DW 10-090
Exhibit 5

STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

Pittsfield Aqueduct Company, Inc.

Docket No. DW 10-090

JOINT REBUTTAL TESTIMONY

OF

DONALD L. WARE AND BONALYN J. HARTLEY

April 21, 2011

Q. Please state your names and positions.

A. We are Donald L. Ware, President, and Bonalyn J. Hartley, Vice President Administration and Regulatory Affairs of Pittsfield Aqueduct Company, Inc.

Q. Have you previously filed testimony in this case?

A. Yes. We filed testimony on May 6, 2010. Our educational background and qualifications are set forth in that testimony.

Q. What is the purpose of your testimony?

A. The purpose of our testimony is to comment on the direct testimony of Stephen R. Eckberg, Utility Analyst for the Office of Consumer Advocate on March 4, 2011 in regard to Pittsfield Aqueduct Company, Inc.'s (the "Company") WICA proposal.

Q. Do you agree with the position set forth in the direct testimony of Mr. Eckberg in this case regarding the WICA?

A. No. For a variety of reasons, the Company disagrees with Mr. Eckberg's recommendation that the Commission should deny the Company's request for a WICA.

Q. Please explain.

A. Mr. Eckberg states that the OCA opposes the Company's WICA proposal because "[t]he Company has not shown that the WICA, if approved, will result in the benefits that the Company purports will flow to its customers. Specifically, there is not sufficient evidence to support the contention that, as a result of the WICA, customers will enjoy lower costs from less frequent rate cases or improved service quality." Testimony of Stephen Eckberg at page 3 lines 18 through 21. Mr. Eckberg goes on to state that "the OCA questions whether the Company's claims of less frequent rate cases will come to fruition. The filing of a rate case in or around 2014 would diminish this claimed benefit as well as the benefits of reduced regulatory costs" *id.* at page 5, lines 8 through 11, and that "the proposed cumulative cap" (for WICA) "would likely be reached by 2014." *Id.* at lines 3 through 4.

Q. Do you agree with Mr. Eckberg?

A. No. Mr. Eckberg does not correctly calculate the time between rate cases. If the Company utilizes 2014 as the test year and files a rate case in 2015, the time frame from this case (which is based on a 2009 test year) and the expected filing in 2015 would be 5 years not "the Company's typical period between rate cases (i.e., roughly every two years). Thus, we believe that at least one rate case would be avoided if the WICA were implemented.

Q. What is the benefit to the Company's customers of an avoided rate case?

A.. In response to OCA 1-18 and 3-3, the Company estimated rate case expenses in this case would be approximately $55,000. Using this as a rough approximation of future rate case expense, the annual amount charged to each ratepayer would be approximately $85 based on 648 customers. The Company believes that the avoidance of these regulatory expenses would be a compelling benefit to customers, especially residential customers.

Q. Would there by any regulatory costs associated with the WICA filing?

A. Yes, there would be some regulatory expense associated with the WICA filing, but that would not be included in the WICA charges.

Q. Are there other aspects of Mr. Eckberg's testimony on the WICA with which you disagree?

A. Yes. Mr. Eckberg states that "the OCA questions whether the Company's customers will benefit from improved service quality if the Commission approves the proposed WICA". Yet, on page 4 of Mr. Ware's pre-filed direct testimony, he states "The Pittsfield water system still has 13,650 lineal feet of unlined cast iron water main that should be replaced or rehabilitated because it restricts fire flows and impacts water quality by releasing iron into the water during high flows resulting in colored water and by potentially allowing for bacterial regrowth". As further clarification, the tuberculation on the inside of unlined cast iron provides great protection for bacteria and results in bacterial regrowth that in turn can result in system outbreaks of bacteria. The tuberculation is the result of oxidizing the cast iron with chlorine. The presence of unlined cast iron makes it difficult to maintain proper chlorine residuals in the distribution system. This type of water main does yield colored water during certain flow conditions that is disruptive to businesses and residential customers. Overall, the water utility industry universally recognizes the need to replace or rehabilitate unlined cast iron water mains. Therefore, the Company contends that a proactive preventive capital maintenance program to ensure water quality to its customers by addressing a commonly understood issue in the water industry would be another compelling benefit of the WICA program to its customers.

Q. Mr. Eckberg claims that the Aquarion WICA program approved by the Commission in Order 25,019 was based upon a unique set of circumstances and should not be a program available to other water utilities. Do you agree?

A. No. Mr. Eckberg states that "The WICA program that the Commission approved for the Aquarion Water Company of New Hampshire (Aquarion) was based upon a unique set of circumstances, and is not a rate mechanism of general applicability to all water utilities" and later states "the Aquarion WICA was the product of a settlement agreement and was developed as a "pilot" project." The Company contends there is nothing unique about a proposal being the product of a settlement agreement. A settlement agreement is a common outcome of a rate filing which certainly is the case here. The Settlement Agreement between the Company and Staff in this case indicates that the WICA program, if approved, would also be a pilot program. The Company contends that there will be benefits to having a pilot for more than one regulated water utility so that the Commission and its Staff can obtain a more comprehensive evaluation of the program.

At the broader level, the concept of a WICA is not new. WICA mechanisms, often also referred to as "DSIC" rate mechanism ("Distribution System Infrastructure Charge"), have been adopted in a number of other states including California, Connecticut, Delaware, Illinois, Mississippi, New York, Ohio and Pennsylvania.

Additionally, on February 24, 1999, the National Association of Regulatory Commissioners (NARUC) sponsored a resolution whereby they cosponsored and endorsed the DSIC that was approved by the Pennsylvania Public Utility Commission and the Pennsylvania legislature as a promising and unique regulatory approach that encourages the acceleration of needed remediation of an aging water utility infrastructure. A copy of that resolution is attached as BJH/DLW-R1. The Company contends that there is proven general applicability of WICA mechanisms in the water utility industry and for the reasons stated above, the WICA mechanism is in the public interest here.

Q. Does the Company have any other concerns about Mr. Eckberg's testimony?

A. Yes. Mr. Eckberg states "the OCA is concerned about the impact that a transfer of ownership – even if indirect – would have on the operations (e.g. expenses) and service to the Company's customers." The Company contends that the potential acquisition by the City of Nashua in DW 11-026 should not be a matter considered or addressed in this filing. As set forth in the Company's direct pre-filed case, the Company has been significantly underearning its allowed return based on the historical test year. The Company is legally entitled to rate relief, and should not be denied this right based on an event in the future which has yet to occur and which bears no relation to its historical test year underearning.

Q. Does this conclude your testimony?

A. Yes it does.

Resolution Endorsing and Co-Sponsoring "The Distribution System Improvement Charge"

WHEREAS, The Pennsylvania Public Utility Commission and the Pennsylvania Legislature have adopted a promising and unique regulatory approach that encourages the acceleration of the needed remediation of aging water utility infrastructures; *and*

WHEREAS, The Distribution System Improvement Charge is an automatic adjustment charge that enables recovery of infrastructure improvement costs on a quarterly basis in between rate cases for projects that are non-revenue producing and non-expense reducing such as main cleaning and relining, fire hydrant replacement and main extensions to eliminate dead ends; *and*

WHEREAS, A videotape which explains this unique approach is being prepared by the National Association of Water Companies to help educate and inform other regulatory agencies and legislatures about the benefits of this unique approach; *and*

WHEREAS, The U.S. EPA within its Drinking Water Infrastructure Needs Survey has identified a magnitude of national infrastructure needs of $77.2 billion in pending expenditures; *and*

WHEREAS, As the magnitude of need may be too great to be accomplished under traditional ratemaking methodologies; *and*

WHEREAS, The Distribution System Improvement Charge provides benefits to ratepayers such as improved water quality, increased pressure, fewer main breaks, fewer service interruptions, lower levels of unaccounted for water, and more time between rate cases which leads to greater rate stability; *and*

WHEREAS, Ratepayer protections are incorporated in the Pennsylvania approach: the surcharge is limited to a maximum of 5% of the water bill, annual reconciliation audits are conducted where overcollections will be refunded with interest and undercollections will be billed into future rates without interest recovery, the surcharge is reset to zero at the time of the next rate case, the charge is reset to zero if the company is over-earning, customer notice is provided, and all charges reflect used and useful plant; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1999 Winter Meetings in Washington, D.C, agrees to endorse the mechanism as an example of an innovative regulatory tool that other Public Utility Commissions may consider to solve infrastructure remediation challenges in their States; *now be it further*

RESOLVED, That NARUC agrees to co-sponsor with the National Association of Water Companies the videotape of the Distribution System Improvement Charge as an educational tool to inform other regulatory agencies and legislatures about this promising new mechanism.

Sponsored by the Committee on Water
Adopted February 24, 1999