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Edmund J. Boutin

*Admitted only in CT, DC and NY

December 15, 2006

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

RECEIVED
DEC 15 2006
N.H. PUBLIC UTILITIES COMMISSION

Re: DW 04-048
City of Nashua – Pennichuck Water Works, Inc.

Dear Ms. Howland:

I enclose for filing herewith, an original and 7 copies of the Town of Merrimack's Opening Statement with regard to this matter.

Additionally, pursuant to PUC 202.07(a)(2) and PUC 202.08(a) and (b), please find a computer diskette containing the within document.

Copies of this letter and Opening Statement have been e-mailed to all parties on the attached service list and via first class mail to Claire McHugh.

Sincerely,

Edmund J. Boutin

EJB/alm
Enclosures

cc: Service List

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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DW 04-048

City of Nashua
Taking of Pennichuck Water Works, Inc.

OPENING STATEMENT OF THE TOWN OF MERRIMACK

The Town of Merrimack ("Merrimack") does not believe that the petition pending before the Commission should be granted. The City of Nashua ("Nashua") seeks to take certain assets of Pennichuck Water Works, Inc. ("Pennichuck"), including certain assets within the Town of Merrimack. Merrimack believes that the proposed taking would not be in the public good.

Merrimack's belief is based on its view that the fair value of the Pennichuck assets to be taken, including any severance damages which may be awarded, would impose a capital requirement upon Nashua that would adversely impact Merrimack because of the rates required to support this cost. In addition, Merrimack's anticipation that the damages assessed will significantly exceed Nashua's assumed valuation, causes it to fear that required capital improvements in Merrimack and elsewhere will be deferred or forgone, because rates could not be increased enough to support these capital expenditures.

Merrimack also is concerned that its industrial area, which is part of the franchise, which Nashua proposes to take, will be subject to Nashua's decision-making, as a competitor with Merrimack for industrial/commercial development, when it comes to expansion of the water system and/or required capital improvements to support it in south Merrimack.

Even if Nashua subsequently sells the assets acquired to the Merrimack Valley Regional Water District, the Water District Charter is set up in such a way that Nashua controls the District's decision-making in its most important aspects, including rate making and capital improvements.

Although Nashua has argued that that there will be some economies as a result of its ownership of these assets, Nashua will be paying profit making entities, who require the same basic financial incentives that comparable profit making entities, like Pennichuck, require for system operation/management and oversight. These costs will include shareholder return and profit.

Last, Merrimack's largest employer is Anheuser-Busch. Merrimack is well aware that Nashua has not, to date, been sufficiently forthcoming with Anheuser-Busch so that Anheuser-Busch could support this taking. See, Anheuser-Busch Pre-Hearing Brief, filed this date. Merrimack has the same concerns as its largest employer. Merrimack also has several other large industrial employers who may be adversely affected by this taking, including BAE Systems, Inc. Brookstone and the Nashua Corporation.

Further, Merrimack concurs with the conclusions expressed by the Commission Staff in its testimony previously filed. This taking is not in the public interest. It is instructive that, notwithstanding Staff's criticism that Nashua's ownership of these assets will frustrate regionalization of water supply and distribution, if the Pennichuck assets become unregulated, Nashua persists in its determination that decisions on system expansion outside of Nashua will be driven by Nashua's economic interests. See, Nashua's response to Pennichuck Water Works, Inc.'s Data Requests/Set 5, Request No. 5-18 dated December 11, 2006.

The Commission should deny this petition so that Merrimack and its residents can continue receiving water service from a regulated public utility, where they can seek redress through the regulatory process when Merrimack's interests are at stake. If the taking were to be approved, Merrimack and its residents/industries would be subject to the political will of Nashua, whether or not it sells the assets to the District.

Respectfully submitted,

TOWN OF MERRIMACK

By Its Attorneys,

BOUTIN & ALTIERI, P.L.L.C.

Date: December 15, 2006

By,_____

Edmund J. Boutin
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CERTIFICATE OF SERVICE

I, Edmund J. Boutin, Esquire, hereby certify that a copy of this Statement has been electronically sent to all parties on the service list and via first class mail to Claire McHugh.

Date: December 15, 2006

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Edmund J. Boutin