

STATE OF NEW HAMPSHIRE
PETITION FOR VALUATION PURSUANT TO RSA 38:9

CITY OF NASHUA

Docket No. DW-04-048

DEPOSITION of PAUL B. DORAN

Taken by Notice at the offices of R.W. BECK, The
Corporate Center, East Wing, 550 Cochituate Road,
Framingham, Massachusetts, on Thursday, February 16,
2006, commencing at 10:22 in the forenoon.

Court Reporter: Marcia G. Patrisso,
Certified Shorthand Reporter
NH CSR No. 83 (RSA 331-B)
Registered Professional Reporter
Certified Realtime Reporter

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 2 For the Petitioner, City of Nashua:
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 5
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 By: Thomas J. Donovan, Esq.
 9 Steven J. Dutton, Esq.
 10
 11 Also in Attendance: Messrs. Stephen R. Gates and
 12 John M. Henderson
 13
 14 STIPULATIONS
 15 It is agreed that the deposition shall be taken
 in the first instance in stenotype and when
 16 transcribed may be used for all purposes for which
 depositions are competent under New Hampshire
 17 practice.
 18 Notice, filing, caption and all other formalities
 are waived. All objections except as to form are
 19 reserved and may be taken in court at the time of
 trial.
 20
 21 It is further agreed that if the deposition is
 not signed within thirty (30) days after submission
 to counsel, the signature of the deponent is waived.
 22
 23

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1 PAUL B. DORAN,
 2 having been duly sworn by Notary Public
 3 William G. LaBonte, was examined and testified as
 4 follows:
 5 EXAMINATION
 6 BY MR. DONOVAN:
 7 Q. Could you give us your full name,
 8 please.
 9 A. My name is Paul B. Doran, Junior.
 10 Q. And where do you live, Mr. Doran?
 11 A. At 189 Rideout Road in Hollis, New
 12 Hampshire.
 13 Q. And by whom are you employed?
 14 A. I'm employed with R.W. Beck,
 15 Incorporated.
 16 Q. And what's your office location?
 17 A. The office location is in Framingham,
 18 Massachusetts.
 19 Q. And we're here right now. And what's
 20 the street address?
 21 A. 550 Cochituate Road.
 22 Q. And what's your job title?
 23 A. Senior water consultant.

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1 Q. And how long have you been employed by
 2 R.W. Beck?
 3 A. Approximately 14 months.
 4 Q. And prior to R.W. Beck, you were
 5 employed by whom?
 6 A. Alternative Resources, Incorporated.
 7 Q. And that was from 1994 to 2004; is
 8 that right?
 9 A. I believe in my testimony, the data
 10 request, I had the right date. I don't recall. I
 11 did the research for that. But I believe it was --
 12 that's correct, 1994 to the end of 2004 is correct.
 13 Q. And where are they located?
 14 A. In Concord, Massachusetts.
 15 Q. And did you work out of the office
 16 there?
 17 A. Yes.
 18 Q. What kind of a business is Alternative
 19 Resources?
 20 A. It was a management-type consulting
 21 firm.
 22 Q. And who were the types of clients they
 23 had?

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1 with respect to the Veolia-Nashua contract
2 negotiations as an assistant to Nashua?
3 A. Mr. Jack Henderson from Tetra Tech was
4 also at the table.
5 Q. When you say "at the table," meaning
6 literally at the table?
7 A. Yes.
8 Q. Was he at that one meeting in
9 Portsmouth that you mentioned?
10 A. No, he was not at the meeting. That
11 was for a specific purpose.
12 Q. Was he at other meetings?
13 A. He was at not all, but he was at other
14 meetings, yes.
15 Q. Anyone else from the Beck side
16 helping?
17 A. No. I think the three names that I've
18 mentioned already, Mr. Gates, Mr. Henderson and me,
19 would be the team that would be -- and specifically
20 Mr. Henderson and me sitting at the table --
21 Q. What did you -- go ahead.
22 A. -- and Mr. Gates as an advisor.
23 Q. What did you understand Mr.

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1 Henderson's role was in providing assistance to
2 Nashua in its negotiations with Veolia?
3 A. Any technical issues on the water side
4 that would come up is where Mr. Henderson would be
5 the resource.
6 Q. What about your role?
7 A. My role was an overall role presenting
8 my experience to the Upton, Hatfield team as needed
9 during the negotiations.
10 Q. And what was Mr. Gates' role?
11 A. Mr. Gates was my advisor here back at
12 the office.
13 Q. Did he have experience in negotiating
14 operator contracts of drinking water delivery and --
15 A. I don't know the answer to that
16 question.
17 Q. You didn't let me finish my question.
18 A. I'm sorry. I'm sorry, sir.
19 Q. Was Mister -- did Mr. Gates have
20 experience in negotiating contracts with contractors
21 for the operation of treatment and distribution
22 systems of water systems?
23 A. I don't know the answer to that

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1 question. I don't know all of Mr. Gates'
2 background.
3 Q. At the one meeting you did attend in
4 Portsmouth, what were the issues that were
5 discussed?
6 A. It was specifically surrounding some
7 unit pricing costs.
8 Q. Unit pricing of what?
9 A. Of mainly piping. Pipe replacements.
10 Q. Is this labor cost?
11 A. It was materials, labor and
12 installation costs for unit prices to install
13 various types of pipe.
14 Q. And who in particular from the Veolia
15 side was this discussion being had with?
16 A. It was specifically Mister -- with Mr.
17 Paul Noran.
18 Q. And presumably, Veolia wanted a higher
19 rate for labor and material, and you were advocating
20 for a lower rate for labor and material; is that
21 right?
22 A. One purpose of that meeting was to see
23 how the costs were developed on the Veolia -- how

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1 Veolia developed a cost, how Mr. Noran developed the
2 cost for both materials, labor and installation, to
3 come up with the unit cost. And second, to verify
4 my assumptions in that same -- my own independent
5 analysis.
6 Q. And what did Mr. Noran come up with to
7 show you Veolia developed its costs for labor and
8 materials?
9 A. There was a spreadsheet that he had
10 developed.
11 Q. Do you remember if it had a name?
12 A. No, I don't remember that.
13 Q. Did he provide anything else?
14 A. Just the spreadsheet.
15 Q. And did you examine the spreadsheet?
16 A. Yes, I looked at it.
17 Q. And what did it -- did you reach any
18 conclusions about it or...
19 A. I didn't examine it there. I took it
20 back to the office, compared it with what I had
21 done, and reached the conclusion that their price
22 was slightly higher than what I thought it should be
23 professionally.

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1 Q. So you'd come up with your own
2 spreadsheet for labor and materials for this type of
3 task?
4 A. I did not develop a complete
5 spreadsheet, no. I spot-checked certain costs.
6 Q. And as a result of your comparison,
7 what happened?
8 A. Nothing. It was left as is.
9 Q. It was left as Veolia had proposed it?
10 A. Currently. It's a loose end to be
11 tied up in the future that was not finished.
12 Q. Aren't the labor rates finished?
13 A. I can't answer that question.
14 Q. I'll get into that in a minute. But
15 were the numbers that you had in doing your checking
16 any different than the ones proposed by Veolia?
17 A. I solicited the material costs from a
18 pipe manufacturer on my own, and as my spot-
19 checking.
20 Q. Right. And what did that show?
21 A. It showed that some of the costs were
22 lower.
23 Q. From your review?

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1 A. From my review.
2 Q. In other words, Veolia's were higher?
3 A. They were higher. That's correct.
4 Q. And that's an item that you understand
5 is not yet tied down?
6 A. That's not yet tied down, those unit
7 costs.
8 Q. What about labor?
9 A. The labor usually relates to a
10 specific person and the hours to actually perform
11 the task. The labor rates I would assume are part
12 of the Veolia contract; the hours are in question of
13 how long it would take to perform a task.
14 Q. And so the number of hours it would
15 take to perform a task you say is still up in the
16 air?
17 A. That portion of it is, yes.
18 Q. And that's still to be negotiated?
19 A. I would say still to be reviewed.
20 Q. What about the labor rate? You have a
21 number for that, don't you, that was given?
22 A. That was put in the contract as an
23 exhibit, yes.

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1 Q. And that's agreed to by Nashua?
2 A. As far as I know, I believe the labor
3 rate was agreed to.
4 Q. And what review did you perform of the
5 labor rate?
6 A. I did not review the labor rate at
7 all.
8 Q. Any reason why you reviewed hours and
9 materials but not the labor rate?
10 A. I understand, myself, and can spot
11 inconsistencies through my experience of how long it
12 would take to do something, whereas a labor rate
13 would need other expertise that I just don't have.
14 Q. So you didn't contract -- strike that.
15 So you didn't contact Nashua area
16 contractors to find out what --
17 A. No. No.
18 Q. -- labor rates would be --
19 A. No.
20 Q. -- or water utilities in the area to
21 find out what labor rates would be for particular
22 types of tasks?
23 A. No, I did not.

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1 Q. Was there a conscious decision made to
2 accept the Veolia numbers for the labor rates as
3 opposed to conducting a more in-depth review of the
4 proposed labor rates?
5 A. I just didn't look into it. I just
6 didn't look into it. I took it for its face value.
7 Q. And the material cost, the time for
8 tasks and the labor rates, would be involved in that
9 part of the Veolia contract that is not included in
10 the base price; is that right?
11 A. That's correct.
12 Q. Those would be for supplemental
13 services, or there may be another term for it, but
14 it's for extras, right?
15 A. I don't think that supplemental
16 services is a correct term, but you could deem them
17 as other services.
18 Q. Meaning services that get paid for
19 above and beyond the base monthly or annual fee?
20 A. That's correct.
21 MR. DONOVAN: I'm going to request the
22 spreadsheet or sheets that were reviewed by Mr.
23 Doran and others.

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1 MR. RICHARDSON: Tom, I assume you're
2 going to put together a list similar to one that was
3 started before and --
4 MR. DONOVAN: Yes. I'll send you a
5 letter.
6 Q. Was there any other supporting
7 documentation that Veolia provided to you or to Beck
8 to support any of the terms of their proposed
9 contract?
10 A. I guess I don't understand the
11 question.
12 Q. Okay. Well, you mentioned that Veolia
13 provided to you a spreadsheet of information that
14 would support their analysis of what some pricing
15 should be of items contained within the contract.
16 I'm wondering whether Veolia provided any other
17 support either for the financial aspects of their
18 contract or for other terms of their contract,
19 justification for why they were proposing X as
20 opposed to Y?
21 A. I don't recall the specific documents.
22 A lot of documents changed hands during the
23 negotiation. Specifically, I couldn't even name

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1 them.
2 Q. And how would you receive these
3 documents, by e-mail or --
4 A. No; it would be handed out at the
5 table, used to prepare the contract work.
6 MR. DONOVAN: And I'm going to request
7 those documents that were handed out at the table
8 and used to prepare the contract, or review the
9 Veolia proposal.
10 Q. Was Nashua working off of a Veolia
11 form contract and then changes and adjustments made
12 to that form?
13 A. We did not start that way, but it was
14 easier to start with the Veolia draft.
15 Q. How did it start?
16 A. We tried to prepare our own draft, and
17 it became cumbersome. And all of that was actually
18 just dismissed and not used, and a conscious
19 decision was made, it would be easier to start from
20 the Veolia draft and prepare from the Veolia draft
21 that was submitted in their proposal.
22 Q. Who was responsible for the original
23 draft from the Nashua side?

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1 MR. RICHARDSON: I'm going to state
2 the same objection I stated before about documents
3 that were prepared to go through as part of the PUC
4 approval process. I mean, to the extent they
5 were -- relate to legal counsel or legal strategy,
6 that sort of thing.
7 MR. DONOVAN: I think this question is
8 a who question, so I think he can answer that, can't
9 he?
10 MR. RICHARDSON: Yeah, go ahead and
11 answer it.
12 A. It was the attorneys at Upton,
13 Hatfield.
14 Q. (BY MR. DONOVAN) And that draft was
15 circulated to people on the Veolia side?
16 A. I don't remember how far it got.
17 MR. DONOVAN: I'm going to request
18 that draft.
19 Q. Do you remember what the sticking
20 points were, if any, in negotiating the agreement
21 with Veolia?
22 A. In a typical negotiation there are
23 many sticking points. I don't remember specifics.

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1 Q. Well, was this -- compared to the
2 other contracts you've negotiated in your career,
3 was this easier or more difficult?
4 A. It was about the same.
5 Q. And you can't -- no particular
6 contract issues come to mind?
7 A. I'd be speculating right now. Nothing
8 that I can point out.
9 Q. I'm going to show you a copy of what
10 was marked at the depositions last week of Mr.
11 Burton and Mr. Noran. It's Exhibit 83. It's called
12 the Operation Maintenance and Management Agreement.
13 And I'll represent that that was attached to the
14 Veolia testimony on January 12, 2006. And if you
15 want, you can take a look at it to see if that looks
16 to you like the current version of the agreement.
17 (There is a pause.)
18 A. Yes, this looks like the document
19 other than the fact that some documents are out of
20 place, and there's two appendix E's and some other
21 things in there, but...
22 Q. And there are places in Exhibit 83
23 which I think reflect your prior testimony that

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1 there are holes yet to be filled in?
2 A. That's correct.
3 Q. I believe in Exhibit E and Exhibit H
4 there are annotations, TBD, meaning to be
5 determined?
6 A. To be determined; that's correct.
7 Q. And that relates to what elements of
8 pricing?
9 A. It relates to the unit costs.
10 Q. Does that mean for material and also
11 time to complete task?
12 A. Yes.
13 Q. Both?
14 A. Yes.
15 Q. All the labor rates, though, are in
16 there as final numbers, Exhibit 83?
17 A. To the best of my knowledge, I believe
18 so.
19 Q. Is there a reason that the times and
20 material costs haven't been buttoned up yet?
21 A. We purely ran out of time.
22 Q. What was the deadline you were working
23 from?

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1 A. I think that we wanted to have
2 everything buttoned up prior to the Christmas
3 holiday.
4 Q. Have there been negotiations since the
5 Christmas holiday?
6 A. No.
7 Q. The understanding is that Nashua and
8 Veolia can't sign that contract until those items
9 are buttoned up; isn't that right?
10 A. Yes.
11 MR. RICHARDSON: I'm sorry. Did you
12 say can or can't, Tom?
13 MR. DONOVAN: Cannot.
14 MR. RICHARDSON: Is that what you...
15 Q. So there are some other provisions in
16 there that I would like to ask you some questions
17 about.
18 A. Sure.
19 Q. And you may or may not need to refer
20 to the sections to answer it. But under the
21 agreement, fuel and electricity costs are the
22 responsibility of Nashua for the operation of the
23 water system. That's at Section 8.15. Do you

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1 remember if that was a negotiation term?
2 A. I don't remember.
3 Q. How common is it to have the owner
4 responsible for fuel and electricity costs for the
5 system that is being operated by an O&M contractor?
6 A. It is common to have that.
7 Q. Is it common to have it the other way
8 as well?
9 A. It depends on the municipality and how
10 they want to structure their deal.
11 Q. Computer software is -- the pricing is
12 the responsibility of the owner under Section 8.6.
13 How common is that in an O&M contract?
14 A. That's -- again, it depends on how the
15 specific municipality wants to structure their deal.
16 Q. Section 8.9 calls for the owner to
17 lend at no charge any heavy equipment it might have
18 for use by the O&M contractor. How common is that?
19 A. That's done for municipalities that,
20 again, want to save overall costs.
21 Q. Section 8.4 of the contract calls for
22 the owner to be responsible to provide acceptable
23 raw water, and that's a defined term. How common is

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1 it for the owner to be responsible to meet that
2 performance item?
3 A. It's common to have a specification
4 for raw water quality that the owner would have to
5 supply.
6 Q. You understand that the cost for any
7 main breaks falls on the owner, Nashua, under the
8 contract?
9 A. I don't understand -- I don't remember
10 how that finally ended up in the negotiation.
11 Q. That was an item that was to be
12 negotiated?
13 A. I don't recall how that defined -- how
14 that ended up in the document.
15 Q. Do you remember, though, there was
16 discussion on that point?
17 A. There was some discussion on that
18 point.
19 Q. Okay. And do you recall that all new
20 services are additional costs that is the
21 responsibility of the owner?
22 A. New services typically are passed on
23 to the customer that wants the service.