



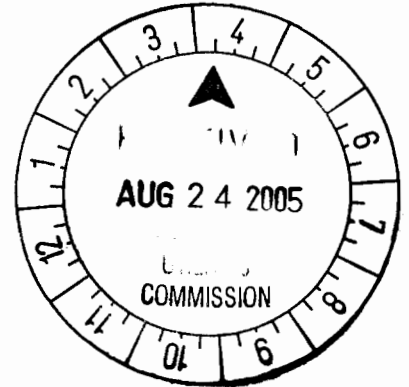
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August 24, 2005

VIA HAND-DELIVERY



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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. DW04-048

Dear Ms. Howland:

Enclosed please find an original and eight copies of Nashua's *Motion for Reconsideration and Clarification of the Commission's Order Addressing Nashua's Motion to Compel*, as well as an electronic copy on diskette. A copy of the foregoing Motion is being sent this day by e-mail and first class mail to all of the parties on the Commission's official service list in this proceeding.

Pursuant to Rule PUC 203.04 (e), Nashua has been informed that the Merrimack Valley Regional Water District and the Town of Litchfield concur with Nashua's request. The Office of the Consumer Advocate and counsel for the Town of Merrimack have taken no position. Nashua has not received responses from the remaining parties.

Thank you for your assistance in this matter. If you have any questions, please contact me.

Very truly yours,

Justin C. Richardson
jrichardson@upton-hatfield.com

JCR/lm
Enclosure

cc: Official Service List

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STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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

DW 04-048

**MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE
COMMISSION'S ORDER ADDRESSING NASHUA'S MOTION TO COMPEL**

NOW COMES the City of Nashua ("Nashua") and, pursuant to RSA 541:3, moves for rehearing, reconsideration and clarification of the Commission's Order No. 24,494 addressing Nashua's *Motion to Compel Responses from Pennichuck Water Works, Inc.*, ("*Motion to Compel*"), and in support hereof, states as follows:

I. Introduction.

1. On July 29, 2005, the Commission issued Order No. 24,494 denying Nashua's *Motion to Compel* Pennichuck Water Works, Inc. ("PWW") to produce its prior appraisals and other documents related to the valuation of its water system.

2. The Commission based its decision on a July 26, 2005 report prepared by its Hearings Examiner. However, the report of the Hearings Examiner erred in two fundamental respects: First, the Hearings Examiner recommended that, because PWW had not yet submitted testimony on valuation, the Commission should rule that Nashua's requests for its appraisals were premature. *Order No. 24, 949*, Page 2. Second, although PWW's objection provided no privilege log or other evidence to establish the grounds for privilege, the Hearings Examiner suggested that "Nashua will have the burden to show that exceptional circumstances are present to require the Pennichuck Entities to respond to the questions regarding experts not expected to testify" and that "Nashua will have the

burden to demonstrate why it is entitled to obtain documents that the Pennichuck Entities claim are privileged”. *Order No. 24, 494*, Pages 2-3.

3. The Commission agreed with the Hearings Examiner’s first recommendation that Nashua’s *Motion to Compel* was premature, but declined to rule “on relevance or any possible privilege protections at this time.” *Order No. 24, 494*, Page 3.

4. Nashua moves the Commission to rehear or reconsider its determination that Nashua’s *Motion to Compel* responses to its valuation data requests is premature. As set forth herein, Nashua’s valuation data requests were submitted during the phase of this proceeding specifically allocated for that purpose. The requests were therefore timely and appropriate. By denying Nashua’s *Motion to Compel*, the Commission has effectively denied Nashua its only opportunity to obtain appraisals and other documents directly relevant to the valuation of PWW’s assets prior to the October 14, 2005 deadline for submission of its testimony on valuation.

5. Nashua further requests that the Commission grant rehearing or clarification because the Hearings Examiner erred as a matter of law by concluding that the prior appraisals and other documents requested were privileged without any privilege log or evidence and by suggesting that, even though no privilege had been established, “Nashua will have the burden to demonstrate why it is entitled to obtain documents”. *Order No. 24,494*, Page 3.

II. Nashua’s Requests for Appraisals Are Not Premature and Are Consistent with the Commission’s Procedural Schedule.

6. The Commission’s procedural schedule was established by agreement of the parties as reflected in *Order No. 24,457* dated April 22, 2005. The Commission’s

Order set May 6, 2005 as the date for “[d]ata Requests to PWW *on valuation* by Nashua only – first round” (emphasis added). The Commission further provided for submission of second round data requests “on valuation” by Nashua on June 24, 2005.

7. On April 22, 2005, Nashua submitted data requests No. 1-59, 1-60, 1-62, 1-64 and 1-66 through 1-71. Copies of these data requests, together with PWW’s objections and responses as supplemented,¹ are attached as Exhibit A. Consistent with the agreed-upon schedule, these data requests directly related to the valuation of PWW’s assets.

8. For example, Nashua’s request No. 1-59 requested that PWW identify “any appraisal or valuation” of PWW’s property or stock. Nashua’s Request No. 1-60 asked for copies of those appraisals, and related work papers and other documents. Nashua’s Request No. 1-64 requested copies of “appraisals, valuations, opinions of value or independent engineering reports” used to secure financing. Not only are these requests relevant to this proceeding, they are directly related to the ultimate issue to be decided by the Commission: the valuation of PWW’s assets under RSA 38.

9. The requested documents, such as PWW’s appraisals of its property for tax or due diligence purposes are directly relevant to this proceeding and the testimony to be filed on October 14, 2005. They are likely to address factors such as the impact of functional, physical or economic depreciation of PWW’s water system, or other matters related to the valuation of PWW’s property. The opinions of PWW’s own staff or its

¹ In its June 27, 2005 objection to Nashua’s *Motion to Compel*, PWW supplemented its response Nashua’s Request No. 1-62. The supplemental response made available Philadelphia Suburban Corporation’s January 13, 2003 Form S-4 filed with the Securities and Exchange Commission, but did not make available any of the appraisal reports and other documents referenced in that filing.

consultants regarding these physical, economic, or regulatory conditions of its assets, are one of the central issues to be decided by the Commission.

10. For example, Nashua is aware that PWW retained the firm of SG Bar Devlin who prepared, *inter alia*, a “range of valuations of Pennichuck that could reasonably be expected”² under different scenarios. SG Bar Devlin apparently “separately valued Pennichuck’s water utility and contract operation segments, which are its core businesses, and its real estate development ventures.”³ The company further advised Pennichuck extensively regarding matters including, but not limited to, its “net income growth”⁴, “ability to meet ... projections based on its relatively limited track record”⁵, its “need to make relatively large capital expenditures during the next several years”⁶ and other matters directly related to the value of the company’s assets.

11. Clearly, Nashua’s data requests for appraisals, opinions of value, and other “detailed presentations”⁷ such as those prepared by SG Bar Devlin are directly relevant to the valuation of PWW’s assets and properly the subject of “[d]ata Requests to PWW *on valuation* by Nashua” as set forth in the Commission’s Order No. 24,457 (emphasis added). Indeed, it is difficult to imagine a set of documents having any greater potential relevance to valuation of PWW’s assets.

12. These two rounds of data requests specifically related to valuation are critical to Nashua because, on October 14, 2005, the schedule requires that “[t]estimony by Nashua on valuation and public interest issues dependent on valuation” be submitted.

² Philadelphia Suburban Corporation, Form S-4 (November 27, 2002), Page 27 (“Form S-4”). A copy is available at <http://www.sec.gov/Archives/edgar/data/78128/000104746902005124/a2094461zs-4.htm>. Excerpts from the Form S-4 are attached as Exhibit B.

³ Exhibit B, Form S-4, Page 27.

⁴ Exhibit B, Form S-4, Page 28.

⁵ Exhibit B, Form S-4, Page 28.

⁶ Exhibit B, Form S-4, Page 28.

⁷ Exhibit B, Form S-4, Page 30.

As a result, the data requests at issue are Nashua's *only* opportunity to request documents related to the value of PWW's assets prior to the agreed-upon date for Nashua to submit its testimony. While the Commission noted that Nashua will have the opportunity to submit additional data requests following PWW's testimony on valuation,⁸ Nashua will have already prepared and submitted its testimony.

13. Moreover, given that PWW and Nashua are required to simultaneously submit testimony on valuation on October 14, 2005, the Commission should allow Nashua the same opportunity to review appraisals, technical reports and other information related to valuation that its own experts are able to review in this proceeding. The Commission's determination that Nashua's requests are premature is therefore (a) in direct conflict with the agreed upon schedule for Nashua's data requests regarding valuation; and (b) by denying Nashua the opportunity to consider relevant information in preparing its testimony, in conflict with due process of law. NH Const. Part I, Article 15; *Appeal of Portsmouth Trust Co.*, 120 N.H. 753, 758 (1980) ("The fundamental requisite of due process is the right to be heard at a meaningful time and in a meaningful manner.").

14. Finally, although not strictly a legal consideration, Nashua submits that the Commission erred in concluding that its ruling in Order No. 24,494 is "[c]onsistent with the Commission's ruling on a similar dispute regarding data requests on valuation issues posed to Nashua by the Pennichuck entities". *Order*, Pages 2 and 3. This conclusion is incorrect: Nashua's objection to PWW's valuation data requests was based on the fact that the agreed-upon procedural schedule provided for PWW to submit data requests to Nashua in two separate phases for (a) the public interest; and (b) valuation. Nashua

⁸ Order No. 24,494, Page 3.

objected because PWW improperly submitted valuation data requests during the public interest phase. In this case, however, Nashua has submitted valuation data requests *during the phase specifically allocated for that purpose*. In that regard, during negotiation of the procedural schedule, Nashua specifically requested the opportunity to submit data requests related to valuation because, without the opportunity to review the very documents at issue here, Nashua would be unable to definitively prepare its testimony related to valuation.

III. The Hearings Examiner Erred in Determining that the Documents Sought by Nashua Were Privileged Without Any Supporting Evidence.

15. As noted above, the Commission neither accepted nor rejected the Hearings Examiner's determination that the appraisal reports and other documents requested by Nashua were privileged. However, in light of the fact that Nashua's data requests were submitted during the phase specifically allocated for valuation, consideration of the issue is appropriate. As set forth below, the Commission should grant reconsideration to clarify that the Hearings Examiner erred by broadly suggesting that appraisal reports were privileged without any privilege log or supporting evidence, and, improperly shifted the burden to Nashua to "demonstrate why it is entitled to obtain" relevant documents.

16. Rules of evidence do not apply in proceedings before the Commission. However, RSA 541-A:33, II expressly recognizes that administrative agencies "shall give effect to the rules of privilege recognized by law." *See also* PUC 203.10(d).

17. New Hampshire expressly provides for a lawyer-client privilege under Rule 502 of the New Hampshire Rules of Evidence.⁹ Rule 502 states that:

General Rule of Privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client (1) between the client or his or her representative and the client's lawyer or the lawyer's representative, (2) between the client's lawyer and the lawyer's representative, (3) by the client or the client's representative or the client's lawyer or a representative of the lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein, (4) between representatives of the client or between the client and a representative of the client, or (5) among lawyers and their representatives representing the same client.

18. It is well settled that the burden to establish the existence of a privilege lies with the party asserting it. *State v. Gordon*, 141 N.H. 703, 705 (1996); *McCabe v. Arcidy*, 138 N.H. 20, 25 (1993). Upon showing that the information is relevant under PUC 204.04, PWW has the burden to demonstrate that the requested documents are privileged, and “[t]hat burden is not of course, discharged by mere conclusory or *ipse dixit* assertions, for any such rules would foreclose meaningful inquiry into the existence of the relationship, and such spurious claims could never be exposed.” *McCabe, supra*.

19. While it is conceivable that an appraisal report might be prepared in anticipation of litigation and at the direction of counsel, PWW has the burden of demonstrating that such a privilege applies to a particular document. *State v. Gordon, supra; cf. City of Nashua*, NHPUC Order No. 24, 495 (2005) (“[I]t is not our practice,

⁹ In Order No. 24, 494, the Commission cited Superior Court Rule 35(b). Page 3. Rule 35(b) governs discovery in superior courts “regarding any matter, not privileged.” Rule 35(b)(1). Whether a document is privileged, however, is governed by statute and the Rules of Evidence. See NH Rules of Evidence, Rule 1101(c). To the extent that the Commission used Rule 35(b) as guidance, Nashua notes that the language in Rule 35(b)(2) concerns trial preparation materials “prepared in anticipation of litigation,” i.e., work product. As set forth herein, PWW has not established that any of the documents sought are work product, or otherwise prepared in anticipation of litigation.

however, to grant protection in the abstract, without specific documents identified.”) Such a privilege claim must include, at a minimum, a description of the documents, the date of its preparation, the preparer, recipient and other information in order to provide “meaningful inquiry” into the existence of any claim as to privilege. *McCabe v. Arcidy, supra*.

20. Notwithstanding PWW’s initial burden to establish that particular documents are privileged, the Hearings Examiner broadly suggested that all documents requested were privileged, without any privilege log or other evidence establishing any of the elements of work product or other privilege provided by law. As a result, the Hearings Examiner’s recommendation, if accepted, provides Nashua with no opportunity for “meaningful inquiry” into PWW’s claims and virtually no ability to investigate or challenge those claims with respect to particular documents.

21. The Commission should therefore clarify that PWW has the initial burden to demonstrate any documents within the scope of Nashua’s requests are privileged, and to provide Nashua and the Commission with the opportunity for “meaningful inquiry” into its claims.

IV. The Hearings Examiner Erred in Determining That Appraisals Are Protected Work Product Without Any Supporting Evidence.

22. The New Hampshire Supreme Court has held that “appraisals and reports made by employees of the State or by independent appraisers . . . would not normally come under the attorney-client privilege or be part of the work product of a lawyer.” *Riddle Spring Realty v. State*, 107 N.H. 271, 275-276 (1966). For the work product doctrine to apply “[t]he lawyer’s work must have formed an essential step in procurement

of the data which the opponent seeks, and he must have performed duties normally attended to by attorneys.” *State v. Zwicher*, 151 N.H. 179, 191 (2004).

23. As the Court noted in *State v. Chagnon*, 139 N.H. 671, 674 (1995), “[t]he work product of a lawyer consists generally of his mental impressions, conclusions, opinions or legal theories.”). Furthermore, in determining whether work product applies, “the focus ought to be on what substantive information the material contains, rather than simply the form that information takes or how the information was acquired.” *Chagnon*, Page 676. Even where a document contains both work product and factual information, disclosure is appropriate where information “could be redacted from the document after *in camera* review by the trial court.” *Id.*

24. By their very nature, appraisals are rarely legal advice or work product because they consist of facts or opinions related to value, as opposed to legal advice. Nashua recognizes that, under appropriate circumstances, an appraisal report, prepared at the direction of counsel by a non-testifying expert in anticipation of litigation might fall within the work product doctrine. However, Nashua’s data requests relate to the value of PWW’s assets, not the merits of the company’s legal claims or theories of value, and PWW has submitted no evidence for the Commission to broadly conclude that the requested documents were prepared in anticipation of litigation. Indeed, as indicated by the Form S-4, the Company has apparently prepared extensive appraisals of its assets where no litigation is contemplated.

25. That appraisals fall within work product exemption to discovery has been widely rejected by other courts. *See e.g. United States v. Block*, 44, 177 FRD 687, 691 (1997) (“pretrial discoverability of the appraisal seems a foregone conclusion”); *Hartman*

v. Caplan, 115 FRD 20, 22-24 (1985) (appraisal used to support a settlement offer is not protected as work product even though settlement negotiations might result in litigation); *United States v. Mackay*, 372 F.2d 174 (1967).

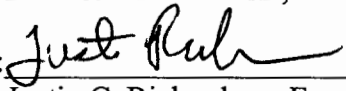
26. Applying the appropriate standard, the appraisals and other documents requested in Exhibit A, relate to factual questions which do not require investigation into the mental impression of an attorney. The Commission should therefore grant reconsideration in order to clarify that, absent unusual circumstances as demonstrated by PWV, the appraisal reports and other documents are not protected by work product or other privileges.

WHEREFORE, Nashua respectfully requests that the Commission:

- A. Grant reconsideration of the Order No. 24,454;
- B. Grant Nashua's *Motion to Compel*;
- C. Order PWV to respond to and provide the documents requested in Nashua's Data Requests Nos. 1-59, 1-60, 1-62, 1-64, and 1-66 through 1-71; and
- D. Grant such other relief as justice may require.

Respectfully submitted,
CITY OF NASHUA
By Its Attorneys
UPTON & HATFIELD, LLP

Date: August 24, 2005

By: 
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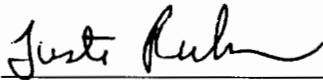
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Corporation Counsel
229 Main Street
Nashua, NH 03061-2019

CERTIFICATE OF SERVICE

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

Date: August 24, 2005



Justin C. Richardson, Esq.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-59

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: Identify by date and author, any appraisal or valuation of any kind or nature or opinion of value or independent engineering report performed by any person or entity for the property or stock of Pennichuck or PWW during the period of January 1, 1999 to the present.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-60

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: Attach a copy of each said such appraisal or valuation or opinion or report and any document relied upon in connection with such appraisal valuation or opinion including, but not limited to, work papers, reports, presentations to management or shareholders and notes.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-62

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: Attach a copy of each such report or opinion of fairness or value and any document relied upon in connection therewith including, but not limited to work papers, reports, presentations to management or shareholders and notes.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Supplemental Responses to
City of Nashua's First Set of Data Requests on Valuation

Date of Supplemental Response: June 27, 2005

Data Request No.: Nashua 1-62

Witness: Donald L. Correll

REQUEST: Attach a copy of each such report or opinion of fairness or value and any document relied upon in connection therewith including, but not limited to work papers, reports, presentations to management or shareholders and notes.

SUPPLEMENTAL RESPONSE: Pennichuck and PWW incorporate their Objections into this response. Without waiving the Objections, Philadelphia Suburban Corporation's January 13, 2003 S-4 which contains a fairness opinion and was filed with the U.S. Securities and Exchange Commission, is available in the data room or at www.sec.gov.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-64

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: Attach a copy of any appraisals, valuations, opinions of value or independent engineering reports performed or prepared by or on behalf of Pennichuck or PWW or by or on behalf of the entity providing such debt financing in connection with such financing including, but not limited to, work papers, reports, presentations to management or shareholders and notes.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-66

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: State the names, addresses, telephone numbers and occupations of any expert witness you have consulted, will have testify or have available to testify with respect to this docket. State the qualifications, educational background and employment for the past ten years of any expert you have consulted, will have testify or will have available to testify with respect to this docket. Identify all water companies, or water company assets which may have been appraised by any such expert and attach copies of such appraisals.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-67

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: Attach copies of any appraisal, valuation, opinion or any other document provided to Pennichuck or PWW by any of the experts identified.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-68

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: If the experts listed above hold any certificates or licenses in their field of expertise, state where and when they were acquired and attach copies thereof.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-69

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: If the experts identified above have published any articles on, held any lectures on, or otherwise have intellectually or practically expounded on the subject of their expertise, state where and when and attach copies thereof.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-70

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: State the number of times each expert identified above has been retained as an expert in questions involving their field of expertise and the names of cases, as well as locations and dates when testimony in court has been given. Also state in each case, by whom each expert was retained.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

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

DW 04-048

Pennichuck Water Works, Inc. and Pennichuck Corporation's Responses to
City of Nashua's First Set of Data Requests on Valuation

Date Request Received: May 3, 2005
Data Request No.: Nashua 1-71

Date of Response: June 10, 2005
Witness: Donald L. Correll

REQUEST: State the names and addresses of all experts who have been retained or specially employed by you and who are not expected to be called as witnesses at trial.

RESPONSE: Pennichuck and PWW incorporate the Objections into this response.

S-4 1 a2094461zs-4.htm FORM S-4

QuickLinks -- Click here to rapidly navigate through this document

As filed with the Securities and Exchange Commission on November 27, 2002

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-4

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

PHILADELPHIA SUBURBAN CORPORATION

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

Pennsylvania
(STATE OR OTHER JURISDICTION OF
INCORPORATION OR ORGANIZATION)

4941
(PRIMARY STANDARD INDUSTRIAL
CLASSIFICATION CODE NUMBER)

23-1702594
(I.R.S. EMPLOYER
IDENTIFICATION NUMBER)

762 West Lancaster Ave.
Bryn Mawr, Pennsylvania 19010-3489
(610) 525-1400
(ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE,
OF REGISTRANT'S PRINCIPAL EXECUTIVE OFFICES)

Roy H. Stahl
Philadelphia Suburban Corporation
Executive Vice President and General Counsel
762 West Lancaster Ave.
Bryn Mawr, Pennsylvania 19010-3489
(610) 525-1400
(NAME, ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER,
INCLUDING AREA CODE, OF AGENT FOR SERVICE)

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(215) 963-5000

Michael K. Krebs
Alexander S. Glovsky
Nutter, McClennen & Fish, LLP
One International Place
Boston, Massachusetts 02110-2699
(617) 439-2288

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: As soon as practicable after this Registration Statement becomes effective and all other conditions to the merger pursuant to the Agreement and Plan of Merger described herein, have been satisfied or waived.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier registration statement for the same offering.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.50 par value per share	3,554,255 (1)	N/A	\$67,741,409 (2)	\$6,232.21

- (1) Represents the maximum number of shares of Philadelphia Suburban Corporation common stock, par value \$0.50 per share, estimated to be issuable in the merger pursuant to the Agreement and Plan of Merger dated April 29, 2002 by and among Philadelphia Suburban Corporation, Raleigh Acquisition Corporation and Pennichuck Corporation.
- (2) Pursuant to Rules 457(c) and 457(f)(1) under the Securities Act of 1933, as amended, and solely for the purpose of calculating the registration fee, the proposed maximum aggregate offering price is equal to 2,476,834, the estimated maximum number of shares of Pennichuck Corporation common stock to be exchanged in the merger, multiplied by \$27.35, the average of the high and low sale prices per share of Pennichuck Corporation common stock on The NASDAQ National Market on November 25, 2002.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

The information in this prospectus is not complete and may be changed. PSC may not sell or accept offers to buy these securities before the registration statement filed with the Securities and Exchange Commission is effective. This proxy statement—prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED NOVEMBER 27, 2002

**Prospectus
of Philadelphia Suburban Corporation and
Proxy Statement
for a
Special Meeting of Shareholders
of Pennichuck Corporation**

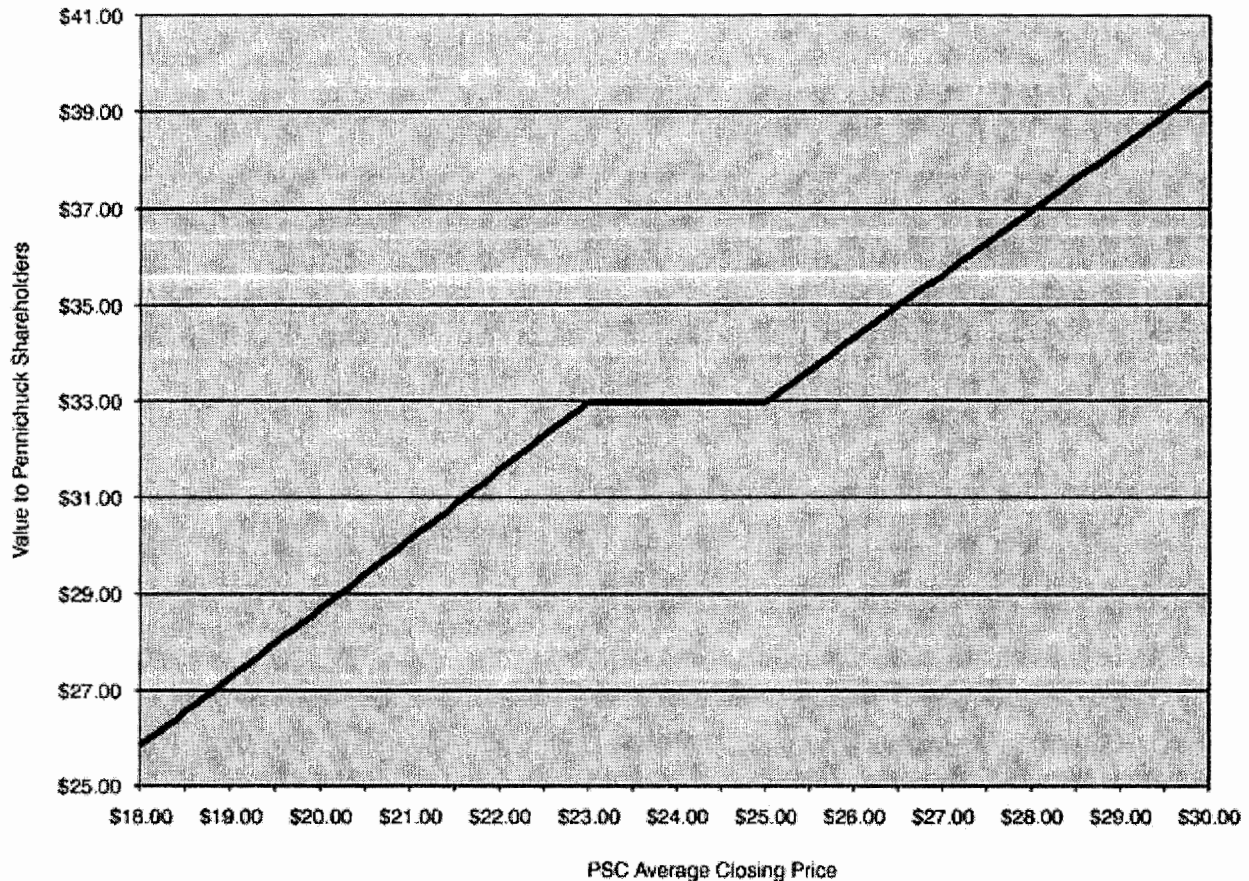
To the Shareholders of Pennichuck Corporation:

The board of directors of Pennichuck Corporation has approved a merger agreement which provides for the acquisition of Pennichuck by Philadelphia Suburban Corporation, or PSC. This transaction presents us with an opportunity to enhance shareholder value by joining with one of the nation's largest investor-owned water utilities. We are asking you to vote in favor of this important transaction.

If the merger is completed, Pennichuck shareholders will receive shares of PSC common stock for each share of Pennichuck common stock that they own. The number of PSC shares received will depend upon the average closing price of

The following chart illustrates the relationship between the PSC Average Closing Price and the exchange ratio.

**Value Given to Holders of Pennichuck Common Stock
at Various PSC Average Closing Prices**



The PSC Average Closing Price would have been \$ _____ if the merger had been completed as of _____, 2002, the last practicable date prior to the mailing of this proxy statement—prospectus, which would have resulted in an exchange ratio of _____. From April 29, 2002, the date on which Pennichuck and PSC announced the merger agreement, to _____, 2002, the PSC Average Closing Price has ranged between \$ _____ and \$ _____. We encourage Pennichuck shareholders to obtain current market prices for PSC common stock. See "Market Price and Dividend Information" on page 15.

Pennichuck shareholders should bear in mind, however, that at the time they vote on the merger they will not know the value of the merger consideration that they will receive in the merger. The final exchange ratio and therefore the number of shares of PSC common stock that a Pennichuck shareholder will receive in the merger in exchange for each Pennichuck share will depend upon the PSC Average Closing Price just prior to completion of the merger. In addition, the value of the merger consideration as of the effective date of the merger will be equal to that final exchange ratio multiplied by the market price for PSC common stock on that date, which may be different than the PSC Average Closing Price.

Background of the Merger

Establishment and Role of Strategic Planning Committee. The Pennichuck board's decision in April 2002 to approve the merger agreement marked the culmination of a process that the board

formally initiated in October 2001, when it voted unanimously to establish a Strategic Planning Committee, composed of Robert Keller, the Committee's Chairman, Charles Clough and Dr. John Kreick, each of whom is a non-employee director. The Committee's purpose was to coordinate a comprehensive evaluation of the principal strategic alternatives available to Pennichuck. The Pennichuck board's decision to establish the Committee to assess Pennichuck's long-term strategy was influenced primarily by

- the ongoing reduction in the amount of low cost land owned by Pennichuck that is suitable for real estate development,
- Pennichuck's relatively limited expansion of its non-regulated sources of income, including contracts to operate municipal water systems (also known as contract operations),
- the increased pace of consolidation in the water company industry, including their pending acquisition by Aquarion, the United States subsidiary of Kelda Group plc, of substantially all of the New England business of the American Water Works Company, including its operations in New Hampshire and Massachusetts, that was announced on August 30, 2001,
- the relatively high valuation of water company stocks at that time, and
- the intention of Pennichuck's President and Chief Executive Officer, Maurice Arel, to retire, as he had recently disclosed to the Pennichuck board.

The Committee members received presentations from SG Barr Devlin and four other firms in connection with its selection of a financial advisor that would be suitable to assist the Pennichuck board. In November 2001, the Company retained SG Barr Devlin as Pennichuck's financial advisor. A unit of the international banking organization Société Generale, SG Barr Devlin specializes in investment banking engagements for regulated utility companies.

Preliminary Review of Strategic Alternatives and Pennichuck's Valuation. On December 12, 2001 the Committee, Pennichuck's other non-employee directors and Mr. Arel met with SG Barr Devlin to discuss SG Barr Devlin's analysis of and recommendations regarding the three principal strategic choices available to Pennichuck, namely—

- continuing to pursue management's business plan, as presented in a ten-year financial plan recently prepared by Pennichuck management, which plan did not contemplate a change in control of Pennichuck (the "Stand-alone Strategy"),
- seeking to complete significant acquisitions to diversify Pennichuck's geographic base and achieve greater financial and operating scale, and
- soliciting proposals to be acquired by another water company.

SG Barr Devlin also reviewed with the Pennichuck directors SG Barr Devlin's methodology for its estimate of the range of valuations of Pennichuck that could reasonably be expected under the Stand-alone Strategy (which would not include a change of control premium) and an estimate of a range of values that could reasonably be expected in an acquisition by another water company, as summarized below and described in more detail elsewhere in this proxy statement—prospectus. See "The Merger—Opinion of Pennichuck's Financial Advisor" on page 40. SG Barr Devlin separately valued Pennichuck's water utility and contract operations segments, which are its core businesses, and its real estate development ventures. In explaining this bifurcated approach, SG Barr Devlin advised the Pennichuck directors that it was unlikely that a strategic acquirer would be willing to value Pennichuck's real estate development as highly as its ongoing water business and observed that Pennichuck derived a much higher percentage of its earnings from real estate development activities compared to other water companies.

Stand-alone Strategy. In its presentation to the directors, SG Barr Devlin noted that Pennichuck's net income growth during the past several years had benefited significantly from the net income produced by its real estate development ventures. During that time, however, Pennichuck developed much of its inventory of low cost land suitable for real estate development. SG Barr Devlin observed that, as a result of the reduction in the amount of its low cost real estate and based upon management's projections, during the next several years, Pennichuck should expect to experience a decline in the rate of its earnings growth, primarily attributable to a significant reduction in the growth of income produced by its real estate development ventures.

SG Barr Devlin also observed that management's projections showed a significant increase in net income through 2005 from contract operations. The Committee members and SG Barr Devlin, however, questioned Pennichuck's ability to meet those projections based in part upon its relatively limited track record in winning and performing contract operations. SG Barr Devlin also noted that Pennichuck, like other water companies, would need to make relatively large capital expenditures during the next several years in order to comply with additional requirements under the Safe Drinking Water Act that would soon be applicable to Pennichuck. SG Barr Devlin also expressed its view that Pennichuck's ability to make such capital expenditures may be constrained by its limited debt capacity.

Strategy for Growth Through Acquisitions. SG Barr Devlin advised the Pennichuck directors that Pennichuck's ability to grow through acquisitions would be adversely affected by:

- the limited availability of target companies of appropriate size and price;
- the fact that most acquisition candidates are geographically remote from Pennichuck's New Hampshire base;
- the relatively illiquid trading market for Pennichuck common stock would make a stock-for-stock acquisition unattractive to potential targets; and
- the fact that the full use of Pennichuck's debt capacity to support its existing operations would restrict its ability to do any sizable cash transactions.

Strategy for a Combination with a Larger, Strategic Buyer. SG Barr Devlin concluded that the most advantageous strategic alternative for Pennichuck shareholders would likely be an acquisition of Pennichuck by a larger water company based in the United States or Europe. SG Barr Devlin reviewed with the Pennichuck directors the universe of potential acquirers and the range of values that the Pennichuck board could reasonably expect Pennichuck shareholders to receive in such an acquisition based upon the methodology summarized above and described in more detail under "The Merger—Opinion of Pennichuck's Financial Advisor" on page 40.

SG Barr Devlin also discussed with the Pennichuck directors the implications of the recently announced acquisitions of several large United States-based water companies, including the pending acquisitions of Utilities, Inc. by Nuon, based in the Netherlands, and the American Water Works Company by RWE Aktiengesellschaft, headquartered in Germany. SG Barr Devlin stated that RWE's acquisition of American Water Works (the largest United States-based water company) could reasonably be expected to prompt other European water companies to accelerate plans for acquisitions in the United States. SG Barr Devlin also advised the Pennichuck directors that if the pace of consolidation in the water industry continued, Pennichuck's strategic value could be expected to diminish in the future both because the number of potential strategic acquirers would decline and because Pennichuck's operations would not be large enough to have a meaningful impact on many of the remaining acquirers.

The Committee members unanimously concurred with SG Barr Devlin's assessment of the strategic alternatives available to Pennichuck and recommended that the Pennichuck board authorize the

exploration of whether or not, and on what terms, one or more larger water companies would be interested in acquiring Pennichuck.

Pennichuck Board's Decision to Solicit Confidential Indications of Interest from Potential Acquirers. The Pennichuck board met on December 14, 2001 to consider the SG Barr Devlin analyses and the Committee's recommendation. The

Pennichuck board considered a variety of factors, including the recent market price of Pennichuck common stock, the assumptions in the SG Barr Devlin presentation, and the manner in which SG Barr Devlin would obtain indications of interest from potential acquirers. The Pennichuck board also considered comments raised by some directors questioning SG Barr Devlin's assertion that Pennichuck's ability to make significant capital expenditures may be constrained by its limited debt capacity. The Committee members in particular noted that SG Barr Devlin's assessment of the challenges that Pennichuck would confront under the Stand-alone Strategy was consistent with the issues that the Committee members and other directors had previously discussed. The Committee members stressed the importance of the Pennichuck board obtaining actual indications of interest from likely acquirers in order for the board to make an informed judgment about the strategic direction Pennichuck should pursue. By a vote of five to four, with Joseph Bellavance, Charles Clough, Robert Keller, John Kreick and Hannah McCarthy in favor, and Maurice Arel, Stephen Densberger, Martha O'Neill and Charles Staab opposed, the Pennichuck board authorized SG Barr Devlin to determine through confidential discussions the range of values that the most likely potential acquirers would be willing to pay to acquire Pennichuck.

Solicitation of Preliminary Indications of Interest and Final Offers. In January 2002, the Committee directed SG Barr Devlin to solicit indications of interest confidentially from seven of the ten most likely acquirers that SG Barr Devlin had identified and discussed with the Committee and other board members. Five of those parties, including PSC, expressed an interest in considering the acquisition of Pennichuck, entered into confidentiality agreements with Pennichuck, and received a confidential offering memorandum which SG Barr Devlin had prepared with the assistance of Pennichuck management and which included Pennichuck's confidential ten-year financial projections. On February 22, 2002, PSC and three other potential acquirers submitted written, non-binding preliminary indications of their interest in acquiring Pennichuck.

Each preliminary indication described the structure of the proposed transaction and the preliminary range of values that the prospective acquirer might expect to pay to Pennichuck shareholders. Three of the potential acquirers proposed to acquire Pennichuck for cash. PSC proposed to acquire Pennichuck in exchange for PSC stock. Three of the preliminary indications, including the one that PSC submitted, valued Pennichuck within a range that was substantially consistent with the estimated acquisition valuation range that SG Barr Devlin described at its December 2001 presentation. The fourth preliminary indication, submitted by a United States subsidiary of a foreign company, indicated a value for Pennichuck that was substantially greater than any other proposal and the estimated acquisition valuation range, but was contingent, however, on approval by the bidder's foreign parent company.

On February 25, 2002, the Committee met with SG Barr Devlin and legal counsel to review the four preliminary indications. Also present at that meeting were Pennichuck's other directors. The Pennichuck directors compared the valuation range in each preliminary indication with both the valuation ranges in the other preliminary indications and SG Barr Devlin's estimated acquisition valuation range for Pennichuck. The Pennichuck directors also considered the relative advantages and disadvantages of an acquisition of Pennichuck for a fixed, all cash price compared to an acquisition of Pennichuck in exchange for the acquirer's stock that would qualify as a tax-free reorganization for federal income tax purposes. The Pennichuck directors also considered the potential for the valuation of Pennichuck in a stock-for-stock acquisition to fluctuate prior to the closing based upon the changes in the market value of the acquirer's stock.

The Committee authorized each of the four bidders to continue with the process by attending formal presentations by Pennichuck management, conducting an in-depth, off-site due diligence review of Pennichuck's business and financial condition, and submitting final offers. In March 2002, PSC and two other bidders separately attended a management presentation, participated in a site tour of Pennichuck's facilities, and began their due diligence review. The bidder that had submitted the preliminary indication with the greatest valuation of Pennichuck informed SG Barr Devlin that, after consultation with its parent company, it had decided to withdraw its indication of interest and not continue with the process prior to engaging in any further review of Pennichuck.

Consideration of Formal Offers. Pennichuck received formal offers from three bidders on April 15, 2002. PSC proposed to acquire Pennichuck in exchange for PSC stock in a transaction in which each Pennichuck share would be converted into 1.381 shares of PSC stock. The other two bidders proposed to acquire Pennichuck solely for cash. The PSC proposal valued Pennichuck at approximately \$33 per share based upon the market price of PSC stock on April 15, 2002. One of the all cash proposals valued Pennichuck at \$29.70 per share. Pennichuck's valuation in the other all cash proposal was less than the bidder's preliminary indications of interest and was substantially less than both of the other offers and SG Barr Devlin's estimated acquisition valuation range. PSC's proposal stated that it was willing to permit Pennichuck to designate an individual to become a PSC director upon the completion of the acquisition. PSC also submitted an alternative

offer to acquire all Pennichuck's assets other than its real estate development ventures in exchange for a lower fixed exchange ratio of 1.213 shares of PSC stock for each Pennichuck share. That ratio had a value of approximately \$29 per share based on the market price of PSC stock on April 15, 2002.

At the Pennichuck board meeting on April 17, 2002, SG Barr Devlin and legal counsel made detailed presentations regarding the three acquisition proposals and related matters. SG Barr Devlin's presentation included a review of mechanisms—commonly known as "collars"—sometimes used in acquisitions in which the shareholders of the company to be acquired are to receive stock of the acquiring company, noting that a collar is intended to provide a greater degree of certainty as to the value of the acquiring company's stock that the shareholders of the acquired company will receive as of the closing of the acquisition. At the request of the Pennichuck board, SG Barr Devlin also expressed a view as to why the third offer was so much lower than the other two, noting, among other things, that the bidder was unwilling to value Pennichuck's real estate development ventures as highly as the other bidders. The Pennichuck directors also considered the alternate offer submitted by PSC, but it was the consensus of the Pennichuck directors that the complexity and uncertainty inherent in that alternative made it clearly less favorable to the Pennichuck shareholders than each of the other strategic choices available to the Pennichuck board.

Following SG Barr Devlin's presentation, legal counsel reviewed the material non-economic terms of the PSC offer and the leading cash offer, comparing each against the other and against the form of merger agreement that Pennichuck had provided to the bidders in connection with the bidding process. In particular, counsel summarized the circumstances under which the Pennichuck board would be permitted to consider a competing proposal to acquire Pennichuck and the events that would result in Pennichuck being obligated to pay a termination fee under the merger agreement. See "The Merger Agreement—Termination of the Merger Agreement" on page .

Also on April 17, the non-employee Pennichuck directors and Mr. Arel discussed the advisability of implementing a set of retention bonus arrangements that would provide a financial incentive for Pennichuck's executive officers to remain Pennichuck employees at least until the closing of the acquisition. The Compensation Committee subsequently instructed SG Barr Devlin to propose to the bidders a retention bonus arrangement for Pennichuck's executive officers, substantially consistent with the final retention bonus parameters described in "The Merger—Interests of Certain Persons in the Merger" on page 47.

Improved Offers from Two Leading Bidders. At the conclusion of the April 17 board meeting, the Pennichuck board instructed SG Barr Devlin to

- encourage PSC and the leading cash bidder to increase the value that each was offering to pay for each share of Pennichuck common stock,
- encourage PSC to propose a collar that would lessen the exposure that Pennichuck shareholders would have to a decrease in the market price of PSC stock, and
- request that each bidder indicate whether it was willing to permit Pennichuck to commit to make a lump sum retention bonus substantially similar to the terms considered by the Compensation Committee.

The Pennichuck board also directed SG Barr Devlin and legal counsel to inform each bidder of the non-economic terms of its proposal that would materially detract from the Pennichuck board's further consideration of the bidder's offer.

PSC and the leading cash bidder communicated revised offers to SG Barr Devlin on April 19, 2002. The cash bidder increased its offer to \$30.00. PSC's proposal—a fixed exchange ratio of 1.381 shares of PSC stock for each Pennichuck share—did not change. Each bidder also indicated that it would be amenable to Pennichuck committing to pay a retention bonus to each of its executive officers equal to up to 50 percent of their present annual salary and indicated its willingness to withdraw or modify in a manner acceptable to Pennichuck all or substantially all of the non-economic terms of their proposals to which Pennichuck had objected.

Evaluation of PSC's Business, Financial Condition and Stock Market Valuation. Following receipt of the revised proposals from PSC and the other bidder, the Committee instructed SG Barr Devlin and legal counsel to conduct a due

diligence review of PSC's business and financial condition, so that the Pennichuck board could make an informed decision as to whether the PSC proposal was superior to the leading cash proposal or the Stand-alone Strategy. On April 23, 2002, SG Barr Devlin, Maurice Arel and Charles Staab, Pennichuck's Chief Financial Officer, met with several PSC executive officers, who provided a detailed presentation about PSC's business, including its internal financial projections. In the following days, PSC also provided additional information requested by Pennichuck's counsel.

Messrs. Keller and Clough from the Committee and Messrs. Arel, Bellavance, Densberger and Staab and Ms. O'Neill met later on April 23 with SG Barr Devlin and counsel to receive a presentation regarding the revised offers and a preliminary report on their due diligence review of PSC. SG Barr Devlin summarized the material terms of each revised bid, including the fact that, although PSC had chosen not to include a collar arrangement as part of its revised offer, PSC management had indicated that PSC might ultimately be willing to accept a relatively narrow collar.

Messrs. Arel and Staab and SG Barr Devlin summarized their understanding of PSC's business and financial condition and conveyed their favorable impressions of PSC's business plan. The Pennichuck directors then discussed at length the relatively high valuation of PSC stock compared to other publicly traded water companies, noting, among other things, PSC's track record of delivering consistently strong earnings growth, having achieved compounded annual earnings per share growth of 17.8 percent for the past ten years. SG Barr Devlin also explained that the recent trading range for PSC stock was generally consistent with other publicly traded water companies, taking into account the market's expectations regarding PSC's earnings and dividend growth. The Pennichuck board considered that PSC's current dividend rate was \$0.53 per year, and therefore, assuming no change in such rate, the pro forma equivalent dividend rate for Pennichuck shareholders (equal to approximately \$0.73) would be approximately 6.0 percent less than Pennichuck's current dividend rate of \$0.78 per year.

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The Pennichuck directors also discussed that Vivendi Environnement and its affiliates then owned 16.8 percent of the shares of PSC stock outstanding at that time and that Vivendi Environnement then was a 63 percent owned subsidiary of Vivendi Universal SA. The Pennichuck directors considered, among other things,

- SG Barr Devlin's understanding that Vivendi had a relatively low cost basis in PSC stock compared to PSC's market price at that time,
- the substantial decline of Vivendi Universal's stock price in recent months (approximately 39 percent since the beginning of 2002), and
- Vivendi Universal's March 5, 2002 announcement that it was writing off €15.2 billion of goodwill (under US generally accepted accounting principles).

In particular, the Pennichuck board discussed whether such circumstances might lead Vivendi to sell or seek to sell all or substantially all of its interest in PSC prior to the closing of the merger and the potential impact that such action might have on the market price of PSC stock.

The Pennichuck board also asked SG Barr Devlin to express its view on the likely effects on PSC of the announcement of a merger with Pennichuck. SG Barr Devlin advised the Pennichuck directors that PSC's announcement of an agreement to acquire Pennichuck would be unlikely to have a material adverse effect on the market price of PSC stock. SG Barr Devlin noted that it expected that the Pennichuck merger would increase PSC's earnings per share slightly and would probably be perceived by the investment community as being consistent with PSC's previously disclosed acquisition goals. SG Barr Devlin also observed that Pennichuck's New Hampshire operations would complement PSC's existing franchise in Maine and that Pennichuck's business would constitute a relatively small percentage of PSC's post-merger operations.

The Committee members present at that meeting and SG Barr Devlin advised the other Pennichuck directors that, in the opinion of the Committee and SG Barr Devlin, each of the PSC offer and the leading cash offer appeared to be more attractive to Pennichuck's shareholders from a financial point of view than the Stand-alone Strategy, and that the PSC offer appeared to be superior to the leading cash offer, even without a collar or a termination right based upon a decline in PSC's stock price (sometimes referred to as a "walkaway right"). Nevertheless, the consensus among the Pennichuck directors who participated in that meeting was that SG Barr Devlin should endeavor to negotiate a narrow collar or, alternatively, a walkaway right with PSC.

Consideration of Final PSC Offer. The entire Pennichuck board met on April 25, 2002 to consider the analyses of SG Barr Devlin and the Committee's recommendation. SG Barr Devlin reported that PSC had agreed to the collar arrangement described elsewhere in this proxy statement—prospectus that would provide Pennichuck shareholders with \$33.00 of value in PSC stock if the average market price of PSC stock prior to closing is not greater than \$25.00 and not less than \$23.00. See "The Merger—General" on page 26 for a description of the collar.

At the request of the Pennichuck board, SG Barr Devlin presented detailed analyses of, and responded to questions regarding, the financial aspects of the proposed acquisition described in more detail in "The Merger—Opinion of Pennichuck's Financial Advisor" on page 40. SG Barr Devlin reviewed the following factors, among others:

- the current market price of PSC stock and PSC's historical and projected financial performance, and the expectations of research analysts who follow PSC stock,
- the valuation of Pennichuck under the PSC offer compared to SG Barr Devlin's estimated acquisition valuation range for Pennichuck,
- the valuation offered by the leading cash bidder,

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- the possibilities that other potential strategic acquirers might have greater interest in acquiring Pennichuck in the foreseeable future, and
 - Pennichuck's relative prospects under the Stand-alone Strategy.

In discussing Pennichuck's valuation under the final PSC offer, SG Barr Devlin reviewed its various financial assumptions, including the estimated range of the acquisition values for Pennichuck that it had provided to the Pennichuck directors in December 2001 and on April 17, 2002, based upon the valuations paid in the 12 acquisitions of United States-based water companies completed or announced since 1995. SG Barr Devlin advised the Pennichuck board that it viewed PSC's offer as valuing Pennichuck's water business, excluding its real estate development ventures, above the high end of that range of estimated acquisition values, assuming a \$33.00 per share valuation based upon the closing price of PSC stock on April 24, 2002 and assigning \$2.89 per share of the \$33.00 to Pennichuck's real estate development ventures. The Pennichuck board also considered that the valuation of Pennichuck as a whole, including its real estate development ventures, was within the range of the valuations paid in the other water company acquisitions cited by SG Barr Devlin as a multiple of Pennichuck's estimated net income for 2002 and its book value per share as of December 31, 2001.

SG Barr Devlin advised the Pennichuck board that PSC's offer was in its judgment superior to the leading cash offer of \$30.00 per share. The Committee concurred with SG Barr Devlin's view. The Pennichuck directors also considered that if, as expected, the merger under PSC's offer qualified as a tax-free reorganization, it would give Pennichuck shareholders the opportunity to defer the taxable gain that they would recognize in a cash acquisition and the possibility of maintaining a dividend income stream that was substantially comparable to, although lower than, the current dividend income received by Pennichuck shareholders.

In response to questions from the Pennichuck board, SG Barr Devlin advised the Pennichuck board that the three offers then under consideration were, in SG Barr Devlin's judgment, most likely the best offers available from the companies that could be expected to have the greatest strategic interest in acquiring Pennichuck. Moreover, SG Barr Devlin advised the Pennichuck board that SG Barr Devlin believed it was unlikely that either of the two potential strategic acquirers that had signed confidentiality agreements but had not conducted due diligence or submitted final offers would subsequently develop a greater interest in acquiring a New Hampshire water company such as Pennichuck. The Pennichuck board also considered the extent to which the Pennichuck acquisition would be strategically important to PSC because Pennichuck's New Hampshire operations would effectively complement PSC's Maine subsidiary and allow PSC to realize greater economies of scale in northern New England.

SG Barr Devlin also expressed the view that PSC's final offer was a more favorable strategic alternative for Pennichuck shareholders than the Stand-alone Strategy. In particular, SG Barr Devlin questioned whether Pennichuck shareholders could achieve a price of \$33.00 per share within the next five years under the Stand-alone Strategy as management was projecting,

even if Pennichuck were able to achieve the level of earnings from future real estate development and contract operations contemplated in Pennichuck's internal financial projections. SG Barr Devlin also commented that during the next five years it was more likely than not that the value of Pennichuck stock under the Stand-alone Strategy would be less than the equivalent value of PSC stock that Pennichuck shareholders would receive in the merger. Its analysis of future stock price performance assumed that both Pennichuck and PSC shares trade in line with current water industry multiples, that PSC's earnings per share grow at a rate consistent with analysts' consensus estimates and that Pennichuck achieved management's projections (as adjusted by SG Barr Devlin) of future earnings per share performance. SG Barr Devlin also noted that the merger under the PSC offer would provide Pennichuck shareholders with substantially greater liquidity for their investment than they currently

had. SG Barr Devlin also observed that the merger under the PSC proposal would provide Pennichuck shareholders with a more geographically diverse source of earnings and reduce their exposure to earnings from real estate development, which all of the bidders valued less highly than Pennichuck's water businesses.

At the conclusion of its presentation, SG Barr Devlin advised the Pennichuck board that, subject to the finalization of the merger agreement and the completion of its internal review procedures, SG Barr Devlin was prepared to deliver its written opinion that the consideration to be received by Pennichuck shareholders under the PSC offer was fair to those shareholders from a financial point of view. See "The Merger—Opinion of Pennichuck's Financial Adviser" on page 40.

Following the SG Barr Devlin presentation, the Committee members and each of the other directors expressed their views about the relative merits of the PSC offer, the leading cash offer, and the Stand-alone Strategy. The Committee unanimously recommended that Pennichuck seek to enter into a definitive merger agreement on the terms of the revised PSC offer, including the \$23.00 to \$25.00 collar described at the meeting, and each of the Committee members summarized the basis for his conclusion. It was the consensus of the Committee that the final PSC offer was unequivocally better for the Pennichuck shareholders than either the \$30.00 cash offer or the Stand-alone Strategy.

Messrs. Staab, Densberger and Bellavance and Ms. O'Neill offered a competing point of view, advocating that Pennichuck pursue the Stand-alone Strategy instead of either the final PSC offer or the \$30.00 per share cash offer.

Mr. Staab noted in his presentation that:

- Pennichuck stock had provided a greater return to investors than PSC stock during the five-year period ended December 31, 2001 (a compounded annual return of 32.4% versus 22.5%, respectively, assuming in each case the reinvestment of dividends);
- he expressed confidence that Pennichuck would achieve significant growth in its contract operations business, and he expected that such growth would cause Pennichuck's compounded annual growth in earnings per share (exclusive of the expected decline in the growth of the real estate business) to exceed the earnings per share growth contained in PSC's projections by approximately 11 percent; and
- if PSC's stock price as a multiple of earnings were to decline to its average price/earnings multiple for the past five years of 20.7x (which also approximated the average price/earnings multiple for the water industry at that time), the value to Pennichuck shareholders would be approximately 13 percent less than the \$33.00 value per share offered within the collar of PSC's proposal.

Mr. Densberger noted in his presentation that:

- Pennichuck shareholders would experience a decline in the equivalent dividend per share (ranging from 2.6 percent to 10.3 percent, depending on the exchange ratio);
- Pennichuck shareholders would experience substantial dilution to book value per share (of approximately 17.6% percent from a book value of \$12.81 per share at Pennichuck at December 31, 2001 to a pro forma equivalent PSC book value of \$10.57, assuming an exchange ratio of 1.375 at the midpoint of the collar range);