

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DW 13-0171
IN RE: EASTMAN SEWER COMPANY, INC.

Sale of Assets and Liabilities to Village District of Eastman

Affirm the Procedural Schedule noticed August 5, 2013
Clarification of the Participants Roles for the Items on the Schedule (above)
Request Participation of the Office of the Consumer Advocate
Request that Future Meetings be Recorded

On October 31, 2013, a Technical Session/Settlement Conference was held according to the adopted Procedural Schedule of August 5, 2013. That schedule included a third round of Discovery Request(s) due December 19, 2013, response(s) due January 9, 2014.

At the technical session the Intervenors were told that the third set of discovery was not intended for the Intervenors to ask more discovery, but for the Petitioners to ask their discovery of Intervenors. That was not noted in the adopted schedule. If, in fact, that was the intent, then that should have been made clear in the initial schedule, which showed all "Data Requests" entries distinguished only by a sequence number, "Data Requests Set 1, or 2, or 3." The Intervenors object to this apparent change in the purpose of the third round of discovery. We request that all items on the Procedural Schedule be clarified to show the roles of the parties and the intent of each entry.

Subsequently, the staff announced that it was ready to join the Petitioners to write a final settlement, accepting sale of Eastman Sewer Company. When all the questions, which we are entitled to pose, have not yet been asked and answered, it is premature for the staff to develop a conclusion, as it apparently has. This position unfortunately has tainted the staff and brings into

question its ability to render a fair decision going forward. As the Commissioners are aware, recent actions on the part of another member of the Joint Petitioners are viewed by the Intervenors as inappropriate and wrongful (Robert Logan, Geraldine Logan, Oct 30, 2013). The Intervenors request that the Office of the Consumer Advocate immediately enter into this case to protect the interests of the consumers.

Having announced that they were prepared to write an agreement with the Petitioners to approve the transaction, staff then asserted that the Procedural Schedule would be revised. With concurrence of Petitioners, staff greatly accelerated the schedule which was then disseminated the same day (DW 13-171 Eastman Sewer Company, Inc., Proposed Revised Procedural Schedule). This action directly contradicts staff's own position as stated in the Commission's Order 25,583 (October 18, 2013) Denying Expedited Motion to Reconsider the Procedural Schedule and to Limit Intervention. The Intervenors believe that the Revised Procedural Schedule should be withdrawn in favor of the initial schedule endorsed by the Commission. Furthermore, Intervenors request a third opportunity for discovery with responses prior to their Testimony consistent with the intervenors' understanding of the documented process. This would rectify the failure of staff to explain that the scheduled third round of discovery was intended for Petitioners.

It was a surprise to the Intervenors that the Technical Session was not being recorded. The decision not to record the meeting was not stated prior to the session. The Intervenors requested a recording at the meeting. Staff stated that having the meeting recorded would have required additional time and expense and the meeting would have to be delayed, therefore denied the request. It is now impossible to refer to a record to show what people actually said. What remains is only personal recollection of what individuals said or heard and, as is well recognized,

people often recall what they want to remember, similarly others recall what they think they heard. The absence of a recording, even just a voice recording without a court reporter, has rendered the October 31st meeting of questionable value. The Intervenors request that any and all further session(s) technical or otherwise be recorded and that the recordings be provided to all participants.

In summation, the Intervenors do not agree to the Proposed Revised Procedural Schedule of October 31, 2013, which contradicts the Commission's Order 25,583. Intervenors support the initial Procedural Schedule, which was approved by Ms. Deborah Howland on August 6, 2103. Intervenors request a third opportunity for discovery be added to the agenda to rectify the lack of clarity and confusion caused by the initial schedule being vague.

Furthermore, Intervenors request clarification of the roles of the participants for each item on the DW 13-171 Eastman Sewer Company, Inc Procedural Schedule (August 6, 2013).

Furthermore, Intervenors are requesting that the Office of Consumer Advocate participate actively in DW 13-171 and be present at all future meetings that address this case.

Finally, Intervenors request that all future public and private meetings regarding DW 13-171 Eastman Sewer Company, Inc be recorded and that the recordings be made available to all participants.

Date: November 5, 2013

Respectfully Submitted



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CERTIFICATION OF SERVICE

We hereby certify that on the above date a copy of this Authorization to Represent was mailed first class, postage prepaid to the Office of the Consumer Advocate.

We further certify that both printed and electronic copies have been served on the Executive Director of the PUC and electronic copies have been sent to the other persons listed on the *Service List - Email Addresses - Docket Related* found on the PUC website for Docket # 13-171.


Phillip C. Schaefer

Attachment