

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**

**City of Nashua: Taking of Pennichuck Water Works, Inc.**

**Docket No. DW 04-048**

**DIRECT TESTIMONY OF R. KELLY MYERS**  
**ON BEHALF OF**  
**PENNICHUCK WATER WORKS, INC.**

**January 12, 2006**

1 **Q. Please state your name and business address.**

2 A. My name is R. Kelly Myers. I am employed by RKM Research and Communications,  
3 Inc., which is located at 195 New Hampshire Avenue, Suite 250 in Portsmouth, New  
4 Hampshire.

5 **Q. Please summarize your position with RKM Research and Communications, Inc. and**  
6 **describe the company's business.**

7 A. I am President and Director of Communications Research for RKM. RKM is a full-  
8 service marketing research firm offering a variety of qualitative and quantitative research  
9 services. RKM works with a range of clients, including private companies, non-profit  
10 organizations, publicly owned corporations, federal, state and local agencies, media  
11 organizations and private organizations. RKM also works in a variety of industries,  
12 including financial services, healthcare, telecommunications, manufacturing, technology,  
13 risk-management, higher education and energy suppliers.

14 **Q. Briefly describe your professional qualifications and experience with regard to**  
15 **conducting public surveys.**

16 A. I first began working on public opinion polls as a graduate student at the University of  
17 New Hampshire. While I was at the University, I completed a Masters degree in political  
18 science and completed my doctoral training in sociology, with the exception of my  
19 dissertation. I worked closely with Professor David Moore at UNH, and we started the  
20 UNH Survey Center in the early 1990s. Later, I became the Assistant Director of the  
21 UNH Survey Center, and then Director around 1994 after Professor Moore moved on to  
22 work for the Gallup Poll. While I was at the University, I was responsible for public

1 opinion and pre-election polls that we conducted for WMUR in Manchester. I left the  
2 University to start RKM in 1997. Since that time I have worked closely with a number of  
3 media clients to conduct public opinion and pre-election polls, including WMUR, the  
4 Boston Herald, WCVB, WCSH, the Sacramento Bee and the Omaha-World Herald.

5 **Q. Have you previously submitted testimony to or testified in person before any court**  
6 **or administrative or other governmental body?**

7 A. Yes. I have provided written and oral testimony on behalf of Comcast, the cable  
8 television company, on a number of occasions before local cable oversight boards. I have  
9 also submitted written testimony in Massachusetts state court on behalf of Bay State  
10 Savings Bank of Worcester, Massachusetts.

11 **Q. Have you previously done any work related to the utility industry?**

12 A. Yes. I have conducted research on behalf of the New Hampshire Public Utilities  
13 Commission, the Public Utility Commission of Texas, the Connecticut Department of  
14 Public Utility Control and the Public Service Commission of Maryland. I have also  
15 worked with private energy providers, including Sprague Energy. The research for the  
16 New Hampshire Commission related to restructuring of the electric and gas industries.

17 **Q. What is the purpose of your testimony in this proceeding?**

18 A. The purpose of my testimony is to discuss a series of telephone survey research studies of  
19 Nashua voters that RKM conducted on behalf of Pennichuck Corporation between 2003  
20 and 2005.

21 **Q. Please describe any professional standards that a public opinion poll or survey must**  
22 **comply with in order to be recognized as being scientifically sound or accurate.**

1 A. For a public opinion poll to be considered scientifically sound, it must be based on a  
2 sampling methodology and measurement system designed to ensure the validity and  
3 reliability of the results. With regard to sampling, a probabilistic sample is preferred to a  
4 non-probabilistic sample because it allows an analyst to generalize about a larger  
5 population based on observations from fewer respondents. In the case of the polls  
6 conducted for Pennichuck, for example, RKM spoke to over 400 randomly selected  
7 respondents for each study, with the goal of being able to generalize about the entire  
8 population of registered voters in Nashua. A random probabilistic sample means that  
9 every voter in Nashua had the same chance – or probability – of being selected to  
10 participate in the study. Based on probability theory, the results from the probabilistic  
11 sample can be used to generalize about the larger population within a defined margin of  
12 error. Intuitively, most people generally understand that larger samples result in more  
13 accurate estimates. With a survey of 400 randomly selected voters, each of the polls that  
14 RKM conducted had a maximum margin of error of +/- 4.9 percentage points, using a 95  
15 percent confidence interval.

16 An example of a non-probabilistic sample would be the simple poll questions that appear  
17 on many websites. I am reluctant to even use the word “poll” to describe what many  
18 websites gather and disseminate. In some cases, the number of respondents who  
19 participate in these “polls” can be very high. However, because they are based on a self-  
20 selected convenience sample – rather than a scientific, probabilistic sample – they are not  
21 a reliable indicator of the attitudes or behavior of any larger population.

22 In addition to sampling, measurement is critical to making accurate empirical

1 observations, which are foundational to the science of survey research. Here, the key is to  
2 understand that scientific polling requires a measurement system that assigns numbers to  
3 properties according to rules. This is generally accomplished through the use of a  
4 questionnaire using closed-ended questions, assigning numbers to specific responses,  
5 such as "1" for "yes" and "2" for "no". Here, the two critical criteria are reliability and  
6 validity.

7 Reliability deals with the question as to whether a measure – or survey question –  
8 contains variable errors versus systematic errors. Systematic error can be caused by many  
9 things, such as a leading or biased question. Variable error refers to incorrect  
10 measurements that can occur when a respondent is distracted during a question, or some  
11 other source of error. These errors are called variable errors because the amount of error  
12 can vary from one observation to the next. No survey is completely free of variable error,  
13 but an accurate scientific poll should seek to reduce any sources of systematic error  
14 through careful questionnaire design and the use of balanced question wording. Still, any  
15 reputable pollster recognizes the possibility that even the best-intentioned survey of  
16 public opinion can introduce unintended sources of error such as effects from the gender  
17 of the interviewer. I have no reason to believe that any of those types of errors occurred  
18 in RKM's survey.

19 Validity deals with the question as to whether a measure – or survey question – is actually  
20 measuring what it is intended to measure. In most public opinion survey research –  
21 including research conducted by RKM – we rely on face validity, which reflects the  
22 shared assumption that the wording of a particular question is gathering the information

1 intended to be gathered.

2 In the studies done for Pennichuck, RKM employed the use of careful pre-testing of each  
3 questionnaire, or survey instrument, to check for reliability and validity, which is a  
4 common industry practice. During a pre-test, an experienced interviewer is tasked with  
5 completing up to 10 interviews and then reporting back to a senior analyst regarding any  
6 problems they encountered with question wording or interpretation. It is basically a final  
7 check to make sure that the questionnaire flows as a conversation, and that it is  
8 understandable to both interviewers and respondents.

9 **Q. Please describe the polling that you conducted for Pennichuck.**

10 A. RKM completed a total of 8 separate public opinion polls on behalf of Pennichuck  
11 between December 2003 and September 2005. Each poll included questions about the  
12 public's awareness of the issue relating to the City's attempt to purchase or acquire  
13 Pennichuck Water Works, and their position on issues related to the dispute between the  
14 two parties.

15 **Q. Did your polling include questions regarding the level of public support for taking  
16 Pennichuck Water Works by eminent domain?**

17 A. Yes. RKM used a consistent set of questions so that changes in public support could be  
18 tracked over time. Specifically, beginning in March 2004, respondents were asked "If  
19 there were an election held today, would you vote for or against a measure that would  
20 authorize the City of Nashua to take control of Pennichuck Water Works through  
21 acquisition or eminent domain?" The polling conducted by RKM has consistently shown  
22 that voters are opposed to the takeover of Pennichuck Water Works through acquisition

1 or eminent domain. In March 2004, 60% of voters said that they would vote against the  
2 measure, and 24% would vote for it. In September 2005, 64% of voters said that they  
3 would vote against the measure, and 22% would vote for it.

4 **Q. What conclusions do you reach based on the response to this question?**

5 A. The results indicate that when voters are asked explicitly about the City's effort to acquire  
6 Pennichuck Water Works, support for the City is quite low. The polls have consistently  
7 found that when voters are asked whether they would vote for or against a ballot initiative  
8 that would authorize the City to acquire Pennichuck Water Works, most voters would  
9 vote against it. These results generally suggest that voters in Nashua have consistently  
10 opposed efforts by the City to acquire Pennichuck Water Works.

11 **Q. Please describe the margin of error with regard to the survey responses and what  
12 that means for the reliability of the survey results you obtained.**

13 A. The overall margin of error for each poll of at least 400 registered voters has a maximum  
14 margin of error of +/- 4.9 percentage points. The most recent poll conducted in  
15 September, for example, found that 64% of voters oppose the City's effort to acquire  
16 Pennichuck Water Works. Technically, that can be interpreted as meaning we are 95  
17 percent confident that between 59% and 69% of voters oppose the City's effort to  
18 acquire Pennichuck Water Works, and our best estimate is 64% oppose it.

19 **Q. Can one draw any conclusions regarding the likely outcome if a referendum were  
20 held today on the subject of whether to authorize the City to take PWW by eminent  
21 domain?**

22 A. Based on our research, I would predict that as of September 2005 if a ballot initiative

1 were held in Nashua – and the question were worded in the same manner as the wording  
2 of the question used in RKM's surveys – a proposal to take the assets of Pennichuck  
3 Water Works would be defeated.

4 **Q. If your research shows such large opposition to a taking of Pennichuck Water**  
5 **Works, then how can you explain the results of the election that occurred in**  
6 **January 2003 in which a large margin of those voting were in favor of pursuing the**  
7 **acquisition of Pennichuck?**

8 A. One possible explanation is that public opinion has changed since the time of that  
9 election, which was held three years ago. Our polling does indicate that, to some extent,  
10 opposition has increased over time. A more likely explanation, however, is that the  
11 election result reflected the fact that voters were not asked whether they favored a taking  
12 by eminent domain. Given the wording of the referendum in 2003, many voters may  
13 have believed that an acquisition would be on a consensual basis or that they were simply  
14 authorizing the City to continue to consider the possibility of an acquisition but not to  
15 actually move forward with a taking. Regardless, I am confident based on the results of  
16 the polling RKM conducted that a majority of Nashua voters oppose taking the assets of  
17 Pennichuck Water Works.

18 **Q. Was the polling that RKM conducted a "push poll"?**

19 A. No. A push poll is a technique that is used by a political campaign in which the objective  
20 is to influence or alter the opinions of voters under the guise of conducting a scientific, or  
21 objective poll. Most of the time, a push poll is conducted as part of a negative campaign.  
22 The basic idea is for a campaign to malign an opponent by introducing distorted or false

1 information without taking responsibility for it, thereby “pushing” voters away from a  
2 campaign’s opponent. In most cases, there is no actual polling involved. Rather, push  
3 polling is more analogous to a get-out-the-vote call center activity, not an attempt to  
4 gather information from a random sample of respondents. I have also heard the term  
5 push poll used incorrectly to refer to a legitimate poll which may be testing political  
6 messages, some of which could be negative.

7 The goal of the surveys that RKM conducted on behalf of Pennichuck was to get a  
8 genuine sense of the electorate's opinion. It would not have served our client's purpose to  
9 conduct a push poll. Our task was to provide Pennichuck with accurate information  
10 about voter sentiment. During the course of this work, it was abundantly clear from the  
11 poll results that there was strong public sentiment in opposition to taking Pennichuck  
12 Water Works by eminent domain.

13 **Q. Does that complete your testimony?**

14 **A. Yes, it does.**