua's attorneys, which are privileged and/or work product. Nashua further objects to any documents relating to the Philadelphia Suburban Corporation transaction or any document relating to any matter prepared or generated prior to the November 26, 2002 vote of the Board of Alderman. Finally, Nashua objects to any information which is not relevant to the issue of public interest which is the subject of these data requests.

23. Data Request 127:

127. Provide all documents related to communications from citizens, including, but not limited to, complaints received by the City in the last five years relating to the waste water system. The response should include, but not be limited to, any statement of concern or deficiency which relates to service to customers, adequacy of service, reliability of service, efficiency of service, level of rates or customer bills or other matters. Describe each such deficiency or concern in

detail and provide any documents in the possession or control of the City which relate to such concern or deficiency.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

24. Data Request 130:

130. Provide copies of or access to all accounting records that illustrate the City's financial and capital improvement record over the past ten years. The records produced should include documents which include all budgets and reflect all sources of revenue and expenses over the past ten years.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

25. Data Request 131:

131. Identify for 1995 and each subsequent year all connection fees, additional fees, taxes and/or other charges imposed in conjunction with the City's waste water operation.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

26. Data Request 132:

132. Identify for 1995 and each subsequent year all fees, taxes and/or other charges imposed in conjunction with the City's solid waste collection and disposal operation.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua

does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

27. Data Request 133:

133. Provide any business plan or projection for the waste water or water systems, including but not limited to any projected maintenance programs or capital additions, in the City's possession or control for any period in the next five calendar years.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

28. Data Request 134:

134. Provide any business plan or projection for the City's solid waste collection and disposal system, including but not limited to any projected maintenance programs or capital additions, in the City's possession or control for any period in the next five calendar years.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

29. Data Request 135:

135. For the past ten years, identify the source of all funds that have been transferred to the City waste water operation for any purpose which were not derived specifically from City waste water operations. Provide all documents that you rely upon to support the response.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

30. Data Request 136:

136. For the past ten years, identify the source of all funds that have been transferred to the City solid waste collection and disposal operation for any purpose which were not derived specifically from City solid waste operations. Provide all documents that you rely upon to support the response.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

31. Data Request 139:

139. Identify whether the waste water system or solid waste collection and disposal system serves any customers who reside outside the municipal limits of the City.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

32. Data Request 140:

140. Identify whether the City has at any time been requested or offered to provide waste water service or solid waste collection and disposal service outside its municipal boundaries and, if so, identify each person making the request or to whom the offer was made and the response made by or to the City to said request or offer. Please provide all documents related thereto.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

33. Data Request 141:

141. Since 1995, identify whether the waste water system has been subsidized to any extent whatsoever by sources unrelated to the operation of the waste water

system. If so, identify all rates, fees and/or charges which generate revenue for the waste water system and the extent of the subsidy. Provide all documents in the possession or control of the City related to any such subsidy.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

34. Data Request 142:

142. Since 1995, identify whether the solid waste collection and disposal system has been subsidized to any extent whatsoever by sources unrelated to the operation of the solid waste system. If so, identify all rates, fees and/or charges which generate revenue for the solid waste system and the extent of the subsidy. Provide all documents in the possession or control of the City related to any such subsidy.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

35. Data Request 143:

143. Identify whether the waste water operations in Nashua are supported, all or in part, by tax revenues provided to the City. The response should, inter alia, discuss the extent to which tax revenues, such as those from the flush tax and/or property or other taxes, have been used in any time period to fund waste water operations and/or capital projects. Provide all documents in the possession or control of the City related to any such support.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

36. Data Request 144:

144. Identify whether the solid waste collection and disposal operations in Nashua are supported, all or in part, by tax revenues provided to the City. The response should, inter alia, discuss the extent to which tax revenues have been used in any time period to fund solid waste operations and/or capital projects. Provide all documents in the possession or control of the City related to any such support.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

37. Data Request 145:

145. Identify the individuals and/or entities who are responsible for billing of the waste water services currently provided by the City. Provide the same information for the solid waste collection and disposal system, if applicable.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

38. Data Request 146:

146. State whether the City, itself, engages in billing and collection activities for the waste water system and provide all related documents to the City's activities in this regard. If an independent billing system is used, explain and provide (i) the agreement between the City and the outside entity; and (ii) all memoranda and/or other correspondence, written communication between the City and the independent entities during the past five years. State the cost incurred by the City for billing and collection efforts for the waste water system for each year over the past five years. Provide the same information for the solid waste collection and disposal system, if applicable.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

39. Data Request 147:

147. Provide the percentage of uncollectible accounts for the waste water system for each of the last five years. Provide all documents relied upon in determining the percentage. Provide the same information for the solid waste collection and disposal system, if applicable.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

40. Data Request 164:

164. Provide monthly operating reports for the City's solid waste collection and disposal system from January 1995 to date.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

41. Data Request 166:

166. What rating has Nashua's fire department received from the Insurance Services Office(ISO) for each of the last 10 years?

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

42. Data Request 173:

173. Please provide copies of all documents that reflect, refer to and/or relate to communications by and between any representatives, employees or agents of the City (including its consultants and attorneys) and any intervenors in this proceeding.

Nashua objects to all documents that reflect, refer to and/or relate to communications between any representatives, employees or agents of the City and any intervenors in this proceeding and its attorneys as privileged and/or work product.

43. Data Request 66:

66. Please list all matters in which Mr. Paul's law firm has provided professional services to the City of Nashua, the Merrimack Valley Regional Water District or the State of New Hampshire, indicating the date such services were provided and the nature of the matter on which such services were provided.

Nashua objects to all documents and information which may be privileged or constitute work product.

44. Data Request 67:

67. Please list all matters in which Mr. Paul's law firm has provided professional services to the City of Nashua, the Merrimack Valley Regional Water District or the State of New Hampshire, indicating the date such services were provided and the nature of the matter on which such services were provided.

Nashua objects to all documents and information which may be privileged or constitute work product.

45. Data Request 68:

68. Please provide copies of all documents that reflect, refer and/or relate to communications between Mr. Paul or any member of his firm and the City of Nashua, the Merrimack Valley Regional Water District, any elected official or any other person regarding the taking of PWW's assets or those of any affiliate by the City or District or legislation related to such efforts.

Nashua objects to all documents and information which may be privileged or constitute work product.

46. Data Request 69:

69. Has Mr. Paul previously performed professional services related to any eminent domain matter? If so, please describe the nature and extent of such matters and indicate which, if any, such matters involved a taking of utility property.

Nashua objects to all documents and information which may be privileged or constitute work product.

47. Data Request 70:

70. Has Mr. Paul previously performed professional services related any utility taxation matter? If so, please describe the nature and extent of such matters.

Nashua objects to all documents and information which may be privileged or constitute work product.

48. Data Request 4:

4. On page 1 of his testimony, George Sansoucy states that he was the “principal technical advisor and negotiator” for the Town of Hudson, New Hampshire and Ashtabula County, Ohio in the taking of certain water company assets. With respect to each assignment provide:

- vi. copies of his engagement agreement;
- vii. a summary of his scope of work; and
- viii. copies of any reports, appraisals, studies, opinions or other documents provided by George Sansoucy to the Town of Hudson and/or Ashtabula County.

The information sought is not relevant to the issue of public interest, which is the subject of these Data Requests. Nashua objects to Data Request 4 (iii) as it relates to Ashtabula County, Ohio. The reports, appraisals and other information is subject to protective orders and/or confidentiality agreements which prohibit disclosure of such information. To the extent authorized by law, Nashua will provide redacted copies of any such documents.

49. Data Request 1:

1. On page 1 of Mr. Sansoucy’s testimony he states that his firm has been engaged by the City of Nashua “to advise it on matters concerning the City’s proceeding to acquire the water utility assets of Pennichuck.” With respect to that engagement, please provide:

- i. a copy of the engagement agreement between George E. Sansoucy P.E., LLC and Nashua and any amendments and/or modifications thereto;

- ii. a detailed listing of the scope of work and/or services provided by Sansoucy to the City;
- iii. the fees and expense structure and/or hourly rate schedule;
- iv. an itemization of all amounts paid by the City to Sansoucy along with copies of all invoices for services rendered to the City by Sansoucy; and
- v. copies of all documents in files maintained by Sansoucy which concern, refer and/or relate to this engagement.

Nashua objects to Data Requests 1 (iv) & 1 (v), to the extent that those requests relate to information subject to attorney-client, work product and other privileges.

50. Data Request 2:

2. In addition to the engagement referenced on Page 1 of his testimony, has George Sansoucy and/or his company ever been engaged by the City on any other matters, and if so, please identify and/or provide:

- i. copies of any and all engagement agreements;
- ii. a summary of the scope of work on each engagement;
- iii. the dates of service;
- iv. the amount paid by the City to George Sansoucy and/or his company on each assignment; and
- v. copies of any reports, appraisals, studies, opinions or other documents provided by George Sansoucy or his company to the City in conjunction with any such engagements.

Nashua objects to Data Request 2 (v) to the extent that it seeks information subject to protective orders and/or confidentiality agreements which prohibit disclosure of such information. To the extent authorized by law, Nashua will provide redacted copies of any such documents.

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51. Data Request 83:

81. Has the City engaged any consultants other than the ones referred to on page 2 of Mr. McCarthy's testimony with regard to the potential acquisition of the assets of Pennichuck Corporation or any of its subsidiaries? If so, please provide copies of any

documents and/or reports prepared for the City by such consultants, a copy of all documents that reflect, refer and/or relate to communications between any City representative and any such consultant, any engagement agreement between the City and such consultants, and an itemization of all amounts paid by the City to each such consultant, including all invoices relating to such payments.

Nashua objects to the extent information is sought pertaining to individuals who are not expected to testify at trial.

52. Data Request 85:

85. With respect to the "Aldermanic Pennichuck Special Water Committee" provide:

- i. the names of all committee members;
- ii. the time and date of each committee meeting;
- iii. the names of all persons who participated in each committee meeting;
- iv. copies of all committee files, meeting minutes and transcripts; and
- v. copies of all documents presented to, considered by and/or prepared by or on behalf of the committee.

Nashua objects to the extent that these requests relate to information subject to attorney-client, work product and other privileges.

**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

**Supplemental Objections to Data Requests Propounded by Pennichuck Water
Works, Inc.
to City of Nashua—Set 1**

The City of Nashua objects to the Data Requests Propounded by Pennichuck Water Works, Inc., as follows:

SPECIFIC OBJECTIONS

54. Data Request 56:

56. Is Mr. Munck familiar with Nashua's operation of its waste water collection and treatment system? If so, please explain all ways in which operation of the waste water system by Nashua relates to its ability to operate a drinking water system (a) in Nashua and (b) in other communities whose systems are not connected to the system serving Nashua.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.

55. Data Request 57:

57. Please list all legal and/or operational problems of which Mr. Munck is aware with regard to Nashua's operation of its waste water system. Your answer should provide dates of all such problems. The information sought is not relevant to the issue of public interest, which is the subject matter of these Data Requests.

The information sought is not relevant to the subject matter involved in the pending action, does not relate to any claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. Nashua does not propose that the water system to be acquired by it will be operated by any City department. The operations of current City departments, therefore, have no relevance to the operation of the water system.