

**Concord Office**

10 Centre Street  
 PO Box 1090  
 Concord, NH  
 03302-1090  
 603-224-7791  
 1-800-640-7790  
 Fax 603-224-0320

**Attorneys At Law**

Robert Upton, II  
 Gary B. Richardson  
 John F. Teague  
 Russell F. Hilliard  
 James F. Raymond  
 Barton L. Mayer  
 Charles W. Grau  
 Margaret-Ann Moran  
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 David P. Slawsky  
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 Justin C. Richardson  
 Beth A. Deragon  
 \*Also Admitted In Virginia

*Of Counsel*

Frederic K. Upton

**Hillsborough Office**

8 School Street  
 PO Box 13  
 Hillsborough, NH  
 03244-0013  
 603-464-5578  
 1-800-640-7790  
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**Attorneys At Law**

Douglas S. Hatfield  
 Margaret-Ann Moran  
 Paul L. Apple

**North Conway Office**

23 Seavey Street  
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 North Conway, NH  
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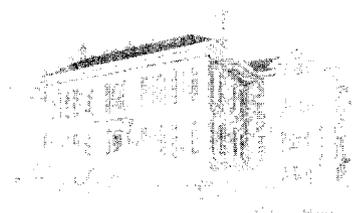
**Portsmouth Office**

159 Middle Street  
 Portsmouth, NH  
 03801  
 603-436-7046  
 Fax 603-431-7304

**Attorneys At Law**

Russell F. Hilliard  
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www.upton-hatfield.com  
 mail@upton-hatfield.com



**Upton  
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 ATTORNEYS AT LAW

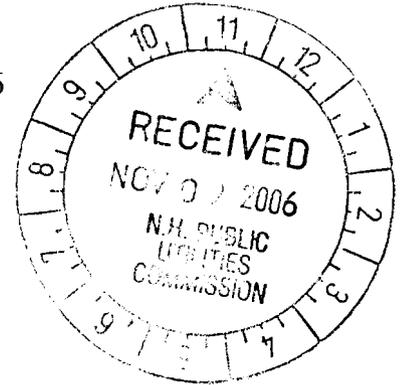
**Please respond to the Portsmouth office**

November 7, 2006

**Via Electronic and First Class Mail**

Debra A. Howland, Executive Director  
 N.H. Public Utilities Commission  
 21 South Fruit Street, Suite 10  
 Concord, NH 03301-2429

RE: City of Nashua: *Petition for Valuation Pursuant to RSA 38:9*  
 Docket No. DW 04-048



Dear Ms. Howland:

I write in response to Hearings Examiner Donald Kreis' letter dated October 31, 2006 concerning Order No. 24,681 and Pennichuck's request for documents related to a grand jury subpoena in Indianapolis. As a general matter, Nashua agrees with the Hearings Examiners statement concerning the status. However, the letter was unclear to the extent that it could be understood that the remaining issue should be decided based on "the motion papers" rather than upon the agreement reached between Nashua and Pennichuck regarding this matter.

By way of background, on April 28, 2006, a technical conference was convened by the Hearings Examiner at which the parties agreed to resolve four of the five issues raised by Pennichuck's March 16, 2006 *Motion to Compel*. The four issues included Pennichuck's request for documents related to an investigation in Indianapolis that never resulted in any civil or criminal charges or any findings of misconduct by the Company. As part of the proposal to resolve Pennichuck's request for documents, on May 5, 2006, Nashua submitted a written proposal to resolve this issue based on the April 28, 2006 discussions to which Pennichuck agreed by letter dated May 9, 2006. See attached. As a result, the issue before the Commission is not based upon "the motion papers" but upon the terms of agreement reached to resolve this issue.

The Commission will note that as part of the resolution of this issue, Nashua agreed to make "relevant" documents available "upon reasonable request" subject to the terms of a protective order negotiated between Nashua and Pennichuck and submitted for Commission approval on June 1, 2006. Under the

November 7, 2006

Page 2

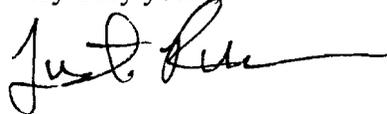
terms of the proposed protective order, any party may obtain a copy of the subpoena by duly executing the *Agreement to Comply with Protective Order* included as an exhibit to Nashua's motion. To date, only Pennichuck's counsel has executed the agreement and, accordingly, Nashua has not provided copies to any other party to this proceeding.

Nashua does not believe it is reasonably possible to rule on this issue without reviewing the subpoena that Nashua has made available under the terms of the proposed protective order. Pennichuck's data request 5-89 that sought "all documents and information provided in response to items 1 through 4 of Grand Jury Subpoena". This was not a reasonable request, however, because item 1 alone included all correspondence, notes, calendars, forms, reports, studies, monitoring plans, memoranda, electronic messages, analyses, and a wide variety of other documents related to the company's operations. In essence, rather than making a "reasonable request" for "relevant" documents, Pennichuck simply renewed its prior request for all documents related to the Indianapolis investigation.

Because the issue to be resolved relates directly to the language contained in the subpoena, I suggest that the Commission or its representative execute and return the *Agreement to Comply with Protective Order* included with Nashua's June 1, 2006 *Motion for Protective Order*. That will give the Commission the ability to review the broad scope of documents related to Pennichuck's data request 5-89 while preserving the Commission's ability to rule on Nashua's Motion for Protective Order. See Page 9, Para. K.

Nashua appreciates the Commission's attention to this matter. If you have any questions regarding this matter, please feel to contact me.

Very truly yours,



Justin C. Richardson

[jrichardson@upton-hatfield.com](mailto:jrichardson@upton-hatfield.com)

JCR/sem

Enclosures

cc: Official Service List DW-04-048 (electronic mail)  
Claire McHugh (1<sup>st</sup> class mail).

Attachments



**Upton  
& Hatfield** <sup>LLP</sup>  
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**Please respond to the Portsmouth office**

April 25, 2006

Debra A. Howland, Executive Director  
N.H. Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

RE: City of Nashua: *Petition for Valuation Pursuant to RSA 38:9*  
Docket No. DW 04-048

Dear Ms. Howland:

As referenced in the report of Hearings Examiner Donald Kries, Esq., to the Commission in this proceeding, representatives for the City of Nashua and the Pennichuck Water Works, Inc., met on Friday April 28, 2006 and discussed resolution of Pennichuck's Motion to Compel and Nashua's Objection thereto. In accordance with those discussions, I am providing this response on behalf of the City of Nashua by electronic mail to all the parties on the Commission's official electronic service list. Due to an unforeseen staff illness, I have not sent a copy by first class mail to all parties on the Commission's service list, but will do so on Monday May 8, 2006.

The parties discussed the Motion and Objection in terms of five substantive areas, set forth below. Based on discussion at the hearing, proposals were made to resolve four of the five substantive areas. No proposal was made to resolve number four of five, identified below. My understanding of these five areas, together with Nashua's response is the following:

1. *Information relative to problems concerning Veolia's Water Indianapolis, LLC's operations of the water system of the City of Indianapolis.*

As discussed last Friday, Nashua strongly disagrees that there were, in fact, any operational or other problems encountered with respect to Veolia's operations. As noted in Nashua's Objection, the Indiana Department of Environmental Management stated on October 6, 2005 that its own analysis did "not indicate a violation of state or federal drinking water quality standards."

May 5, 2006

Page 2

However, in order to resolve this matter, *subject to an appropriate protective order*, Veolia Water North America – Northeast, LLC has agreed to make the subpoenas issued in the Indianapolis matter available by May 31, 2006 (earlier if available). Insofar as the proposal included all non-confidential documents or information provided in response to those subpoenas, Nashua further agrees to provide relevant non-confidential documents available, subject to an appropriate protective order, upon reasonable request and within a reasonable time period, such as 10 days, following disclosure of the subpoenas.

2. *Collective bargaining agreement for Veolia Water Indianapolis, LLC.*

As discussed last Friday, Nashua does not believe this information is relevant to this proceeding. However, in order to resolve this matter, Nashua will provide the collective bargaining agreement(s) for Veolia Water Indianapolis, LLC, no later than May 31, 2006 (earlier if available).

3. *Request for information related to all civil lawsuits related to the operation of water systems in the U.S. (except for employment or workers compensation matters) between Veolia Water and the Owner of the water system.*

Nashua will provide this information no later than May 31, 2006 (earlier if available).

4. *Internal communications related to the contract negotiations.*

Although the parties discussed this item, no proposal to resolve this matter was proposed. Accordingly, Nashua understands that the hearings examiner will review this matter and make a recommendation to the Commission.

5. *Veolia's risk profile and/or financial model.*

As discussed last Friday, this request arose *inter alia* in the context of Pennichuck's deposition requests for individuals involved in the negotiations of Nashua's contract with Veolia Water North America – Northeast LLC. To resolve this matter, it was proposed that:

- Nashua would provide Veolia's estimate of the total annual price (i.e. cost to Nashua) for the each of the non-fixed components (the "buckets") under its contract with Nashua. These components are Renewal, Repair and Replacement Maintenance, Supplemental Services, and Capital Improvement Projects.; and
- Pennichuck agreed that it would not seek during depositions (or otherwise) information as to how Veolia determined those costs using its financial model or other confidential information.

Based on the foregoing, Nashua agrees to provide Veolia's estimate for each of the non-fixed components ("the buckets) no later than May 31, 2006.

Attachments

May 5, 2006  
Page 3

The above sets forth my understanding of the proposals to resolve four of the five areas as discussed at the hearing held on April 28, 2006, and Nashua's response thereto. If I have failed to include any of the terms or issues related thereto, I request that the parties contact me as soon as possible in order to identify any changes necessary to correct the understanding with respect to the above items.

On behalf of Nashua and I believe all of the parties involved, I would also like to offer my appreciation to the Commission for its decision to use a hearings examiner to resolve this matter. Mr. Kreis's timely and appropriate discussion of the issues contributed greatly to the progress made on April 28, 2006.

If you have any questions concerning this matter, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Justin Richardson", written in a cursive style.

Justin C. Richardson  
[jrichardson@upton-hatfield.com](mailto:jrichardson@upton-hatfield.com)

JCR

cc: Official Service List DW04-048  
Donald Kries, Esq., Hearings Examiner

Attachments

**From:** Kreis, Donald [Donald.Kreis@puc.nh.gov]  
**Sent:** Monday, May 08, 2006 2:39 PM  
**To:** tdonovan@mclane.com; SARAH.KNOWLTON@MCLANE.com  
**Cc:** Justin C. Richardson  
**Subject:** Nasha/PWW discovery  
Tom, Sarah:

I received a copy of Justin's letter of last Friday re the pending discovery dispute. If you could met me know the extent to which his response was satisfactory to you, I would be grateful.

cordially,  
Don

**Donald M. Kreis, Esq.**  
Hearings Examiner/Staff Attorney  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301  
603.271.6006 (direct line)

Attachments



McLane, Graf,  
Raulerson &  
Middleton

*Professional Association*

100 MARKET STREET • SUITE 301 • P. O. BOX 459 • PORTSMOUTH, NH 03802-0459  
TELEPHONE (603) 436-2818 • FACSIMILE (603) 436-5672

SARAH B. KNOWLTON  
Direct Dial: (603) 334-6928  
Internet: sarah.knowlton@mcclane.com

OFFICES IN:  
MANCHESTER  
CONCORD  
PORTSMOUTH

May 10, 2006

Justin C. Richardson, Esq.  
Upton & Hatfield, LLP  
159 Middle Street  
Portsmouth, NH 03801

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

Dear Justin:

I am writing in follow up to your letter regarding the April 28 meeting with Hearings Examiner Kreis (your letter is dated April 25, which I am assuming is a typo). We appreciate your efforts to follow up on the matters discussed at the discovery conference.

Your letter raises three issues that I want to follow up on. Regarding item #1 (the Veolia subpoenas), you indicate that Nashua will produce non-confidential documents or information provided in response to the subpoenas after you have produced copies of the subpoenas and have received a reasonable request from Pennichuck. While we do not object to making a further request for documents after reviewing the subpoenas, we would request that you have the documents ready to produce upon receipt of such a request in order to avoid any delay.

The second issue relates to the timing of Nashua's production of documents. Your letter states that Nashua will produce responsive documents no later than May 31, 2006, and earlier if possible. As you know, Pennichuck's reply testimony on valuation and public interest issues is due on May 22, 2006. Thus, it is likely that we will not have in hand copies of documents that may be highly relevant to this reply testimony in time to include them in the May 22 testimony. To the extent that we have not received responsive documents prior to May 22, Pennichuck reserves the right to supplement its reply testimony to include information obtained from this delayed discovery.

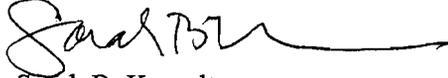
Finally, in regard to item #5 in your letter (Veolia's risk profile and/or financial model), we indicated at the discovery conference that we did not seek copies of the underlying model itself, but rather the outputs of the model and an understanding of what constituted the various "buckets" of costs. Your letter states that we would agree not to ask about how Veolia

Attachments

Justin C. Richardson, Esq.  
May 10, 2006  
Page 2

determined those costs at depositions or otherwise. I want to clarify that while our intent is to compare the total amounts in each bucket, we may need to ask some questions regarding what went into each bucket to make sure that we are doing an "apples to apples" comparison. Thus, we cannot agree to ask no questions about the figures provided.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sarah B. Knowlton", with a long horizontal flourish extending to the right.

Sarah B. Knowlton

cc: Donald Kreis, Esq., Hearings Examiner  
Discovery Service List  
Thomas J. Donovan, Esq.  
Steven V. Camerino, Esq.



**Upton  
& Hatfield<sup>LLP</sup>**  
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Frederic K. Upton

**Please respond to the Portsmouth office**

November 7, 2006



**Via Electronic and First Class Mail**

Debra A. Howland, Executive Director  
N.H. Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

**RE: City of Nashua: *Petition for Valuation Pursuant to RSA 38:9***  
**Docket No. DW 04-048**

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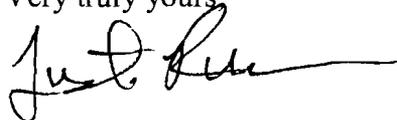
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JCR/sem

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Claire McHugh (1<sup>st</sup> class mail).

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Justin C. Richardson

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JCR

cc: Official Service List DW04-048  
Donald Kries, Esq., Hearings Examiner

Attachments

**From:** Kreis, Donald [Donald.Kreis@puc.nh.gov]  
**Sent:** Monday, May 08, 2006 2:39 PM  
**To:** tdonovan@mclane.com; SARAH.KNOWLTON@MCLANE.com  
**Cc:** Justin C. Richardson  
**Subject:** Nasha/PWW discovery  
Tom, Sarah:

I received a copy of Justin's letter of last Friday re the pending discovery dispute. If you could met me know the extent to which his response was satisfactory to you, I would be grateful.

cordially,  
Don

**Donald M. Kreis, Esq.**  
Hearings Examiner/Staff Attorney  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301  
603.271.6006 (direct line)

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Middleton

*Professional Association*

100 MARKET STREET • SUITE 301 • P.O. BOX 459 • PORTSMOUTH, NH 03802-0459  
TELEPHONE (603) 436-2818 • FACSIMILE (603) 436-5672

SARAH B. KNOWLTON  
Direct Dial: (603) 334-6928  
Internet: sarah.knowlton@mcclane.com

OFFICES IN:  
MANCHESTER  
CONCORD  
PORTSMOUTH

May 10, 2006

Justin C. Richardson, Esq.  
Upton & Hatfield, LLP  
159 Middle Street  
Portsmouth, NH 03801

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

Dear Justin:

I am writing in follow up to your letter regarding the April 28 meeting with Hearings Examiner Kreis (your letter is dated April 25, which I am assuming is a typo). We appreciate your efforts to follow up on the matters discussed at the discovery conference.

Your letter raises three issues that I want to follow up on. Regarding item #1 (the Veolia subpoenas), you indicate that Nashua will produce non-confidential documents or information provided in response to the subpoenas after you have produced copies of the subpoenas and have received a reasonable request from Pennichuck. While we do not object to making a further request for documents after reviewing the subpoenas, we would request that you have the documents ready to produce upon receipt of such a request in order to avoid any delay.

The second issue relates to the timing of Nashua's production of documents. Your letter states that Nashua will produce responsive documents no later than May 31, 2006, and earlier if possible. As you know, Pennichuck's reply testimony on valuation and public interest issues is due on May 22, 2006. Thus, it is likely that we will not have in hand copies of documents that may be highly relevant to this reply testimony in time to include them in the May 22 testimony. To the extent that we have not received responsive documents prior to May 22, Pennichuck reserves the right to supplement its reply testimony to include information obtained from this delayed discovery.

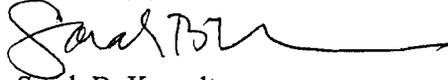
Finally, in regard to item #5 in your letter (Veolia's risk profile and/or financial model), we indicated at the discovery conference that we did not seek copies of the underlying model itself, but rather the outputs of the model and an understanding of what constituted the various "buckets" of costs. Your letter states that we would agree not to ask about how Veolia

Attachments

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determined those costs at depositions or otherwise. I want to clarify that while our intent is to compare the total amounts in each bucket, we may need to ask some questions regarding what went into each bucket to make sure that we are doing an "apples to apples" comparison. Thus, we cannot agree to ask no questions about the figures provided.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sarah B. Knowlton", with a long horizontal flourish extending to the right.

Sarah B. Knowlton

cc: Donald Kreis, Esq., Hearings Examiner  
Discovery Service List  
Thomas J. Donovan, Esq.  
Steven V. Camerino, Esq.