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 DONALD L. WARE

February 27, 2006

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1 **Q. Mr. Ware, have you previously provided testimony in this proceeding?**

2 A. Yes. I submitted testimony on January 12, 2006.

3 **Q. What is the purpose of this additional testimony?**

4 A. I have reviewed the contract between Veolia Water North America - Northeast, LLC
5 ("Veolia" or "VWNA") and Nashua for operation of the Pennichuck Water Works
6 ("PWW") water systems that Nashua submitted to the Commission on January 12 and
7 wish to discuss some concerns regarding that proposal. I have also reviewed the R.W.
8 Beck oversight contract submitted to the Commission by Nashua on January 12.

9 **Q. What concerns do you have regarding the proposed contract between Nashua and**
10 **Veolia?**

11 A. I have a number of concerns relating to operational and cost issues. In particular, the
12 basic proposal does not include certain fundamental utility services or treats them as
13 extras to which additional charges will apply. As a result, the contract falls short of
14 providing the type of comprehensive approach to water supply and distribution and
15 customer service that PWW provides and makes it difficult at best to do a complete
16 comparison between Nashua's proposal for operating the utility and PWW's current
17 operations. Some of the most significant examples of this problem are as follows:

18 1. Unplanned maintenance – Under the contract between Nashua and Veolia,
19 unplanned maintenance is not included in the basic annual fee. Under PWW's
20 ownership and operation, unplanned maintenance is part of the company's
21 operating budget and is included in the current rate structure. Based on PWW's
22 historical costs, the cost of unplanned maintenance (such as broken mains,
23 hydrant repairs, large meter testing, service box repairs and the like) is probably

more on the order of approximately $1,000,000. In fact, in its proposal even Veolia estimated this cost at a range of $850,000 to $1,150,000.

2. Management oversight – As the Commission is aware, Nashua proposes to engage R.W. Beck to oversee Veolia. The cost of Beck's work, estimated by Nashua at $315,000 annually, is in addition to the costs incurred for Veolia. Under PWW's ownership, this type of oversight structure is not required and so the cost is avoided entirely.

3. Billing and collections - The Veolia base fee does not include the cost of the billing and collections function. The City has previously indicated that it planned to perform this function in-house, although I understand that City representatives have now stated that they may outsource this function to a third party contractor. The true cost for the City to provide this additional function is completely speculative at this time.

4. Customer service - The Veolia staffing model (Deposition Exhibit 82, attached as DLC-10 to the February 27, 2006 testimony of Donald L. Correll) shows only two customer service employees to handle customer complaints and requests for service. PWW has at least a half dozen employees who field well over 10,000 calls a year from customers on a wide range of inquiries. This reduction in staffing can be expected to have a direct impact on responsiveness to customer concerns. In addition, as noted above, customer service related to billing and collection issues has been assigned to the City, while other customer service issues are the responsibility of Veolia. This is likely to lead to confusion for customers, fragmentation of service, and delays in responsiveness.

5. Purchased water - The City's revenue requirement analysis includes only $100,000 for purchased water. However, PWW' s purchased water needs for its customers in Milford, Amherst and Bedford totaled $182,125.

6. Hydrant checks - The contract with Veolia does not provide for hydrant checks in accordance with the Insurance Service Organization (ISO) requirements which call for each hydrant to be checked two times per year, one wet and one dry check. This essential maintenance function insures that hydrants will work when required and accounts for 3% of a city's ISO rating. Instead of committing to comply with this standard, the Veolia contract only calls for hydrants to "be inspected on a regular frequency after report of an emergency leak." This is reactive not preventative maintenance. The cost of providing the two times per year hydrant checks required by the ISO in 2005 was $23,967.

7. Permitting and police protection - The Veolia contract specifically excludes the cost of permitting and police protection associated with work in roadways. Instead of covering these costs, the contract makes clear that they will be borne by Nashua. Just the annual cost of police protection provided in Nashua to Pennichuck during 2005 was $12,417.

8. Power costs - Veolia's contract also excludes the cost of electricity and fuel, which must be borne by the City. In performing his revenue requirement analysis, Mr. Sansoucy has estimated the annual cost of electricity and heat at $500,000, but the actual amount spent on electricity and fuel in 2005 for PWW was $975,758 and PSNH's rates have increased substantially for 2006.

9. Labor expense - Veolia's labor costs, including benefits for construction and maintenance projects (i.e., amounts to be billed separately to Nashua)are 30% to 40% higher than PWW's labor rates with benefits. (These costs are listed in Exhibit E-1 and Exhibit H-1 to the proposed contract.) PWW's labor costs already include substantial benefits to its employees, including pension and retirement health benefits, and it is my understanding from the depositions of witnesses made available by Veolia in this case that Veolia does not intend to maintain these benefits for the workers it hires. This must mean that Veolia has assumed high profit margins in its labor cost rates. Of even greater concern is that it means that the amount of service provided by Veolia must be less than that provided by Pennichuck if the same dollars are to be expended. Additionally all of the "extras" that will be incurred by Nashua because of services that are not included in the basic annual fee, such as unplanned maintenance, will cost more for Veolia to perform than PWW due to these higher labor cost rates, so the understatement of cost for unplanned maintenance could well be even greater than I indicated earlier.

10. Dig Safe - Veolia's proposal does not provide any staff to perform Dig Safe activities, presumably because the City is not obligated to belong to Dig Safe. Setting aside the public safety issues that could be caused by failing to participate in Dig Safe, it is likely that the City's failure to participate in this vital safety service will result in numerous broken mains and services each year and the consequent cost and customer disruption that results from lack of service and colored water. PWW's expense for the Dig Safe program in 2005 was $78,198.

11. CMMS - In its proposal to Nashua, Veolia touted its use of a computerized maintenance management system ("CMMS") as a tool that would make their operations efficient. PWW has used a CMMS package for over five years so Veolia will gain no "operating efficiencies" over Pennichuck's current operations by using a CMMS.

12. GIS - The Veolia proposal requires the City to provide a fully functional GIS system. Currently, there is no GIS system for the PWW water systems, so one would have to be developed. The cost of developing and implementing such a system will cost the City in excess of $1,000,000 to implement.

**Q. Do you have other concerns regarding the division of responsibilities between Veolia and Nashua and how that may affect the quality of water service received by customers?**

A. Yes. The contractual arrangement between Nashua and Veolia demonstrates some of the problems and concerns that can arise in such a relationship that simply don't exist when the owner and operator are one and the same. Aside from the issues raised by the multiplicity of contractors and the significant potential for responsibilities to fall into gaps between those relationships or for finger pointing to occur among the various players, or for delay while the four contractors and the city attempt to figure out who is responsible for any given task, there is the concern about whether any one party has ultimate responsibility for meeting basic performance standards and how those standard will be met. In the case of PWW, we are obligated on a day-to-day, ongoing basis to provide safe, reliable drinking water service to our customers in a manner that meets all applicable legal standards. The company itself is obligated to make such investments and

1 incur such expenses as are necessary to achieve that goal. Veolia, instead, is obligated
2 under Section 5.2(C) of the proposed contract with Nashua to meet applicable water
3 quality standards only if the raw water supplied to it by Nashua is "acceptable". PWW,
4 on the other hand, is obligated to sell water that meets all applicable standards, regardless
5 of the quality of the raw water. In order to achieve that, PWW must continuously
6 monitor and upgrade as necessary its water treatment processes to meet that critical
7 standard. If additional investment or expense is required, then it must undertake that
8 expenditure, and if it fails to do so in a timely and effective manner it is subject to
9 sanctions by the Public Utilities Commission and the Department of Environmental
10 Services.

11 **Q. Do you have concerns about Veolia's prior experiences operating public drinking**
12 **water systems and how that experience relates to the task of successfully operating**
13 **the many systems owned and operated by PWW?**

14 A. Yes. Based on information provided by Veolia during discovery, it is clear that the
15 systems operated by PWW are significantly different from the drinking water systems
16 that VWNA has previous experience operating. First, it is my understanding from
17 information provided by VWNA in discovery that, other than the Indianapolis system, all
18 of the systems operated by Veolia are far smaller than PWW. Second, Veolia does not
19 appear to have any experience operating a system that consists of a sizeable urban core
20 with many small outlying satellites scattered over a broad region. As indicated in my
21 prefiled testimony and that of Mr. Correll, PWW owns and operates 21 satellite water
22 systems throughout southern and central New Hampshire. In addition, PWW services the
23 31 satellite systems that are owned by Pennichuck East Utility. The successful operation

of these systems, including meeting the often significant water supply and distribution challenges they pose, is something that few companies have mastered. As an example of this problem, I need only point to the experience of Consumers Water Company here in New Hampshire. That utility was very experienced and capable, but as they acquired numerous satellite systems in southern New Hampshire, they could not meet the challenges posed. The problems they encountered eventually lead to numerous service quality problems and a very high level of customer dissatisfaction, not just in their satellite systems but in their urban core system as well. Pennichuck, by comparison, has had a very successful track record of operating satellite systems, including the former Consumers New Hampshire systems. It should be apparent that the mere fact that Veolia is a large company with some prior experience in managing water systems provides no assurance that it will be able to successfully operate the many community water systems owned by PWW. When one adds the complicated intertwining nature of the relationships among Nashua, Veolia, Beck, Tetra Tech, Dufresne-Henry and possibly a sixth party who would conduct billing and collection services in the future, it does not bode well for meeting this challenge as efficiently and effectively as Pennichuck has done.

**Q. What can you tell us about the experience of the identified staff of R.W. Beck with respect to the oversight of water systems?**

A. The three individuals who provided testimony on behalf of R.W. Beck--Stephen R. Gates, Paul B. Doran and Jack M. Henderson--and who would be assigned to the Nashua contract, all have no prior experience with the oversight of a third party drinking water system contractor. Mr. Henderson only joined Tetra Tech in July 2004; Mr. Doran joined Beck in December 2004 and Mr. Gates joined Beck in mid-2005. From their testimony,

1 it certainly appears that they do not have the insight into the types of problems likely to
2 be encountered in the treatment and distribution of water in a system as complex as that
3 of PWW. Also, based upon the response to Pennichuck's Data Request 3-2 to Nashua,
4 which is attached as DLW-5, Beck has no experience company-wide in providing
5 oversight to another private contractor for the operation of an entire public water supply
6 system (i.e. including distribution), and it has no experience in providing oversight to a
7 public operator of an entire public water supply system (i.e. including distribution).
8 **Q. Does that complete your testimony?**
9 A. It does at this time. However, I should note that because of the extremely short
10 timeframe that we have had to conduct discovery regarding Nashua's proposal to contract
11 out the operation of the water system, the fact that there are still numerous depositions to
12 be taken, including those of Nashua staff concerning its proposed operation of water
13 billing and collections, and the fact that we are still awaiting responses to various
14 requests for information, I expect to supplement this testimony at a later date.