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MANCHESTER
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September 5, 2006

VIA HAND DELIVERY

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

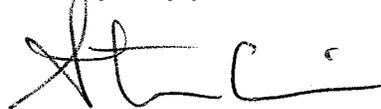
Re: DW 04-048; City of Nashua—Taking of Pennichuck Water Works, Inc.

Dear Ms. Howland:

Enclosed for filing with the Commission are an original and seven copies of Pennichuck Water Works, Inc.'s Objection to City of Nashua's Motion to Continue. I have served all parties on the service list by e-mail and first class mail.

Thank you for your assistance with this matter. Please call me with any questions.

Very truly yours,



Steven V. Camerino

SVC:cb
Enclosures

cc: Service List
Duane Montopoli, CEO and President, Pennichuck Corporation
Donald L. Ware, President, Pennichuck Water Works, Inc.

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

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

Docket No. DW 04-048

PENNICHUCK'S OBJECTION TO CITY OF NASHUA'S MOTION TO CONTINUE

Pennichuck Water Works, Inc. ("PWW"), Pennichuck East Utility, Inc. ("PEU"), Pittsfield Aqueduct Company, Inc. ("PAC"), Pennichuck Water Service Corporation and Pennichuck Corporation (collectively, "Pennichuck") object to the City of Nashua's ("Nashua" or the "City") Motion to Continue (the "Motion"). In support of this objection, Pennichuck states as follows:

1. The City of Nashua began this action nearly two and a half years ago, on March 24, 2004, by filing a Petition For Valuation in an effort to take the assets of PWW by eminent domain. On April 22, 2005, the Commission approved a procedural schedule which had been agreed to by Nashua and other parties to the docket. The schedule provided for a final hearing on the merits in September 2006. By Secretarial letter of October 3, 2005, the procedural schedule was extended by three months, with the final hearing set for January 2007. On January 11, 2006, the Commission issued another Secretarial Letter modifying the procedural schedule to allow Nashua to file additional testimony regarding its contract operator, but leaving intact the final hearing date in January 2007.

2. After nearly two and a half years of litigation in this docket, the City is now asking the Commission to delay the final hearing on the merits because the City is not ready to go forward with its case. In its Motion, the City claims that a delay is warranted because, it says, the case is more complex than could have been anticipated, the volume of information is great,

the City has not had time available to conduct discovery, and it does not have sufficient time to prepare its capstone testimony by the September 15 due date. Motion at ¶¶ 2, 5.

3. The Commission should reject Nashua's request because there is no justifiable reason to extend this case further and a delay will materially prejudice Pennichuck. The nature and complexity of this case has not changed since September 2005 when Nashua and Pennichuck jointly requested that the final hearing be rescheduled to January 2007. Nashua was well aware of the magnitude of this case when it filed it. If anything, the scope of the case has been *narrowed* since it was initially filed. In 2004, when Nashua filed its petition, it was seeking to take the assets of all three Pennichuck utilities (PWW, PEU and PAC). It was only after the Commission disallowed such a broad taking and limited the case to the assets of PWW that this docket was reduced to its present, more limited, scope. *See* Order 24,425.

4. Nashua complains in its Motion to Continue that the volume of information in the case is substantial. But that is nothing new either. From the first procedural schedule approved by the Commission, the parties anticipated multiple rounds of discovery on multiple rounds of testimony. There has been no "surprise" witness or "smoking gun" document that has suddenly changed the tenor of the case or the nature of Nashua's claims.

5. Simply put, Nashua is not ready to proceed and is seeking a last minute reprieve to save it from the looming deadline for capstone testimony. Nashua argues that it makes no sense to file capstone testimony when there are discovery motions outstanding, but it fails to explain why—a failing that is particularly notable given that until twenty-one days before the capstone testimony was due before it filed its Motion, while the discovery issues it claims affect that testimony have been outstanding since at least July. Ironically, the most significant outstanding discovery issue to which Nashua refers relates to *Nashua's* own failure to respond to discovery requests. *See* PWW's July 20, 2006 Motion to Compel the City of Nashua to Respond to PWW's Fifth Set of Data Requests. Nashua's dilatory conduct should not be allowed to

bolster its request to delay the final resolution of the case thereby serving as a basis for a continuance.

6. More importantly, the impact of a continuance on Pennichuck and all of its stakeholders would be enormous. For the past two and a half years, Pennichuck has been held hostage to this eminent domain action. Its management has been forced to spend an extraordinary amount of time defending against this action, while continuing to run the day-to-day operations of the three utilities. This challenge is not insignificant, given the demands of providing safe, clean, and reliable water 365 days a year to over 30,000 customers throughout Southern and Central New Hampshire. Since March 2004, Pennichuck's employees have come to work every day wondering whether they will have jobs in the future. Its shareholders have borne the tremendous expense of defending their rights to continue to own this 154 year old business, and have seen its stock price depressed ever since Nashua successfully caused the Philadelphia Suburban transaction to be terminated. All the while, the company's customers have been caught in the middle. To delay this case any further would cause prejudice to Pennichuck and its stakeholders, and will achieve nothing other than to increase the expense for everyone affected, not to mention the ongoing burden to the Commission and its staff.

7. Frankly, the City has never been ready to pursue this case, something which has been clear from the very beginning. The City filed its petition in March of 2004 with no testimony – despite the Commission rules requiring it – and produced extremely superficial testimony in November 2004 only after being ordered to do so. It has failed to respond to discovery requests, filed testimony late, attempted to remake its case through subsequent filings and forced Pennichuck to file pleadings with the Commission in order to have its deposition requests taken seriously. At some point in every litigation, the time comes to proceed to a final hearing. Now is the time in this case. The Commission should see through Nashua's eleventh

hour plea for delay, and order the parties to proceed with their obligations under the current procedural schedule.

8. For these reasons, the Commission should deny Nashua's Motion to Continue and should refuse any effort by Nashua to further change the procedural schedule in this docket.

WHEREFORE, Pennichuck respectfully requests that the Commission:

- A. Deny Nashua's Motion to Continue; and
- B. Grant such other and further relief as the Commission deems necessary

and just.

Respectfully submitted,

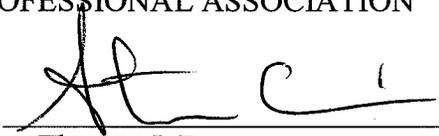
Pennichuck Water Works, Inc.
Pennichuck East Utility, Inc.
Pittsfield Aqueduct Company, Inc.
Pennichuck Water Service Corporation
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: September 5, 2006

By:



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Certificate of Service

I hereby certify that on this 5th day of September, 2006, a copy of this Objection to Nashua's Motion to Continue has been forwarded to the parties listed on the Commission's service list in this docket.

A handwritten signature in black ink, appearing to read 'S. Camerino', is written over a horizontal line.

Steven V. Camerino