

EXECUTION COPY

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

ORIGINAL
N.H.P.U.C. Case No. <u>DW 11-026</u>
Exhibit No. <u>#1</u>
Witness <u>Panel 1</u>
DO NOT REMOVE FROM FILE

DW 11-026

City of Nashua Acquisition of Pennichuck Corporation

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 18th day of October, 2011 (the "Agreement"), by and among the City of Nashua, New Hampshire (the "City"), Pennichuck Corporation ("Pennichuck"), Pennichuck's regulated utility subsidiaries Pennichuck Water Works, Inc. ("PWW"), Pennichuck East Utility, Inc. ("PEU") and Pittsfield Aqueduct Company, Inc. ("PAC"), the Staff of the New Hampshire Public Utilities Commission ("Staff"), the Town of Milford, New Hampshire ("Milford"), the Merrimack Valley Regional Water District (the "District"), Anheuser-Busch Incorporated ("AB") and Fred Teeboom ("Teeboom") with the intent of resolving issues in the above-captioned docket. The parties are referred to collectively in this Agreement as the "Settling Parties."

I. PROCEDURAL HISTORY

A. On November 26, 2002, the City's Board of Aldermen voted 14 to 1 to establish a municipal water system and to acquire the assets of all of the Pennichuck utilities. On January 14, 2003, City voters approved a resolution to authorize the City to proceed with the acquisition of the water utility assets by a vote of 6,525 to 1,867.

B. On March 25, 2004, the City commenced an Eminent Domain proceeding against Pennichuck by filing a Petition for Evaluation with the Commission pursuant to RSA 38:9. The Commission established Docket No. DW 04-048 to consider this petition.

C. On July 28, 2008, the Commission issued Order No. 24,878, which approved the City's taking of the assets of PWW and determined the value of the PWW assets as of December 31, 2008. After appeals by both the City and Pennichuck, the Supreme Court, by Order dated March 25, 2010, affirmed Order No. 24,878.

D. On February 4, 2011, the City and Pennichuck filed a Joint Petition for Approval of the Acquisition of Pennichuck Corporation by the City of Nashua, seeking approval of the Merger Agreement. The Joint Petitioners filed their direct testimony on February 18, 2011.

E. The Commission issued an Order of Notice dated February 9, 2011.

F. On February 28, 2011, the Commission issued a Procedural Schedule.

G. During the course of the proceeding, Staff, the OCA and other intervenors served numerous data requests on the Joint Petitioners, to which the Joint Petitioners provided responses, and Staff and the parties to the proceeding held a number of technical sessions to supplement the written discovery that was conducted.

H. On July 19, 2011, upon recommendation of the parties, the Commission issued a new procedural schedule leading to a hearing on the merits for October 25-27, 2011.

I. On August 30, 2011, Staff, OCA, the District, Merrimack, and Mr. Teeboom filed their respective direct testimony. The Joint Petitioners served data requests on a number of the parties who had filed direct testimony, which data requests were responded to in a timely manner.

II. BACKGROUND

A. Subject of this Agreement. The Settling Parties seek approval of transactions contemplated by a Merger Agreement (defined below) which is the product of a negotiated settlement between the City and Pennichuck of the eminent domain dispute.

B. Special Legislation.

1. Effective July 17, 2007, the New Hampshire Legislature enacted Section 5 of Chapter 347 of the 2007 session laws of the State of New Hampshire, which authorizes the City to acquire the stock of Pennichuck subject to a public interest determination by the Commission. Effective June 10, 2010, the Legislature enacted Section 118 of Chapter 1 of the 2010 special session laws to amend the 2007 provision so that the City is empowered to issue general obligation bonds to finance such an acquisition. (The 2007 law, as amended by the 2010 enactment, is referred to herein as the "Special Legislation".)

2. The Special Legislation provides as follows:

"I. Notwithstanding the provisions of any law to the contrary, the city of Nashua is authorized to purchase the stock of Pennichuck Corporation or one or more of its subsidiaries upon agreement with such corporation. The public utilities commission shall make a public interest determination prior to any such purchase. For the purpose of obtaining control of the plant and property of Pennichuck Corporation or its subsidiaries, the city may acquire and hold such stock, or

establish one or more business corporations under RSA 293. Except as otherwise provided in this section, the provisions of RSA 38 shall apply to the acquisition of stock by the city.

II. The acquisition of such stock shall be deemed to be within the policy and purposes of RSA 38 if, prior to the acquisition of stock as provided in this section, the board of aldermen of the city finds that:

(a) the acquisition of stock, rather than the direct acquisition of plant and property, will provide a more orderly method for the city to establish, own and operate a municipal water utility consistent with the purposes of RSA 38.

(b) The acquisition of stock, rather than the direct acquisition of plant and property, will be financially beneficial to the city and its customers and will, therefore, be in the best interests of the city and provide a public benefit.

III. The acquisition by the City of the stock of Pennichuck Corporation or its subsidiaries as provided by this act is a purpose for which the city may issue bonds and notes pursuant to RSA 33-B, RSA 33, or any combination of the foregoing. Any bonds or notes authorized by the city pursuant to RSA 33 for the purpose of acquiring the stock of the Pennichuck Corporation shall not be included in the definition of "net indebtedness" in RSA 33:1, III, and shall at no time be included for the purpose of calculating the borrowing capacity of the city for any other purpose."

C. Merger Agreement and Acquisition Transactions.

1. Agreement and Plan of Merger. On November 11, 2010, the City and Pennichuck entered into a definitive agreement (the "Merger Agreement"), pursuant to which the City will acquire all of the outstanding shares of Pennichuck for a cash price of \$29.00 per share. This price translates into an aggregate consideration to be paid to the Pennichuck shareholders (including exercised options) of approximately \$138,000,000. This acquisition will be accomplished through a merger of a newly-organized subsidiary owned by the City into Pennichuck (the "Merger"). Pennichuck will be the surviving corporation in this merger transaction. Accordingly, pursuant to this merger, the City will become the sole shareholder of Pennichuck. Pennichuck will continue to own all of the outstanding shares of its current

corporate subsidiaries, including the regulated utilities, PWW, PAC, and PEU, and the unregulated utilities, The Southwood Corporation ("Southwood") and Pennichuck Water Services Company ("PWSC"). The City will not acquire direct ownership of any stock of any of Pennichuck's corporate subsidiaries. Upon completion of the merger, Pennichuck and its subsidiaries will continue their existence as separate legal entities, with the only change being that the City will become the sole shareholder of Pennichuck. PWW, PAC, PEU, Southwood and PWSC will continue their legal status as business corporations organized under RSA Chapter 293-A that engage in the ownership and operation of a water distribution business. Accordingly, the regulated utilities will continue to be "public utilities" within the meaning of RSA 362:2 and RSA 362:4 and thus subject to the Commission's jurisdiction. The proposed transaction will not result in any change in the legal or regulatory status of Pennichuck or any of its subsidiaries.

2. The Settling Parties acknowledge that consummation of the Merger is subject to the terms and conditions contained in the Merger Agreement, including the following conditions precedent that must be satisfied prior to consummation of the merger: (1) the Board of Aldermen of the City must approve by two-thirds vote the issuance of bonds and make findings of fact required by the Special Legislation and ratify the purchase price pursuant to RSA 38: 13; (2) Pennichuck shareholders must approve the merger by a two-thirds vote; (3) the Commission must approve the merger; and (4) the City must be able to obtain financing at reasonable interest rates and on reasonable terms. The first two conditions noted in the previous sentence have been satisfied as demonstrated by the documentation attached as Exhibit A to this Agreement.

3. Financing of the Acquisition. The City intends to raise the funds required to accomplish the merger transaction and to pay related costs specified below through the issuance by the City of general obligation bonds (the "City Acquisition Bonds"). The City anticipates that the aggregate principal amount of the City Acquisition Bonds will be approximately \$152,099,885. The proceeds from the issuance of the City Acquisition Bonds will be used to fund the following categories of costs related to the City's acquisition (the "Acquisition Costs"), and the current estimate of the cost for each of such categories is as follows:

- | | |
|--|----------------------|
| (1) Merger consideration to be paid under the Merger Agreement: | \$137,793,398 |
| This amount is based on the current estimate of the number of common shares outstanding or otherwise available to receive merger consideration, which is estimated to be approximately 4,682,276. | |
| (2) Bond issuance costs and fees: | \$1,800,000 |
| These estimated costs consist principally of legal fees for bond counsel, fees for First Southwest (the City's financial advisor), and other costs of issuing the City Acquisition Debt. | |
| (3) Transaction costs and fees: | \$5,286,875 |
| These estimated costs include costs incurred by both the City and Pennichuck in connection with the Merger, including legal and accounting fees, investment banking fees, fees and costs relating to customary due diligence conducted by the City during negotiation of the Merger Agreement. For avoidance of doubt, the transaction costs and fees described in this category of the Acquisition Costs do not include PWW or Pennichuck's eminent domain costs as defined in DW 10-091. | |
| (4) Severance costs: | \$2,219,612 |
| These are estimated costs that arise under severance packages for certain senior corporate management employees of Pennichuck, which will be triggered by completion the Merger and termination of their employment. | |
| (5) Rate Stabilization Fund: | \$5,000,000 |
| This amount will be contributed in cash to PWW to provide a | |

fund that will be used to ensure stable revenues in the event of adverse revenue developments.

Total Estimated Acquisition Costs

\$152,099,885

III. TERMS OF THIS SETTLEMENT AGREEMENT

The Settling Parties agree and recommend action by the Commission as follows:

A. Approval of Merger Transaction.

1. Public Interest Finding. The Commission find that the City's acquisition of Pennichuck pursuant to the Merger Agreement is consistent with the public interest within the meaning of the Special Legislation for the reasons set forth in this Agreement, and as presented to the Commission in testimony, including the fact that the transaction will result in the City acquiring control of the land owned by Southwood.

2. Approval of the Terms of the Agreement and Plan of Merger. The Commission approve, pursuant to the authority granted to it under the Special Legislation and RSA Chapter 38, the terms of the Merger Agreement, subject to the conditions and requirements set forth in this Agreement.

3. Approval of Stock Acquisition. The Commission approve, pursuant to the authority granted to it under the Special Legislation and RSA Chapter 38, the City's acquisition of the stock of Pennichuck pursuant to the Merger Agreement, subject to the conditions and requirements set forth in this Agreement.

B. Approval of Ratemaking Structure.

1. Summary Description of the Ratemaking Structure.

a. Purpose of Proposed Ratemaking Structure. The City and Pennichuck, as joint petitioners, have proposed in this proceeding a ratemaking structure to be applied with respect to future rate cases of each of the regulated utilities (the “Ratemaking Structure”). The proposed Ratemaking Structure is designed to treat customers of each of the three regulated utilities similarly and fairly, and provide to all of these customers, on a fairly apportioned basis, the benefit of the City’s favorable capacity to issue general obligation bonds to finance the Merger. The proposed Ratemaking Structure is intended to provide an appropriate method for determining the revenue requirements and rates of each utility in future rate cases to ensure that the utilities will have rates at levels that are sufficient to enable each utility to meet their operating requirements and to satisfy each utility’s apportioned share of responsibility to pay the debt service arising from the City Acquisition Bonds.

b. Overview of Ratemaking Structure and City Bond Fixed Revenue Requirement. In summary, the proposed Ratemaking Structure generally applies traditional ratemaking principles and procedures with the important exception that the portion of each utility’s cost of service attributable to equity capital acquired by the City at the time of the closing of the Merger is to be recovered through establishment of a fixed revenue requirement that is directly related to the cost of servicing the City Acquisition Bonds. This fixed revenue requirement is referred to in this Agreement and the Exhibits attached to this Agreement as the “City Bond Fixed Revenue Requirement” or “CBFRR.” The details of the application of the Ratemaking Structure is illustrated in the schedules attached to this Agreement as Exhibit B and as presented to the Commission in the testimony of Bonalyn J. Hartley.

c. Computation of Revenue Deficiency Under the Ratemaking

Structure. Under the proposed Ratemaking Structure, for purposes of computing the revenue deficiency for each utility at the time of future rate cases, the value of each utility's equity at the closing of the Merger shall be removed from its rate base and the related portion of net operating income (the "Equity-Related Items") shall also be removed from the traditional computation of revenue deficiency. An illustration of how these adjustments to remove "Equity-Related Items" is provided in the schedules attached to this Settlement Agreement as Exhibit B (see Computation of Revenue Deficiency, Schedule A). The remaining costs shall be recovered through application of traditional ratemaking principles and procedures. In contrast, the costs associated with the removed Equity-Related Items shall be recovered solely through rates determined to collect the CBFRR.

d. Determination of Each Utility's CBFRR Amount. With respect to

each utility, its CBFRR shall be determined by a formula set forth in Exhibit B, Schedule A, Attachment A. Under this formula, each utility's pro-rata share of the principal amount of the City Acquisition Bond and related debt service obligation shall be that utility's percentage share of the total equity for all three utilities as of December 31, 2011 (see Exhibit B, Schedule A, Attachment A). For this purpose, the value of the equity of The Southwood Corporation shall be included in the determination of the value of the equity of PWW. The debt service obligation related to the City Acquisition Bond shall be determined using the actual interest rate of the City Acquisition Bond. The purpose of using the actual interest rate to compute the CBFRR is to provide the benefit of the City's ability to issue general obligation bonds to finance the Merger to

all customers of the utilities. Once the CBFRR is determined for each utility, it shall be applied in all future rate cases until the City Acquisition Bond has been paid in full.

e. Determination of Each Utility's Allowed Rate of Return. With respect to the portion of each utility's cost of service and rate base that remains subject to the traditional ratemaking principles and procedures, the rate of return applicable to such portion shall be determined in accordance with Schedule 4 of Exhibit B. The principal change to the traditional application of this schedule is that the value of each utility's equity as of December 31, 2011 is removed from the calculation. (See Schedule 4 of Exhibit B). In addition, for purposes of determining the earned rate of return, the Rate Stabilization Fund shall not be included in the determination of PWW's capital structure. The City intends that future capital expenditures of the utilities will be financed substantially with debt issued by each utility. If there is any equity reflected on a utility's financial statements at the time of a future rate case (for example, accumulated retained earnings or attributable to future equity investment), the Ratemaking Structure would apply a formula cost of equity based on the average of the interest rates on 30-year Treasury bonds for the most recent 12 months ending prior to the filing of the rate case, plus 3.0 percentage points.

f. Overall Summary of Impact of Proposed Ratemaking Structure. The Ratemaking Structure is expected to produce lower rates for customers when compared to the rates of the utilities under current ownership because the overall combined cost of capital under the proposed Ratemaking Structure (determined using the interest rate on the City Acquisition Bonds to determine the CBFRR and utilities' cost of debt for the remaining costs)

will be materially lower than the cost of capital under current ownership (which utilizes a higher private equity cost of capital for over half of the utilities' capital).

2. Approval of Ratemaking Structure. The Commission approve, pursuant to the Special Legislation and RSA Chapter 38, the Ratemaking Structure and procedures as summarized in the previous paragraph of this Agreement, as presented to this Commission in testimony of Ms. Hartley, and set forth in the exhibits attached to this Agreement as Exhibit B, including: (i) the CBFRR to be established, adjusted, maintained and collected from all retail customers of each of PWW, PEU, and PAC in accordance with the Ratemaking Structure; (ii) the allocation of the CBFRR among PWW, PEU, and PAC based on the equity of PWW, PEU and PAC as of December 31, 2011 (for purposes of this calculation, the equity value of PWW will be treated as including the equity value of The Southwood Corporation as of December 31, 2011); (iii) the application of traditional ratemaking principles with respect to utility operations not covered by the CBFRR in accordance with the Ratemaking Structure; (iv) the recovery of the Acquisition Costs through rates established pursuant to the Ratemaking Structure and the CBFRR; (v) the application of the modified return on equity with respect to any common equity capital in accordance with the Ratemaking Structure, and (vi) the other ratemaking adjustments as set forth in the Ratemaking Structure in Exhibit B hereto. In its order addressing the approvals recommended in this Agreement, the Commission should require that any future request for changes to the rates of PWW, PEU, or PAC shall be filed by the requesting utility in accordance with the procedures and methodologies of the Ratemaking Structure, and other applicable procedures of the Commission relating to rate filings, until such time as the City Acquisition Bonds have been paid in full. Further, the Commission should find that the

Ratemaking Structure is reasonable given the unique and special circumstances of this case, particularly the City's status as a not-for-profit political subdivision of the State, the City's commitment to finance the Merger entirely with debt, the City's intent to finance future capital improvements of the utilities substantially with debt, and the City's commitment to limit its receipt of dividend payments following its acquisition of Pennichuck as provided in this Agreement.

3. Reasonable Projection of Resulting Rates. The Commission should find that the Merger is in the public interest because the range of rates projected by the Joint Petitioners to result under the Ratemaking Structure will permit each of the regulated utilities to support its operating and debt service costs and to provide payments to Pennichuck to support the City's obligations under the City Acquisition Bonds. Further, the Commission should find that the Merger is in the public interest because the range of rates projected by the Joint Petitioners to result under the Ratemaking Structure is reasonably expected to be lower over time compared to the range of rates projected to result under the current ownership of Pennichuck.

4. Reasonable Provision of Revenues to Support Operations and Debt Service Obligations. The Commission should find that the Ratemaking Structure, including the CBFRR, is reasonably structured to provide for the collection of revenues sufficient to enable the City, acting through Pennichuck and its subsidiaries, to satisfy all of the operating and debt service costs of PWW, PEU, and PAC and the City's obligations under the City Acquisition Bonds.

5. Condition Regarding Required Rate Case Filings for All Utilities. In its order addressing the approvals recommended in this Agreement, the Commission require that,

provided the Merger closes on or prior to March 31, 2012, PWW, PEU, and PAC shall each file their first full rate case (within the meaning of N.H. Admin. Rule Puc 1602.01) simultaneously not later than June 1, 2013. Such first rate cases shall be filed by the utilities in accordance with the procedures and methodologies of the Ratemaking Structure, using calendar year 2012 as the test year and reflecting, among other things, the actual interest rate of the City Acquisition Bonds in accordance with the Ratemaking Structure. This requirement will: (a) allow the development of an operating history under the new ownership structure; (b) extend the period during which PEU has avoided the filing of a full rate case; and (c) ensure that rates are adjusted promptly to reflect the actual borrowing cost of the City Acquisition Bonds in accordance with the Ratemaking Structure. If the Merger closes after March 31, 2012, the first rate cases should be filed simultaneously not later than September 1, 2013 and should use the 12-month period ending March 31, 2013 as the test year, subject to pro forma adjustments as required to reflect the use of a period that is different from the actual fiscal year of the utilities. Each of the utilities shall request establishment of temporary rates in accordance with RSA 378:27 in connection with the filing the rate cases required by this paragraph.

C. Approval of the PWW Rate Stabilization Fund and Related Procedures.

1. Purpose of the PWW Rate Stabilization Fund. The City and Pennichuck have proposed to contribute cash in the amount of \$5,000,000 to PWW upon consummation of the Merger to establish a fund that will be used to ensure stable rates in the event of adverse revenue developments (the "PWW Rate Stabilization Fund"). The PWW Rate Stabilization Fund will be established and maintained in accordance with the procedures set forth in Exhibit C to this Agreement. The purpose for this fund is to provide a reserve to ensure that, even in

adverse conditions such as wet weather, there will be sufficient cash to enable the City to pay debt service on the City Acquisition Bonds. The establishment of the PWW Rate Stabilization Fund is intended to provide holders of the City Acquisition Bonds with reasonable assurances of the available cash to be used to pay debt service on the City Acquisition Bonds, similar to a debt service reserve fund, and will accordingly facilitate the City's ability to borrow funds at reasonable interest rates, which will directly benefit customers in the form of a lower cost of capital.

2. Approval of the PWW Rate Stabilization Fund. The Commission approve, pursuant to the Special Legislation and RSA Chapter 38, the methodologies and procedures for establishing and maintaining the PWW Rate Stabilization Fund as described in Exhibit C, including: (i) the amount of the PWW Rate Stabilization Fund; (ii) the treatment of the PWW Rate Stabilization Fund as a component of the PWW rate base in future rate proceeding in accordance with the Ratemaking Structure; (iii) the methodologies and procedures for maintaining the target amount for the PWW Rate Stabilization Fund through adjustments to rates in connection with any PWW full rate case; and (iv) the requirement for annual reporting and reconciliation regarding the PWW Rate Stabilization Fund accounts.

D. Approval of Municipal Acquisition Regulatory Asset, Related Accounting Treatment and Distributions.

1. Approval and Recognition of Municipal Acquisition Regulatory Asset.

The Commission approve, pursuant to the Special Legislation and RSA Chapter 38, the establishment and amortization of the regulatory asset known as the Municipal Acquisition Regulatory Asset ("MARA") for each of PWW, PEU and PAC, as set forth in Exhibit D to this Agreement and in accordance with Ratemaking Structure. The final actual amount of the

MARA, including the final actual amount of the actual Acquisition Costs, shall be subject to audit by the Commission in the first rate cases filed by the utilities in accordance with Paragraph III. B. 5 of this Agreement. As part of such first rate cases, the Commission and all parties shall have the right to audit and review evidence provided by the utilities that document the nature and amount of all Acquisition Costs. Under the Ratemaking Structure, the MARA is treated as an Equity-Related Item that is removed from the traditional ratemaking process and is subject to recovery only through the CBFRR (see Exhibit B, Operating Income Statement, Schedule 1 and Overall Rate of Return, Schedule 4). The MARA is not intended to create any other rights for any other purpose.

2. Distributions from Paid-in-Capital. The Commission authorize, pursuant to the Special Legislation and RSA Chapter 38, the payment by each of PWW, PEU and PAC to Pennichuck of distributions from each utility's paid-in-capital account for the purpose of enabling the City, acting through Pennichuck and its subsidiaries, to satisfy the City's obligations under the City Acquisition Bonds.

3. Affiliate Transactions. The Commission approve, pursuant to the Special Legislation and RSA Chapter 38, the following affiliate transactions: (i) allocation of management and service costs among PWW, PEU and PAC in accordance with the terms of the existing Cost Allocation and Services Agreement,¹ as that agreement may be amended in due course from time to time; (ii) participation by each of PWW, PEU and PAC in accordance with the terms of the existing Money Pool Agreement,² including loans from PWW to PEU or PAC to

¹ The existing Cost Allocation and Services Agreement, dated January 1, 2006, is on file with the Commission.

² The existing Money Pool Agreement, dated January 1, 2006, is on file with the Commission.

enable each of them to meet their share of responsibility to provide cash flow to enable the City to satisfy its obligations under the City Acquisition Bonds, subject to the requirements set forth in Exhibit C to this Agreement; and (iii) making of intercompany cash payments among Pennichuck and its subsidiaries with respect to allocation of federal and state income tax liabilities in accordance with existing practice of Pennichuck and its subsidiaries. For avoidance of doubt, the City is not a party to the money pool agreement, nor will the City become a party to the money pool agreement.

4. Limitation on Dividends, Distributions and Other Transfers to Pennichuck.

The Settling Parties agree and recommend that the Commission require PWW, PEU, and PAC to not pay or distribute funds in any fiscal year with respect to their common stock, through dividends or other distributions to Pennichuck, in excess of an amount equal to the sum of:

- (i) the amount of the utility's then applicable CBFRR, and
- (ii) an amount from current earnings and profits with respect to such fiscal year to provide funds to allow the City to reimburse itself for costs incurred by the City relating to its efforts to pursue the eminent domain proceeding from January 1, 2002 until August 2009 (the "Eminent Domain Amount"), provided, however, that the distribution in respect of such Eminent Domain Amount with respect to any fiscal year shall not exceed \$500,000, and, provided further, that the aggregate of all distributions in respect of such Eminent Domain Amount shall not exceed \$5,000,000.

For purposes of this provision, the parties acknowledge that the Eminent Domain Amount shall only include costs incurred by the City, and shall not include any eminent domain expenses and costs incurred by the District or PWW which PWW sought to recover in its last distribution rate case (DW 10-091). For avoidance of doubt, the Settling Parties agree that such eminent domain expenses and costs shall not be recovered from PWW, PEU or PAC customers. The final Eminent Domain Amount shall be subject to audit by the Commission in the first rate

cases filed by the utilities in accordance with Paragraph III. B. 5 of this Agreement. As part of such first rate cases, the Commission and all parties shall have the right to audit and review evidence provided by the utilities that document the nature and amount of all costs comprising the Eminent Domain Amount.

E. Other Conditions.

1. City Acquisition Bonds. The Commission should condition any order approving the City's acquisition of Pennichuck stock pursuant to the Merger Agreement with a requirement that the City may consummate the acquisition only so long as: (i) the City Acquisition Bonds are issued with terms substantially consistent with the terms described in Exhibit E to this Agreement; and (ii) the true interest cost on the City Acquisition Bonds does not exceed 6.50 percent per annum. Further, the Commission should order that the City shall provide written notice to the Commission within 30 days prior to issuance of any indebtedness by the City to refinance or refund the City Acquisition Bonds

2. Corporate Governance. The Commission should condition any order approving the City's acquisition of Pennichuck stock pursuant to the Merger Agreement with a requirement that the City may consummate the acquisition only so long as the final By-Laws of Pennichuck in force at the time of the merger requires at least one member of the Pennichuck Board of Directors to be nominated by the Merrimack Valley Regional Water District and approved by the City, provided that such member shall be subject to the same conditions as would apply to any other person who is appointed to the Pennichuck Board of Directors, as set forth in the proposed Pennichuck By-Laws. The By-Laws shall provide that the requirement described in the previous sentence shall not be amended without the consent of the District.

3. Post-Closing Accounting Report. The Commission should order that each of the utilities shall file within 90 days following the consummation of the Merger a detailed accounting of the transactions impacting the utilities as contemplated by the Merger. Such accounting shall provide copies of fully-executed closing documents, a presentation of the accounting entries made on the books and records of each utility, a calculation of the MARA in accordance with Exhibit D attached hereto, and an accounting of all Acquisition Costs.

4. Other Matters.

a. The Settling Parties expressly condition their support of this Agreement upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept the provisions in their entirety, without change or condition, any party hereto, at its sole option exercised within 15 days of such Commission order, may withdraw from this Agreement, in which event it shall be deemed to be null and void and without effect and shall not be relied upon by any Settling Party to this proceeding or by the Commission for any purpose.

b. The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that the adjustments and provisions set forth herein in their totality are just and reasonable and consistent with the public interest. In its order addressing the approvals recommended in this Agreement, the Commission should expressly find that the approvals recommended herein are unique to this case and should not be viewed as having precedential impact with respect to any particular principle or issue in this proceeding for any other case or situation for reasons including: (i) the exercise of special

and unique authority by the Commission granted pursuant to the Special Legislation; (ii) the unique nature of this transaction as the resolution of a longstanding eminent domain action initiated by the City and pending before the Commission in Docket No. DW 04-048; and (iii) the proposed financing of the acquisition cost entirely through the City Acquisition Bonds.

c. The discussions that produced this Agreement have been conducted on the explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

d. This Agreement may be executed in counterparts.

City of Nashua Acquisition of Pennichuck Corporation
DW 11-026
Settlement Agreement

EXECUTION COPY

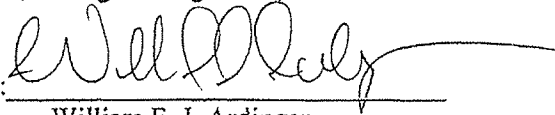
IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be
duly executed in their respective names by their fully authorized agents.

CITY OF NASHUA, NEW HAMPSHIRE
By its attorneys

Rath, Young and Pignatelli, P.C.

Dated: October 18, 2011

By:



William F. J. Ardinger

PENNICHUCK CORPORATION
PENNICHUCK WATER WORKS, INC.
PENNICHUCK EAST UTILITIES, INC.
PITTSFIELD AQUEDUCT COMPANY, INC.
By their attorneys

McLane, Graf, Raulerson & Middleton,
Professional Association

Dated: October 18, 2011

By:

Steven V. Camerino

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Dated: October 18, 2011

By:

Marcia A. B. Thunberg
Staff Attorney

IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be
duly executed in their respective names by their fully authorized agents.

CITY OF NASHUA, NEW HAMPSHIRE
By its attorneys

Rath, Young and Pignatelli, P.C.

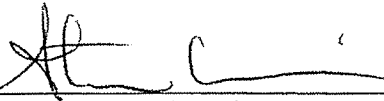
Dated: October 18, 2011

By: _____
William F. J. Ardinger

PENNICHUCK CORPORATION
PENNICHUCK WATER WORKS, INC.
PENNICHUCK EAST UTILITIES, INC.
PITTSFIELD AQUEDUCT COMPANY, INC.
By their attorneys

McLane, Graf, Raulerson & Middleton,
Professional Association

Dated: October 18, 2011

By: 
Steven V. Camerino

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Dated: October 18, 2011

By: _____
Marcia A. B. Thunberg
Staff Attorney

City of Nashua Acquisition of Pennichuck Corporation
DW 11-026
Settlement Agreement

EXECUTION COPY

IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be
duly executed in their respective names by their fully authorized agents.

CITY OF NASHUA, NEW HAMPSHIRE
By its attorneys

Rath, Young and Pignatelli, P.C.

Dated: October 18, 2011

By: _____
William F. J. Ardinger

PENNICHUCK CORPORATION
PENNICHUCK WATER WORKS, INC.
PENNICHUCK EAST UTILITIES, INC.
PITTSFIELD AQUEDUCT COMPANY, INC.
By their attorneys

McLane, Graf, Raulerson & Middleton,
Professional Association

Dated: October 18, 2011

By: _____
Steven V. Camerino

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Dated: October 18, 2011

By: Marcia A. B. Thunberg
Marcia A. B. Thunberg
Staff Attorney

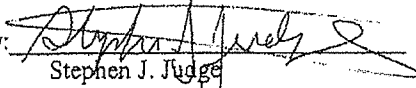
City of Nashua Acquisition of Pennichuck Corporation
DW 11-026
Settlement Agreement

EXECUTION COPY

MERRIMACK VALLEY REGIONAL WATER
DISTRICT
By its Attorneys

Wadleigh, Starr & Peters, P.L.L.C.


Dated: October ²⁴ 18, 2011

By: 
Stephen J. Judge

TOWN OF MILFORD
By its Attorneys

Olson & Gould

Dated: October 18, 2011

By: 
David K. Wiesner

ANHEUSER-BUSCH INCORPORATED
By its Attorneys

Ransmeier & Spellman

Dated: October 18, 2011

By: _____
John T. Alexander

FRED S. TEEBOOM

Dated: October 18, 2011

City of Nashua Acquisition of Pennichuck Corporation
DW 11-026
Settlement Agreement

EXECUTION COPY

MERRIMACK VALLEY REGIONAL WATER
DISTRICT

By its Attorneys

Wadleigh, Starr & Peters, P.L.L.C.

Dated: October 18, 2011

By: _____
Stephen J. Judge

TOWN OF MILFORD

By its Attorneys

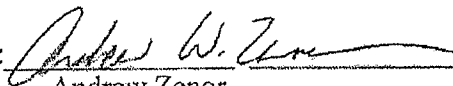
Olson & Gould

Dated: October 18, 2011

By: _____
David K. Weisner

ANHEUSER-BUSCH INCORPORATED

Dated: October 18, 2011

By: 
Andrew Zenor

FRED S. TEEBOOM

Dated: October 18, 2011

City of Nashua Acquisition of Pennichuck Corporation
DW 11-026
Settlement Agreement

EXECUTION COPY

MERRIMACK VALLEY REGIONAL WATER
DISTRICT
By its Attorneys

Wadleigh, Starr & Peters, P.L.L.C.

Dated: October 18, 2011

By: _____
Stephen J. Judge

TOWN OF MILFORD
By its Attorneys

Olson & Gould

Dated: October 18, 2011

By: _____
David K. Weisner

ANHEUSER-BUSCH INCORPORATED
By its Attorneys

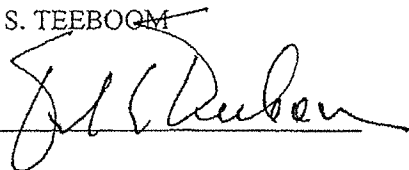
Ransmeier & Spellman

Dated: October 18, 2011

By: _____
John T. Alexander

FRED S. TEEBOOM

Dated: October 18, 2011

 10/18/2011