

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Re: City of Nashua Acquisition of Pennichuck Corporation

DOCKET NO. DW 11-__

MOTION TO CONSOLIDATE

NOW COME the City of Nashua (the "City"), Pennichuck Corporation ("Pennichuck"), Pennichuck Water Works, Inc. ("PWW"), Pennichuck East Utility, Inc. ("PEU"), Pittsfield Aqueduct Company, Inc. ("PAC") (collectively, the "Pennichuck Utilities") and Pennichuck Water Service Corporation (collectively the "Moving Parties") and hereby move the New Hampshire Public Utilities Commission to consolidate this docket in which the City and Pennichuck are jointly seeking Commission approval of the City's proposed acquisition of the stock of Pennichuck Corporation, thereby indirectly acquiring ownership of the Pennichuck Utilities, with Docket No, DW 04-048. In support of this motion, the Moving Parties state as follows:

1. Contemporaneous with the filing of this Motion to Consolidate, the Moving Parties are filing with the Commission a Joint Petition for Approval of the Acquisition of Pennichuck Corporation By The City of Nashua (the "Joint Petition"). In the Joint Petition, the Moving Parties seek Commission approval of the City's acquisition of the stock of Pennichuck Corporation pursuant to an Agreement and Plan of Merger, dated as of November 11, 2010 (the "Merger Agreement"). Under the Merger Agreement, the City would acquire the stock of Pennichuck Corporation, and thus become the indirect owner of the Pennichuck Utilities and the two unregulated Pennichuck subsidiaries.

2. As described in the Joint Petition, the Merger Agreement includes a Settlement Agreement by which the parties have agreed to settle the issues litigated in Docket No. DW 04-

048, in which the Commission held that the City's taking of the assets of PWW by eminent domain was in the public interest.

3. The Moving Parties request that the Commission consolidate the docket opened for consideration of the Joint Petition with Docket No. DW 04-048 for several reasons.

(a) First, the matters to be considered in the docket to review the Joint Petition are integrally related to the eminent domain matters considered in DW 04-048. The principal impetus for the Merger Agreement is the parties' desire to resolve in a consensual manner the long-standing dispute over the eminent domain initiative. In numerous ways, the Commission's review of the Joint Petition will consider the effects of the proposed Merger Agreement as compared to those that would have resulted under the eminent domain alternative approved by the Commission in DW 04-048. This necessary comparison will be made more efficiently and effectively if the two dockets are consolidated.

(b) Second, in its consideration of the Joint Petition, the Commission will be tasked with considering the public interest of the proposed transaction based on the special legislation that was enacted expressly to allow the City to acquire the stock of Pennichuck Corporation or one or more of its subsidiaries as a means of settling the eminent domain litigation in DW 04-048. This special legislation, enacted as Chapter 347, Section 5 of the 2007 N.H. Laws (subsequently amended by Chapter 1, Section 118 of the 2010 Special Session), provides in part that "[t]he public utilities commission shall make a public interest determination prior to any such purchase." This is not an unfamiliar role of the Commission, which previously found that the proposed eminent domain acquisition of Pennichuck Water Works by the City was in the public interest.

(c) Third, consolidation of the two dockets would avoid the need to retry many of the issues that were raised in the eminent domain proceeding and will give the

Commission staff and parties ready access in the record to information that is directly relevant to the City's proposed acquisition of Pennichuck. In DW 04-048, the Commission developed an extensive record upon which it considered the City's petition to take by eminent domain the assets of PWW, including evidence relating to the City's proposed operating plan for the PWW assets acquired under eminent domain, the impact of the proposed taking on customers served by PEU and PAC, and the preliminary value of the assets of PWW as of December 31, 2008. Based on that record, the Commission issued Order No. 24,878 finding that the City's proposed taking of the assets of PWW was in the public interest. Consolidating the dockets will allow for orderly and efficient access to this extensive evidentiary record to the extent relevant to the review of the proposed acquisition transaction.

(d) Finally, consolidation of the two dockets would not disrupt the orderly proceeding of DW 04-048, which currently is in a period of inactivity as a result of requests by the City and Pennichuck in anticipation of a possible consensual resolution. Now that the long-awaited opportunity for a consensual resolution of the eminent domain matters of DW 04-048 has arrived, and the Merger Agreement contemplates the settlement of those matters, there would be little or no likelihood that any further action would need to be taken in DW 04-048 separate from the proceeding to review the proposed acquisition transaction. Accordingly, there would be no disadvantage to any party arising from the consolidation of the two dockets.

4. For these reasons, the Moving Parties request that the Commission consolidate the two dockets.

WHEREFORE, the Moving Parties respectfully requests that the Commission:

- A. Grant this Motion to Consolidate; and
- B. Grant such other relief as may be just and equitable.

Respectfully submitted,

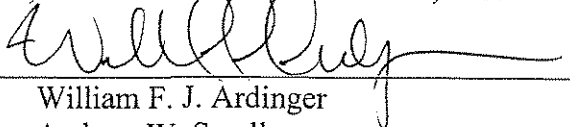
CITY OF NASHUA

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Date: February 4, 2011

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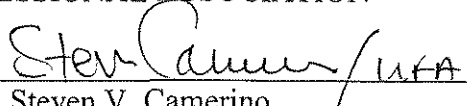
PENNICHUCK CORPORATION
PENNICHUCK WATER WORKS, INC.
PENNICHUCK EAST UTILITY, INC.
PITTSFIELD AQUEDUCT COMPANY, INC
PENNICHUCK WATER SERVICE CORPORATION

By Its Attorneys

McLANE, GRAF, RAULERSON & MIDDLETON
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Date: February 4, 2011

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this day on all persons on the Commission's official service list in this proceeding.

Date: February 4, 2011


William F. J. Ardinger