

Summary of Public Interest Testimony

In accordance with N.H. Code of Admin. Rule Puc 202.11(d), the following summary provides an overview of the prefiled direct public interest testimony submitted by Pennichuck Water Works, Inc. (PWW), Pennichuck East Utility, Inc. (PEU), Pittsfield Aqueduct Company, Inc. (PAC), Pennichuck Water Service Corporation (PWSC) and Pennichuck Corporation (PNNW) (collectively the "Pennichuck Companies").

Public Interest

A. Donald L. Correll

Mr. Correll is President and Chief Executive Officer of Pennichuck Corporation and its subsidiaries. He describes the nature of the Pennichuck Companies' business and provides an overview of the closely integrated nature of the operations of the more than 130 different water systems that they own or to which they provide operational services and which serve approximately 46,000 customers in more than two dozen different communities. As Mr. Correll describes, the Pennichuck Companies are completely dependent on the assets and employees of PWW to carry on their respective businesses and serve their respective customers. PWW's employees are solely responsible for providing the services required to operate PAC, PEU, PWW and PWSC as well as PNNW. The costs of those employees and the cost of the PWW assets that are used to provide service to the other Pennichuck Companies are allocated among those companies in accordance with a cost allocation agreement that is on file with the Public Utilities Commission (PUC).

Mr. Correll then discusses the significant benefits that the integrated nature of the Pennichuck Companies provides to customers and to the State of New Hampshire, most or all of which would be lost if Nashua were allowed to acquire PWW's assets. In particular, Mr. Correll discusses the unique role that the Pennichuck Companies have played in assisting the Commission in addressing the problem of small, troubled water companies which are often undercapitalized or simply too small to operate economically. Mr. Correll explains that, without the financial, managerial and technical support of PWW, the remaining Pennichuck Companies would be unable to acquire other water companies that are encountering source of supply and operating difficulties. He states that it is not reasonable to expect Nashua, as a highly politicized entity, to play a similar role in place of the Pennichuck Companies and he notes that even Nashua's Mayor has stated that his concern is the people of Nashua, not those of other municipalities.

In discussing the impact on the other Pennichuck Companies from a taking of PWW's assets, Mr. Correll observes that it is unlikely PWSC could survive in the absence of PWW's asset and employee base. As for PEU, PAC and PNNW, Mr. Correll notes that their access to debt capital would immediately be restricted because of the covenants in their current loan arrangements and the greater credit risk that they would present in the absence of PWW. He also explains that it is unlikely that these companies could continue to exist on their own because they would not be able to access the equity markets, and that therefore there is a very high likelihood that they would ultimately be acquired by an out of state utility, exactly the result that Nashua

has argued it is seeking to avoid through its attempted taking of PWW. Mr. Correll next discusses the significant lost revenues to the State of New Hampshire and the PUC that would occur if PWW were no longer an investor owned utility.

Mr. Correll then discusses the basis for his belief that Nashua has pursued the eminent domain process in bad faith, and he identifies the significant financial impact upon PNNW and its shareholders from Nashua's tactics. He also discusses the adverse impact upon investors' perception of New Hampshire as a place to invest in utilities should the Commission authorize a taking. Finally, Mr. Correll explains how Nashua's ownership of the PWW assets would be contrary to the public interest, even if a third party operated the system on a day-to-day basis. In doing so, he discusses the significant political pressures within Nashua that create a substantial risk that the city will not engage in proper long term planning and investment for the water system.

B. Douglas L. Patch

Mr. Patch is an attorney with the law firm of Orr & Reno and is a former Chairman of the New Hampshire Public Utilities Commission. In his testimony, Mr. Patch provides his opinion regarding the proposed taking of PWW's assets by Nashua based upon his direct knowledge of PWW and the other Pennichuck Companies during his nearly ten years on the Commission and his knowledge of the water and utility industry in New Hampshire. Mr. Patch characterizes PWW as the premier water utility in the state, and identifies numerous orders in which the PUC has recognized the company's capabilities. Mr. Patch then discusses the significant contribution that PWW and the other Pennichuck Companies have made to the state through the expansion of their operations beyond Nashua. He notes that, without the involvement of the Pennichuck Companies, the smaller systems that these companies acquired would have faced a future of higher rates and/or inferior service.

Mr. Patch then discusses his view that Nashua's taking of PWW would have multiple negative effects both inside and outside Nashua. These include the loss of scope and scale resulting from a separation of the PWW assets and operations from those of the other Pennichuck Companies. It also includes Nashua's inability to operate PWW's water systems as well as PWW does, even if Nashua engages a third party contractor for that purpose. In particular, Mr. Patch points to the work of Dr. Janice Beecher, Director of the Institute of Public Utilities at Michigan State University. Dr. Beecher has found that local government assumption of water system ownership using third party operations contractors often leads to problems in deployment of capital and operating resources, and confusion as to responsibility for environmental compliance, resolution of customer service complaints and long range planning. Mr. Patch contrasts this fragmentation of responsibilities with ownership by an investor owned utility, noting that an investor owned utility must satisfy the scrutiny of regulators through prudence reviews. Mr. Patch also points out the negative impact on PEU and PAC's customers that is likely to occur because the smaller customer base will bear a disproportionate increase in capital and operating expenses and because they will lose access to technical expertise. Mr. Patch also notes that investor owned utilities have a clearer incentive to achieve efficiencies in

their investments, operations and other matters, and that any possible cost savings from municipal ownership will not necessarily be reinvested back into the utility.

Mr. Patch then discusses a report prepared by the Maine Public Utilities Commission which recommended a close review before changing the ownership structure of a water utility. The report notes that "While the cost of operation is important, the ability to provide a safe, adequate and reliable source of water, now and in the future, should be the primary consideration of any utility." Mr. Patch notes that PWW and its related companies have repeatedly demonstrated that they have the ability to provide such service. Nashua, on the other hand, has no such track record and there is a real risk that quality of service will decline. He states that, given the proven qualifications of PWW and the absence of any question about the company's ability to provide such service, there is a significant risk that customers will be harmed by allowing Nashua to take over ownership of the PWW assets. In further support of this point, Mr. Patch notes that municipalities are not subject to the same regulatory pressures to extend utility service. Mr. Patch points to a situation in Salem, as one example, where the municipality refused to extend service to customers of a troubled system within the town. He also points to a 2001 report prepared by the New Hampshire Department of Environmental Services (DES) and the PUC for the Legislature describing how municipal ownership creates obstacles to regional cooperation in addressing water supply issues. These obstacles include a municipality's desire to retain water supply for its own future growth and its desire for a competitive water supply advantage in attracting industrial and commercial development.

Mr. Patch's testimony then discusses some of the major differences between the regulation of investor owned utilities and municipally owned utilities. He discusses the broad scope of the Commission's authority over investor owned utilities and the fact that a municipal utility would have little or no incentive to take on troubled systems outside of its existing service territory. Mr. Patch also points out that a municipal utility is not subject to any regulatory review as to whether its costs are prudent. In addition, a municipal utility may charge its customers for construction work in progress, and even for abandoned projects, while an investor owned utility may not.

In his conclusion, Mr. Patch states that a Commission order approving Nashua's condemnation of PWW's assets would have a chilling effect on the investor-owned utility industry in New Hampshire, because PWW is a well-run company. It would send a signal that the Commission places little weight on the interests of investors of a company that provides excellent service to customers. Mr. Patch observes that such an action could also send a negative message to the financial community, driving up the cost of money to other New Hampshire utilities. It might also encourage other municipalities to look at pursuing a similar taking process, which could create a ripple effect. Mr. Patch concludes that it would not be consistent with good public policy for the Commission to approve an eminent domain taking of PWW's assets. Such an exercise of eminent domain powers would be inconsistent with the free enterprise philosophy of New Hampshire. He concludes that it would not be in the public interest to approve Nashua's petition, because the harm to the public clearly would outweigh the benefits.

C. Bonalyn J. Hartley

Ms. Hartley is the Vice President of Administration of Pennichuck Corporation and its utility subsidiaries, including PWW, for which she has worked for 27 years. Ms. Hartley explains that PWW has 93 full time employees, and that its employee ranks have been extremely stable over the years. Of those 93 employees, 23 have been with the company for between 10 and 20 years, 9 have been with the company for between 20 and 25 years, and 9 more have been with it for over 25 years. Ms. Hartley observes that the company has a very positive relationship with the United Steelworkers of America, Local 8938, which represents 44 of the company's 93 employees. She notes that the union has even publicly stated its support for the company in the eminent domain litigation with Nashua, taking out an advertisement in the local newspaper.

Ms. Hartley's testimony also describes PWW's approach to customer service. It stresses regular communications, and includes access to customer service representatives on a 24 hour/7 day per week basis, prerecorded telephone messages to customers who may be affected by unexpected outages and other changes in service, and careful tracking of customer complaints. The company's excellent customer service record is reflected in the extremely low level of complaints that the PUC has received.

Ms. Hartley then explains PWW's customer billing system functions and its use to identify and repair leaks. She also discusses customer payment processing that controls receivables and alerts customers regarding outstanding bills and the potential for shut offs. With regard to service disconnections, Ms. Hartley explains the extensive effort that PWW makes to reduce the number of customer shut offs, including compliance with applicable PUC rules (which, she notes, Nashua would not be required to comply with) and additional steps not required by the PUC, such as additional warning calls to customers. This has enabled PWW to reduce substantially the number of customers whose service must be disconnected. Ms. Hartley notes that Nashua would not be required to comply with the same PUC procedures and that it is highly unlikely that the city would go to the same lengths in working with customers to avoid disconnections. She also points out that if Nashua owned the water system, it would get a statutory lien on customers' property for unpaid bills. Such liens could lead to additional customer expense and disruption of property sales, simply because customers' water bills were not current.

Ms. Hartley also notes that, in addition to PWW's extensive communication efforts before a potential disconnection, the company also maintains a hardship fund for customers who are unable to pay their bills because of tragic circumstances. Finally, Ms. Hartley discusses the extensive contributions that PWW and its employees make to the community, including volunteer participation and playing leadership roles in many non-profit organizations, gifts of real property by PWW for charitable use, and donations of cash by PWW, which exceeded \$37,000 in 2005.

D. Donald L. Ware

Mr. Ware is Senior Vice President of Operations of Pennichuck Corporation and its utility subsidiaries, including PWW, for which he has worked for over ten years. In his testimony, he describes PWW's managerial and technical expertise and how that expertise benefits not only the customers of PWW, but also the customers of PEU, PAC and PWSC. Mr. Ware describes the functional organization of the Pennichuck Companies and how their integrated approach to providing service creates efficiencies that benefit the customers of all of these companies. In addition to these efficiencies, customers benefit because the combined companies are able to support the employment of a professional staff with a higher level of expertise than would be the case with a smaller utility on a stand-alone basis. Mr. Ware notes that smaller water utilities rely more heavily on higher-priced outside consultants. Mr. Ware then discusses the joint use by all of the Pennichuck Companies of assets that are owned by PWW, and how that sharing arrangement benefits customers through efficiencies and cost savings.

After discussing the benefits derived from the integration of PWW's assets, staff and operations with the other Pennichuck Companies, Mr. Ware discusses the consequences to the Pennichuck Companies if Nashua were allowed to take PWW's assets. These include (1) the loss of engineering expertise due to downsizing, (2) loss of travel efficiencies in serving the various systems owned by the companies, (3) loss of emergency efficiencies because the same size emergency staff as is currently utilized would be necessary to serve a significantly reduced customer base, (4) loss of other favorable staff ratios and (5) loss of savings from the joint use of assets such as computer systems, vehicles, office space, supplies and the like.

Mr. Ware then provides an overview of the physical assets of the systems owned by PWW. He describes the company's core system, which includes Nashua and portions of Merrimack and Hollis. He also notes that wholesale water is sold from the core system to Hudson, Merrimack Village District, Milford and Tyngsboro, Massachusetts. Mr. Ware notes that in addition to the core system and two Amherst systems with a backup connection to the core, PWW owns and operates 21 independent water systems of various sizes throughout Southern and Central New Hampshire.

Mr. Ware then discusses PWW's capital budgeting process and its efforts to ensure compliance with applicable regulatory requirements of the PUC and DES. This includes the DIG SAFE program which is administered by the PUC, from which Nashua would be exempt. Mr. Ware discusses the adequacy of the water supply for PWW's core system and notes that PWW has developed sufficient supply so that the company can accommodate potential growth for many years to come.

Finally, Mr. Ware discusses the Pennichuck Companies' operations outside of Nashua. They stepped in to take over the troubled community water systems owned by Consumers New Hampshire Water Company when that utility sold its Hudson system to the Town of Hudson, acquired the Pittsfield system in the face of its former owner's inability to comply with the Safe

Drinking Water Act, and worked with the Town of Bedford to address various water supply problems. Mr. Ware observes that both DES and the PUC have used the Pennichuck Companies as an important resource to address water supply problems throughout the state over the years. Mr. Ware also cites examples in Amherst, Merrimack, Derry, Epping and Plaistow where the Pennichuck Companies helped address local needs for safe and adequate drinking water. Finally, he also notes that PWW customers benefit from the wholesale arrangements that PWW has put in place with the towns of Hudson, Milford, Merrimack and Tyngsboro because the revenues from those arrangements reduce the costs that must be recovered from other customers.

E. Eileen Pannetier

Ms. Pannetier is President of Comprehensive Environmental, Inc. (CEI), an environmental engineering and consulting firm whose clients include more than 65 private and government-owned water systems and public works departments, as well as federal and state regulatory agencies. Ms. Pannetier first describes the Pennichuck Brook watershed and compares it to other water supply sources. She then discusses CEI's work for PWW regarding the Pennichuck Brook watershed and the challenges PWW faces in maintaining water quality in that watershed, comparing those problems to other watersheds throughout the country. Ms. Pannetier explains that CEI prepared a comprehensive 1998 report for PWW, with ten very significant recommendations to the company. She notes that PWW completed substantially all of the recommendations in CEI's report, and includes a 2004 status report on the recommendations with her testimony. She also describes ongoing work that CEI is doing for PWW as part of a restoration plan for the watershed. That plan, which will be finalized in 2006, is the first of its kind in the United States.

Ms. Pannetier observes that most federal and state officials involved in water source protection would agree that PWW's watershed protection program is one of the best, if not the best, in the region. She further states that PWW is the best for-profit company of its size in terms of watershed protection that she has encountered, and it is better than any government operated system of its size. One reason that Ms. Pannetier rates PWW so highly is that its watershed protection program is comparable to or better than many programs of progressive water suppliers in New England, yet it is not mandated by any law or regulation. She estimates that only 2 or 3 in 10 water suppliers have a carefully planned watershed management plan, and she notes that few could compete with PWW's efforts to address the common problems that all waters systems face. In particular, she states that she has never seen any other water system that implemented its plan more aggressively or effectively than PWW. She also notes that DES has regularly praised PWW for its watershed protection efforts.

With regard to prior sales of land by PWW to its affiliate, Southwood, Ms. Pannetier states that a decision to retain this land would not have significantly affected water quality or quantity. It involved only about 500 acres and used the best runoff controls known combined with careful erosion control. As to new land acquisition, she notes that few water systems acquire land just for watershed protection, aside from some large systems that rely on treatment waivers. In those cases, such acquisitions make sense because the water supplier can avoid tens of millions of dollars of treatment costs by spending a few million dollars for land acquisitions.

Because PWW does not have the advantage of a single massive water body, the best option is the proactive watershed management program that PWW has followed.

Ms. Pannetier concludes by commenting on her experiences in dealing with the City of Nashua with regard to efforts to protect the Pennichuck Brook watershed. First, she is familiar with a recent project to consider changes to the Route 101A corridor through Nashua and beyond, all of which is located in the watershed. She indicates that when Nashua bid the project out, the Request For Proposal did not even mention water supply protection as one of the tasks for contractors to provide services. Second, she discusses a joint project involving PWW, the Nashua Department of Public Works and DES to study storm water management. Ms. Pannetier notes that when meetings were held to discuss various sites around Nashua that should be studied in order to reduce runoff and protect water quality, Nashua refused to consider any sites in the Pennichuck Brook watershed.

F. R. Kelly Myers

Mr. Myers is President of RKM Research and Communications, Inc., a full-service marketing research firm that provides qualitative and quantitative research services. Mr. Myers discusses the results of a series of telephone surveys of Nashua voters. After describing the professional standards for a scientifically sound opinion poll, he explains that RKM's polling reveals that Nashua voters are opposed to a takeover of PWW by a margin of 64% to 22%. The margin of error for this result is +/- 4.9% with a confidence interval of 95%, meaning that he can be 95% confident that between 59% and 69% of voters oppose the city's effort to acquire PWW. The best estimate is that 64% oppose it. In discussing why RKM's poll yields such a result given the January 2003 public vote supporting the referendum adopted by Nashua's Board of Aldermen, Mr. Myers notes that, in addition to the significant passage of time since the public vote, the difference could be attributable to the fact that the referendum did not ask voters whether they would support acquisition of PWW through eminent domain and that voters may have believed that the referendum was only intended to authorize the city to consider the possibility of an acquisition, rather than actually instructing the city to move forward with an eminent domain taking. Finally, Mr. Myers explained that RKM's survey is not what is sometimes characterized as a push poll.