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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

September 13, 2007 - 9:10 a.m.
Concord, New Hampshire

DAY IX

RE: DW 04-048
CITY OF NASHUA, NEW HAMPSHIRE:
Petition for valuation pursuant to RSA 38:9.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Connie Fillion, Clerk (a.m. session)
Adele Leighton, Clerk (p.m. session)

APPEARANCES: Reptg. the City of Nashua, NH:
Robert Upton, II, Esq. (Upton & Hatfield)
Justin C. Richardson, Esq. (Upton & Hatfield)
Linda Regan

Reptg. Pennichuck Water Works, Pennichuck
East Utilities & Pittsfield Aqueduct Co.:
Steven V. Camerino, Esq. (McLane, Graf...)
Sarah B. Knowlton, Esq. (McLane, Graf...)
Joe Conner, Esq. (Baker, Donelson...)

Reptg. Anheuser-Busch:
John T. Alexander, Esq.(Ransmeier & Spellman)

Reptg. the Town of Milford:
E. Maria Reinemann, Esq.(Brown Olson & Gould)

COURT REPORTER: STEVEN E. PATNAUDE CCR

1

2 APPEARANCES: (C o n t i n u e d)

3 Claire McHugh, pro se

4 Reptg. PUC Staff:
5 Marcia A. B. Thunberg, Esq.

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1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Good morning. We're
3 back on the record in docket DW 04-048. Can we begin with
4 appearances this morning please.

5 MR. UPTON: I'm Robert Upton, along with
6 Justin Richardson, I represent the City of Nashua. I
7 haven't introduced her yet, and I'm embarrassed that I
8 haven't, but Linda Regan is assisting us with the
9 exhibits.

10 CHAIRMAN GETZ: Good morning.

11 CMSR. MORRISON: Good morning.

12 CMSR. BELOW: Good morning.

13 MS. REINEMANN: Good morning. Maria
14 Reinemann, Town of Milford.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. MORRISON: Good morning.

17 CMSR. BELOW: Good morning.

18 MR. ALEXANDER: Good morning. John
19 Alexander, for Anheuser-Busch.

20 CHAIRMAN GETZ: Good morning.

21 CMSR. MORRISON: Good morning.

22 CMSR. BELOW: Good morning.

23 MS. MCHUGH: Claire McHugh, intervenor.
24 I'd like to introduce John Gustin.

{DW 04-048} (09-13-07/Day IX)

1 MR. GUSTIN: Good morning.

2 MS. McHUGH: I will be away next week, I
3 wish I could be here, I've been enjoying it immensely.
4 But he'll be here sitting in my stead. I would also like
5 to make this comment. Barbara tells me -- Barbara
6 Pressley?

7 CHAIRMAN GETZ: Yes.

8 MS. McHUGH: She's in Texas, and her son
9 is being promoted to Colonel in the Marine Reserves, and
10 she's a very proud momma, and she'd like you to know why
11 she's not here.

12 CHAIRMAN GETZ: Thank you.

13 MR. CONNER: Joe Conner, Baker Donelson,
14 representing Pennichuck.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. BELOW: Good morning.

17 CMSR. MORRISON: Good morning.

18 MS. THUNBERG: Good morning,
19 Commissioners. Marcia Thunberg, on behalf of Staff.

20 CMSR. MORRISON: Good morning.

21 CMSR. BELOW: Good morning.

22 CHAIRMAN GETZ: Good morning.

23 MR. CAMERINO: Good morning,
24 Commissioners. Steve Camerino and Sarah Knowlton, from

1 the McLane law firm. And, with us at counsel table is
2 Duane Montopoli, CEO of Pennichuck Corporation.

3 CHAIRMAN GETZ: Good morning.

4 CMSR. MORRISON: Good morning.

5 CMSR. BELOW: Good morning.

6 CHAIRMAN GETZ: And, my recollection
7 from yesterday is we're going to start with Mr. Correll
8 this morning or will he be with Mr. Joyner or is it going
9 to be separately? How is this going to proceed?

10 MR. CAMERINO: They're separate. And, I
11 think the planned order is Mr. Correll, then Mr. Joyner,
12 and then Ms. Hartley.

13 CHAIRMAN GETZ: Is there anything that
14 we need to address before hearing from Mr. Correll?

15 (No verbal response)

16 CHAIRMAN GETZ: Hearing nothing, then
17 please proceed.

18 MR. CAMERINO: The Company calls Donald
19 Correll.

20 (Whereupon Donald L. Correll was duly
21 sworn and cautioned by the Court
22 Reporter.)

23 DONALD L. CORRELL, SWORN

24 DIRECT EXAMINATION

{DW 04-048} (09-13-07/Day IX)

[Witness: Correll]

- 1 BY MR. CAMERINO:
- 2 Q. Good morning, Mr. Correll.
- 3 A. Good morning.
- 4 Q. Would you just state your name and your current
5 employment for the record please.
- 6 A. My name is Donald Correll. And, I am presently
7 President and CEO of American Water.
- 8 Q. And, you prefiled testimony in this case on
9 January 12th, 2006, did you not?
- 10 A. I did.
- 11 Q. And, that testimony has been premarked as "Exhibit
12 3001" for identification in this case. Is that the
13 same testimony that's in Volume 1A of the Company's
14 filing on January 12th?
- 15 A. It is.
- 16 Q. And, with the exception of the change in your title, is
17 that testimony still true and accurate to the best of
18 your knowledge and belief?
- 19 A. It is to the best of my knowledge, yes.
- 20 Q. And, if I were to ask you those same questions today,
21 your responses would be the same?
- 22 A. Other than probably a few changes in the number of
23 customers and employees at the company, it would be the
24 same.

[Witness: Correll]

1 Q. Thank you. And, for the Commission, could you just
2 briefly summarize, with regard to your change in
3 position, when that change occurred and what your
4 current position is and your responsibilities in that
5 regard?

6 A. Surely. I was President and CEO of Pennichuck from
7 August of 2003, until April of 2006. At that point, I
8 left and became President and CEO of American Water.
9 American Water is the largest investor-owned water
10 utility in the country. We serve about 16 million
11 people, in 30 states, 32 states. And, I left as the
12 Company had announced that it was going to be divested
13 from its foreign owner, RWE, and was going to become a
14 public company -- a publicly traded company.

15 Q. Okay. And, there were attachments to your testimony
16 filed in January of 2006, and those have been premarked
17 for identification as Exhibit 3001A. And, are those
18 the same documents that are included in Volume 1B of
19 the January 12th, 2006 filing?

20 A. They are.

21 Q. And, then, finally you prefiled testimony on February
22 27th, 2006, which has now been revised to consist of
23 one page of actual testimony. And, is that testimony
24 true and accurate to the best of your knowledge and

[Witness: Correll]

1 belief?

2 A. It is, yes.

3 Q. And, if I asked you those same questions today, would
4 your answers be the same?

5 A. They would be.

6 MR. CAMERINO: Thank you. And, Mr.
7 Chairman, what we would propose to do, we've previously
8 provided this to Attorney Upton, is to simply substitute
9 this revised testimony as "Exhibit 3012, for the one that
10 was previously filed under that number, if that's okay
11 with the Commission?

12 CHAIRMAN GETZ: Any objection?

13 MR. UPTON: No, that's fine with us.

14 CHAIRMAN GETZ: Okay. Then, we will
15 allow the substitution.

16 MR. CAMERINO: Thank you. And, that
17 concludes my direct examination.

18 CHAIRMAN GETZ: Thank you.

19 Ms. Reinemann?

20 MS. REINEMANN: We have no questions.

21 CHAIRMAN GETZ: Mr. Alexander?

22 MR. ALEXANDER: No questions.

23 CHAIRMAN GETZ: Then, appears to be no
24 one from the Consumer Advocate present at the moment. So,

[Witness: Correll]

1 Ms. Thunberg?

2 MS. THUNBERG: Yes, I just have a few
3 questions. Good morning, Mr. Correll.

4 THE WITNESS: Good morning.

5 CROSS-EXAMINATION

6 BY MS. THUNBERG:

7 Q. You just testified that you're head of a investor-owned
8 utility, correct?

9 A. Correct.

10 Q. And, I have a request of an opinion for you, as an
11 investor -- or head of an investor-owned utility --
12 actually, I want to strike that question. Are you
13 aware in this proceeding of the notion that, if Nashua
14 is successful in purchasing or acquiring the Pennichuck
15 Water Works assets, that it will not be taking the PAC
16 and PEU assets? Are you aware of that?

17 A. I am, yes.

18 Q. And, being head of an investor-owned utility, can you
19 give your opinion as to, if, for example, if American
20 Water was expanding through acquisitions, do you have
21 an opinion as to the likelihood of American or a
22 similar investor-owned utility acquiring a model like
23 PAC or PEU? Thank you.

24 A. I'll give -- I'll give this as my view as someone who's

[Witness: Correll]

1 been in the business for 30 years. I'd rather not have
2 it characterized as anything with American Water,
3 because we are at present in what's known as a "quiet
4 period", having just filed with the SEC for our IPO, so
5 I wouldn't want anything to be construed as a statement
6 about what we're doing in American Water, and hopefully
7 you can appreciate that. But, as someone who has been
8 in the water business for a long time, and if we were
9 talking hypothetically, I would say it would be -- it
10 would probably be something we would take a look at.
11 But I think it would be quite difficult to really make
12 a business case for it, given that the opportunity for
13 meaningful growth using that kind of a base, my
14 recollection is that those two companies had combined
15 five to six thousand customers or something like that.
16 Having just been taken away from the core business,
17 which was the core Pennichuck, it would be pretty
18 difficult to operate those effectively as a satellite,
19 without something closer, more approximate to those
20 operations. So, I would say that it would be something
21 that our company would likely take a look at. But it
22 would be an uphill battle in terms of making a sound
23 business case, given the size of those operations.

24 Q. If I could just follow up with your response, using the

[Witness: Correll]

1 hypothetical, knowing that this would not be something
2 in the forecast for American Water. You mentioned that
3 it would be difficult to operate or to acquire these
4 without having some larger home base proximate to these
5 two. Are you aware of any companies that would fit
6 that profile that would have a large enough, reasonably
7 local presence, to be able to support an acquisition of
8 PAC and PEU?

9 A. Investor-owned, there -- I mean, Pennichuck is the
10 largest in the state. There are others that operate in
11 New Hampshire. There are some that operate in
12 Massachusetts and in Connecticut. But there is -- I
13 can't say off the top of my head that there's too many
14 others that, you know, fit the bill that would be
15 proximate enough that could be operated efficiently.

16 MS. THUNBERG: Fair enough. Thank you.

17 The Staff has no further questions. Thank you.

18 CHAIRMAN GETZ: Thank you. Ms. McHugh?

19 MS. MCHUGH: No thank you.

20 CHAIRMAN GETZ: Then, Mr. Upton.

21 MR. UPTON: Good morning, Mr. Correll.

22 THE WITNESS: Good morning.

23 BY MR. UPTON:

24 Q. Following up on what Ms. Thunberg said, a big company,

[Witness: Correll]

1 like American, would have a lot of economies of scale
2 it could bring to a purchase of PEU and PAC, wouldn't
3 it?

4 A. They could, potentially.

5 Q. And, those could replace the economies of scale that
6 were brought to those companies by Pennichuck under
7 those circumstances?

8 A. Hypothetically.

9 Q. Now, the testimony of February 27, 2006 that you
10 originally filed was critical of Veolia, wasn't it?

11 A. Which testimony?

12 Q. The February 27 testimony that's been withdrawn.

13 MR. CAMERINO: I need to make a limited
14 objection. It depends on where Mr. Upton is going. At
15 apparently Mr. Upton's request, it was insisted that
16 Mr. Correll withdraw that testimony. And, so, to the
17 extent that Mr. Upton is now going to cross-examine him
18 about what was insisted that he withdraw, I think that is
19 not appropriate. If this is a premise and he's going off
20 in another direction, then I apologize.

21 MR. UPTON: First, it's a
22 mischaracterization that I asked him to withdraw it. I
23 asked him to withdraw nothing, nor did Nashua. He
24 withdraw this testimony because he's a member of a trade

[Witness: Correll]

1 organization that instructed him to withdraw it.

2 MR. CAMERINO: No, no. The response
3 from the City of Nashua clearly indicated that counsel for
4 Nashua had identified this issue. Regardless, he has
5 withdrawn the testimony at the insistence of essentially
6 one of the parties on the other side that they are working
7 very closely with. And, I think it's inappropriate to
8 start to cross-examine him on something that it's clear
9 that the proponents here have sought to have him withdraw.

10 CHAIRMAN GETZ: Well, putting aside the
11 issue of who asked whom to do what, I can review the
12 record to determine that. But I want to understand what
13 the relevance is of the inquiry, now that the testimony is
14 no longer part of the record?

15 MR. UPTON: Well, I'll be clear about
16 it. I think that the purpose of filing that testimony was
17 to suggest that Veolia was not a company that could
18 operate this system at a reduced cost. And, I want to
19 show him -- I want to show him articles, similar types of
20 articles that he filed, that relate to both United and
21 American, and ask him questions about those.

22 MR. CAMERINO: Could I just be clear,
23 because my objection is limited here. First of all, there
24 was a witness who adopted that testimony. So, to the

[Witness: Correll]

1 extent that Mr. Upton wants to cross-examine on that
2 testimony, he had a witness who was sponsoring that. If
3 he's simply asking Mr. Correll about United and American,
4 I don't have an objection with regard to that. But, if
5 he's going to make reference to the Veolia testimony, then
6 I do have an objection.

7 MR. UPTON: All right. All right.

8 CHAIRMAN GETZ: So, your intent is --

9 MR. UPTON: I can work it around that
10 way, around that, if it please the Commission.

11 BY MR. UPTON:

12 Q. Mr. Correll, I'm going to give to you an exhibit that's
13 been marked "1130" in this case. And, I'll represent
14 to you that it's a series of internet articles about
15 United Water. Before you came to Pennichuck, you were
16 the CEO of United Water, weren't you?

17 A. I was, yes.

18 Q. And, would you look through those articles briefly.

19 A. There's about 40 pages here. How brief?

20 Q. Just -- All I want you to do is to look. Have you ever
21 seen any of those types of articles about United
22 before?

23 A. I have seen articles like this, yes.

24 Q. And, some of those are pretty unflattering about some

[Witness: Correll]

1 of United's conduct, aren't they?

2 A. They are. And, they're largely critical of Suez, not
3 necessarily United Water.

4 Q. All right. Well, let me show you an exhibit marked
5 "1131". If you could give the same cursory review of
6 those.

7 A. I have seen this.

8 Q. And, those are articles that are related to American
9 Water?

10 A. They are related to RWE/Thames Water, and American
11 Water.

12 Q. Right. And, RWE currently owns American Water?

13 A. For the last three years they have, and will continue
14 until the IPO is concluded.

15 Q. And, these articles are in the same vein as the United
16 articles, aren't they?

17 A. If you say "in the same vein" in that they talk about
18 specific issues of operations that either Thames Water
19 or RWE or some of the Thames affiliates in other
20 countries, as well as some American Water have, yes,
21 they're in the same vein.

22 Q. And, these articles about United and American are
23 similar to those you originally produced about Veolia,
24 aren't they?

[Witness: Correll]

1 MR. CAMERINO: Objection. I think he's
2 trying to tie this to testimony that this witness is not
3 sponsoring. He could have asked Mr. Ware about it.

4 MR. UPTON: Okay.

5 CHAIRMAN GETZ: I need to have an
6 understand of what the relevance would be, given --

7 MR. UPTON: All right. Let me see if I
8 can -- Let me see if I can go to the next question, and
9 then I think that will show the relevance.

10 BY MR. UPTON:

11 Q. You would agree that in those articles that I put in
12 front of you, there's lots of accusations, lots of
13 innuendos, those kinds of things?

14 A. I would absolutely characterize these that way.

15 Q. And, don't you think that one of the reasons these
16 types of articles is written is that American and
17 United, and even Veolia, are large companies, operating
18 all over the country, and are big targets?

19 A. I suppose that would be one reason to give as to why
20 these are -- these are written. They're also written
21 because the authors of many of these are
22 anti-privatization/anti-business.

23 Q. Right. And, would you also agree that, if you looked
24 for them, you'd likely find, for all three companies,

[Witness: Correll]

1 articles and information that are favorable to them?

2 A. I would hope so.

3 Q. And, they've all -- all three of these companies have
4 won awards, had contracts renewed, been good corporate
5 citizens in the communities in which they operate, and
6 those get reported?

7 A. When you say "all three"?

8 Q. Oh, I'm including Veolia.

9 A. I'm assuming that's the case for Veolia. I can't speak
10 with any firsthand knowledge about that.

11 Q. Well, let me show you Exhibit 1129. And, I'll
12 represent that it's a series of articles that outline
13 some of those awards and the like for Veolia. I only
14 looked for Veolia, Mr. Correll. But I assume you'd
15 agree that, if I had looked for American and United,
16 I'd have found similar kinds of articles?

17 A. Absolutely, you would have.

18 Q. Okay. So, --

19 MR. UPTON: And, that's all I have on
20 this topic. I mean, I didn't intend to go as far as I
21 think Mr. Camerino thought I was going to go. That's the
22 end of this topic.

23 CHAIRMAN GETZ: Okay. Please proceed.

24 BY MR. UPTON:

{DW 04-048} (09-13-07/Day IX)

[Witness: Correll]

- 1 Q. Okay. Now, you've never been critical of the
2 public-private partnership role, have you?
- 3 A. Quite the contrary.
- 4 Q. In fact, your revised testimony continues to extol the
5 virtues of that model?
- 6 A. Absolutely.
- 7 Q. And, Pennichuck Water Service Company is in that
8 business?
- 9 A. Correct.
- 10 Q. In fact, somebody mailed to me just last week a copy of
11 advertise -- or, a mailing that they had received from
12 Pennichuck. And, that, if you look that through,
13 that's again extolling the virtues of the
14 public-private partnership --
- 15 A. Right.
- 16 Q. -- on behalf of the service company. And, Veolia is in
17 the public-private partnership business, yes?
- 18 A. Yes, they are. Yes.
- 19 Q. As is American?
- 20 A. As is American.
- 21 Q. And United?
- 22 A. And United.
- 23 Q. And, you've even testified before a Congressional
24 committee on the benefits of a public-private

[Witness: Correll]

1 partnership, haven't you?

2 A. I have.

3 Q. Would you bring up 1016. I'm sorry, this technology is
4 not being very good to me right now. This is -- I'm
5 sorry for the delay, Mr. Correll. This is the
6 testimony you gave to the Congressional committee on
7 the public-private partnership?

8 A. I recall that.

9 Q. And, you note that "cost savings that localities have
10 realized range up to 40 percent"?

11 A. That is correct.

12 Q. And, that "capital for infrastructure replacement is
13 freed up without burdening the customer or the
14 taxpayer"?

15 A. That's correct.

16 Q. And, those are benefits of the public-private
17 partnership?

18 A. They are.

19 Q. You still agree with these comments?

20 A. That is my experience. That would still be my
21 testimony. In all the ones that I had been involved
22 with that related to, indeed, none that ever were
23 related to a condemnation event, but a municipality
24 that had been operating either its water or wastewater

[Witness: Correll]

1 system for periods of up to 50 years, these are, in
2 fact, some of the savings that have inured to the
3 benefit of the town.

4 Q. Now, the benefits of the public-private partnership are
5 evident in Hudson, aren't they?

6 A. I think that's correct.

7 Q. Hudson is operated by Pennichuck Water Service Company?

8 A. Correct.

9 (Short pause)

10 MR. UPTON: I'm really sorry. The
11 numbering on these things just doesn't correspond to
12 anything --

13 (Short recess)

14 CHAIRMAN GETZ: Would it be more helpful
15 to take a brief recess?

16 MR. UPTON: It would. I'm very sorry.
17 I'm very sorry. I had this all set up last night, I had
18 the numbers, and they don't correspond to the numbers that
19 are on the exhibits. So, I'm really flummoxed.

20 CHAIRMAN GETZ: Just for our planning
21 purposes, do you have an estimate of how much cross for
22 Mr. --

23 MR. UPTON: Another 15 or 20 minutes,
24 half an hour.

[Witness: Correll]

1 CHAIRMAN GETZ: And, then, for

2 Mr. Joyner?

3 MR. UPTON: I have it.

4 CHAIRMAN GETZ: You have it?

5 MR. UPTON: The page.

6 MR. RICHARDSON: Page 10 of 3016A.

7 BY MR. UPTON:

8 Q. I'm showing you an exhibit from Mr. Guastella's
9 testimony that shows, for the service company, if the
10 you look at the bottom, that it incurs maintenance
11 costs of 175,000 and unplanned maintenance of 100 and
12 -- is that "81"? 181,000?

13 A. I see it, yes.

14 Q. It doesn't -- and, that's all the O&M expense that it
15 shows for Hudson, is that correct?

16 A. That's all I see on this schedule.

17 Q. Okay. And, I assume, it doesn't say, but I assume that
18 some part of the operating expenses, in the portion of
19 the graph immediately above it, should be attributable
20 to Hudson, wouldn't you agree? Those, the
21 Administrative and General expenses?

22 MR. CAMERINO: Objection. He's asking
23 Mr. Correll about Mr. Guastella's exhibit and what is in
24 the numbers. He has Mr. Guastella coming in next week.

[Witness: Correll]

1 If he wants to know what's in the schedule, all he has to
2 do is ask Mr. Guastella.

3 CHAIRMAN GETZ: Well, if this is
4 foundation for a question relevant to --

5 MR. UPTON: It's very much. It's about
6 the public-private partnership.

7 MR. CAMERINO: Well, that's fine, but
8 he's --

9 CHAIRMAN GETZ: Well, let me finish my
10 observation.

11 MR. CAMERINO: I'm sorry.

12 CHAIRMAN GETZ: Is, if it's a question,
13 and this is -- for which this is a foundation, then I'll
14 allow it. But, certainly, if Mr. Correll doesn't know
15 what's in this exhibit, then he can say so. But I'd like
16 to see where we're headed with this, Mr. Upton.

17 BY MR. UPTON:

18 Q. Well, what I'm trying to determine, Mr. Correll, from
19 this exhibit is what is the -- what does it cost
20 Pennichuck Water Service Company, on a per customer
21 basis, to operate the Hudson system? So, what, I mean,
22 should I just take the Hudson revenues and assume that,
23 I mean, that's going to be a "worst case" scenario,
24 isn't it? If I start with the revenues and divide that

[Witness: Correll]

1 by the number of customers, that's going to give me the
2 outside cost of operating the service -- operating the
3 system?

4 A. If your question is "could one divide the revenues by
5 the number of customers to come up with what the
6 revenues are per customer as some proxy for the cost to
7 the customer of the system?" I suppose that's one way
8 to do it.

9 Q. Okay. That would be a "worst case" scenario. That
10 would assume that Pennichuck Water Service Company had
11 no -- had no profit, if you divided its revenues by its
12 customers to get a proxy for cost per customer?

13 A. I'm sorry. I thought you were asking the question
14 about what the costs were to the Hudson customers.

15 Q. Yes, that's exactly what.

16 A. This shows what Pennichuck's revenues are. I can't say
17 whether there's anything else that's being charged to
18 Hudson from this.

19 Q. All right.

20 A. I mean, all this is what Pennichuck is getting from --
21 for its services to Hudson. I'm not sure this really
22 shows what the total cost to Hudson is of their water
23 system.

24 Q. Do you think that the cost of operating the Hudson

[Witness: Correll]

1 system by Pennichuck Water Service Company exceeds its
2 revenues?

3 A. Does the cost to Pennichuck, is that what you said?

4 Q. Does the cost of operating this system to Pennichuck
5 Water Service Company exceed its revenues?

6 A. I would -- All I can say from this schedule is that the
7 costs that Pennichuck has are listed on this page, I'm
8 assuming. I was trying to answer your question about
9 what the costs were to the Hudson customers. And, I'm
10 saying, I don't know all of that information, because
11 this is all Pennichuck --

12 Q. All right.

13 A. -- is charging to Hudson. If Hudson has some other
14 costs of its own that it is charging to the customers,
15 I'm not sure I can get that from this schedule.

16 Q. All right. Let's just talk about Pennichuck Service
17 Company alone. They show maintenance and unplanned
18 maintenance, 185 and 181. Let me just do the math
19 quickly.

20 A. 175.

21 Q. I'm sorry, 175. That rounds about 177,000? No, I'm
22 sorry. That's 356,000 approximately?

23 A. You're adding the 175 and the 181?

24 Q. Yes.

[Witness: Correll]

- 1 A. All right.
- 2 Q. Close enough?
- 3 A. That sounds right.
- 4 Q. And, how many customers are there in Hudson?
- 5 A. I don't recall.
- 6 Q. If I told you that your testimony indicated that it was
7 approximately 5,300, would you accept that?
- 8 A. I would accept that.
- 9 Q. And, if I divide 356,000 by 5,300, that's \$67 per
10 customer, is that correct, of maintenance and unplanned
11 maintenance.
- 12 A. I would accept that.
- 13 Q. Okay. Now, I want you to look at the PWW Annual Report
14 of 2005, that's Exhibit 1070. It's the F-48. It's
15 Page 73 of the report, and 113 I think of the exhibit.
16 I've highlighted the "Summary of Operation and
17 Maintenance Expenses". And, the total operation and
18 maintenance expenses for PWW is \$9,127,323?
- 19 A. The total operation and maintenance.
- 20 Q. And, how many customers does Pennichuck Water Works
21 have?
- 22 A. I think it was 24,000.
- 23 Q. I think your testimony was "24,485", but let's assume
24 it's 25,000, just to round up. If I divide 25,000 into

[Witness: Correll]

1 that number, that's \$365 per customer, would you accept
2 that?

3 A. I would accept that your math is correct.

4 Q. So, at least according to these two exhibits, the same
5 company, same people, same equipment, can, in a
6 public-private partnership, reduce costs pretty
7 significantly?

8 MR. CAMERINO: Objection. He's showing
9 him -- We've already had testimony that the costs that are
10 on here do not all relate to Pennichuck Water Works, that
11 they are allocated out. And, this witness is not the
12 witness on that. He's already had a witness up here who
13 could have explained those issues.

14 CHAIRMAN GETZ: Well, I think it's a
15 fair line of inquiry, if we're dealing with the issue of
16 the virtue of the public-private partnership, if Mr. Upton
17 wants to try to draw some comparisons from some documents
18 in this case, and ask the witness what his view of it is,
19 then I think it's a fair question. Then, it's up to the
20 witness to, you know, make his response, if he can make
21 one.

22 MR. CAMERINO: Well, the problem is that
23 the witness doesn't know the details of what goes into
24 this document. And, there was a witness who could have

[Witness: Correll]

1 explained it. And, unless --

2 CHAIRMAN GETZ: Well, as I've said
3 before, if he doesn't know the details of this document,
4 then he's free to say so in his answer.

5 BY MR. UPTON:

6 Q. Wouldn't you agree, Mr. Correll, that in a "worst case"
7 scenario, even if those costs were allocated among PEU,
8 PAC, and PWW, that the cost to customers is going to be
9 higher than the cost of serving Hudson?

10 A. It could just mean that Hudson is not spending enough
11 on maintenance.

12 Q. Now, you were CEO of Pennichuck when Nashua issued its
13 Request for Qualifications and Interest in connection
14 with the contract operation of the system?

15 A. Correct.

16 Q. And, the Service Company responded to that request,
17 didn't it?

18 A. To the --

19 Q. The Request for Qualifications.

20 A. For Nashua?

21 Q. Yes.

22 A. Yes.

23 Q. And, do you know if American Water Services did?

24 A. I honestly don't know.

[Witness: Correll]

- 1 Q. Do you know if Aquarion Operating Services did?
- 2 A. I believe they did, but I'm not certain of that.
- 3 Q. Connecticut Water Company?
- 4 A. I didn't really keep track of it.
- 5 Q. If I showed you -- If I told you that American Water
- 6 Services, Aquarion Operating Services, Connecticut
- 7 Water and United Water Services all replied to the
- 8 Request for Qualifications, would you accept that?
- 9 A. I would accept that.
- 10 Q. Okay. These are all contract ops subsidiaries of
- 11 companies which are also in the regulated water
- 12 industry, isn't that true?
- 13 A. That is correct.
- 14 Q. And, the same is true of Pennichuck, of course?
- 15 A. That's right.
- 16 Q. And, none of these service companies, including
- 17 Pennichuck, ultimately submitted bids, did they?
- 18 A. I don't recall. I know Pennichuck did not.
- 19 Q. Don't you recall that the only two companies that
- 20 submitted bids were Veolia and Earth Tech?
- 21 A. I do recall that you've reminded me of that. But I did
- 22 not recall how many had responded.
- 23 Q. And, neither of those owns any regulated water
- 24 companies, does it?

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[Witness: Correll]

- 1 A. To the best of my knowledge.
- 2 Q. Do you think that's a coincidence?
- 3 A. I have no opinion as to why who responded and who
- 4 didn't. There are many reasons why companies don't
- 5 respond to requests for proposals, not the least of
- 6 which is not adequate information or access to
- 7 information or certainty of, you know, when a contract
- 8 is going to be available. So, I really can't -- I
- 9 really can't comment what went through everyone's mind.
- 10 Q. Did you have any contacts with anybody from any of
- 11 those companies?
- 12 A. Do I?
- 13 Q. Did you, prior to the submission of the bids?
- 14 A. Not with regard to in the bids. I know people in
- 15 almost all of those companies, but I have not spoken to
- 16 them with regard to the bids.
- 17 Q. It certainly would not have been in the interest of a
- 18 regulated water company to assist a municipality that
- 19 was trying to take another regulated water company,
- 20 would it?
- 21 A. I really can't venture. I can't give any comment on
- 22 that.
- 23 Q. Now, in your testimony, you argue that acquiring other
- 24 systems, including the troubled systems that had been

[Witness: Correll]

1 purchased, benefits existing customers by spreading
2 costs across a larger customer base?

3 A. Correct.

4 Q. And, --

5 A. Just as Pennichuck does.

6 Q. Yes. And, is the benefit of doing that presumably
7 lower rates than would otherwise be charged?

8 A. That would be one.

9 Q. You ever seen this article, Mr. Correll?

10 A. I don't recall it.

11 Q. It's reporting about a survey of rates in water
12 companies performed by the DES. Do you recall that
13 such a survey was performed?

14 A. I do recall this. Okay.

15 Q. And, can you explain for me why PWW's rates, according
16 to this survey of water rates in 2004, are the highest
17 of any system serving more than 25,000 people, based on
18 275 gallons per day?

19 A. Just having refreshed my recollection of this, not
20 having done any in-depth analysis, I can't really
21 answer the question specifically. Other than to say,
22 if one goes back to your earlier examples about
23 maintenance and the like, this is a good example of why
24 the infrastructure in this country is in the shape that

[Witness: Correll]

1 it's in. And, the EPA's Gap Analysis of a few years
2 ago talked about a funding gap of upwards to a trillion
3 dollars. This is a good example of it. That companies
4 like Pennichuck and those in the investor-owned sector
5 are actually investing in their infrastructure and
6 doing the maintenance, whereas it's pretty clear,
7 particularly from the EPA's own surveys, that a lot of
8 others perhaps are deferring some of that maintenance.
9 If you're going to do that maintenance and you're going
10 to invest in the infrastructure, you are likely going
11 to have higher rates because of that. But, other than
12 that general comment, I can't give specifics about why
13 the rates will be a certain amount here, compared to
14 whoever else is in the survey.

15 Q. If you look at the portion of the article that I've
16 highlighted, it's a quote from the DES engineer in
17 charge of the survey. He appears to generally agree
18 with your premise, doesn't he? That, because you have
19 a larger number of ratepayers, you can spread rates out
20 over a larger base, and rates are usually lower.

21 A. I'm sorry, was that a question?

22 Q. Yes. Do you agree with that? He appears to agree with
23 your premise, doesn't he?

24 A. It would appear from this statement, yes.

[Witness: Correll]

1 Q. But, apparently, Pennichuck's growth hasn't resulted in
2 lower rates, has it?

3 A. I'm not sure that one automatically leads to another,
4 the other, that conclusion in this comparison. There
5 are a lot of systems that have lower rates because
6 their infrastructure has been neglected. They have not
7 re-invested in the pipes. They have not upgraded their
8 systems. They may not be in compliance with standards.
9 So, if they have aging infrastructure that has not been
10 maintained, and they're out of compliance, it's fair to
11 assume that their rates may indeed be lower. But
12 they're also not providing the same quality of service
13 that a larger system or a Pennichuck might be
14 providing.

15 Q. Now, it appears that the Pennichuck officials -- were
16 you contacted by the reporter about this article or is
17 this somebody else?

18 A. I don't -- I honestly don't recall. And, if I'm not
19 quoted, I would say I probably wasn't.

20 Q. Okay. In any event, the article reports that
21 "Pennichuck officials agreed, but argues that, because
22 it serves a number of smaller municipalities scattered
23 throughout the state, that their rates are not really
24 comparable with water utilities that just serve one

[Witness: Correll]

1 city and a surrounding area." Is that correct?

2 A. If I could ask, would it be possible to see the whole
3 article?

4 Q. Oh, absolutely. Sure.

5 A. We're jumping around, and when --

6 Q. Let me bring it up for you.

7 MR. CAMERINO: I just want to note, and
8 this may result in a more formal objection in a moment,
9 but, you know, Mr. Upton I'm sure is a very skilled
10 litigator, but I think it's inappropriate before this
11 Commission if there are questions that could have been
12 asked to a witness who was on the stand, who is currently
13 knowledgeable about the Company. And, it appears that
14 this article even post dates Mr. Correll's involvement
15 with the Company. I don't think it's very informative for
16 fact-finding purposes to ask Mr. Correll about things that
17 the current president of the water utility could answer.

18 MR. UPTON: This article is dated
19 April 29, 2005. You hadn't left by that date, had you?
20 You left in April of '06 --

21 MR. CAMERINO: Maybe the date on the
22 bottom, I'm looking at the date on the bottom. But,
23 regardless, we have a person who testified, who is
24 responsible for these matters.

[Witness: Correll]

1 BY MR. UPTON:

2 Q. Let me know when you're ready. Take what time you
3 want, but let me know when you're ready.

4 A. Well, if you can just put up the last quote that you
5 wanted me to refer to.

6 Q. Okay. Yes.

7 A. I just wanted to see what paragraphs preceded it that
8 it was referring to. Okay.

9 Q. Referring to the second paragraph, Mr. Correll, Mr.
10 Ware indicates that Pennichuck had acquired "some
11 smaller systems that were basket cases before they were
12 taken over." Would you agree with that
13 characterization of those systems?

14 A. That's probably an appropriate description for some of
15 the systems that Pennichuck, as well as a lot of other
16 companies, have taken over, in either New Hampshire or
17 in a lot of states across the country.

18 Q. And, because they were "basket cases", it required
19 significant investment in infrastructure, right?

20 A. Often the case.

21 Q. And, in this case, at least according to Mr. Ware, the
22 cost of that infrastructure was partly subsidized by
23 Nashua ratepayers?

24 A. That's his -- That's his comment.

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[Witness: Correll]

1 Q. You don't agree?

2 A. I mean, I think the term "partly subsidized" is
3 probably a strong term. I think we know what the cost
4 allocation agreements are that Pennichuck has with
5 Pennichuck East, as well as Pittsfield, as well as the
6 outlying systems and the like. So, if one wants to use
7 the word "subsidize", they can. But it's all based
8 upon a formula which we have followed for years, and
9 which the Commission has approved.

10 CHAIRMAN GETZ: And, you know, I'm
11 somewhat concerned, Mr. Upton, about how much weight we
12 should give to language in a newspaper article that
13 appears to have been paraphrased. It's not directly
14 quoted.

15 MR. UPTON: Okay. I'm moving on. But
16 I'm going to ask a few follow-up questions about this
17 area, but I'm moving on. I'm not --

18 BY MR. UPTON:

19 Q. Mr. Correll, if you're required, after the purchase of
20 these smaller systems, to make investment in
21 infrastructure, that's not going to benefit existing
22 customers, is it?

23 A. It will benefit the customers that are served in that
24 acquired system.

[Witness: Correll]

- 1 Q. In the acquired system, but existing customers of your
2 system are going to be experiencing higher costs
3 because of that increased infrastructure investment,
4 aren't they?
- 5 A. That's a hypothetical. I'm not sure I can answer that.
- 6 Q. All right. I'm getting pretty close to the end,
7 Mr. Correll. And, I appreciate your hanging in with me
8 on these exhibits. I'm a little embarrassed of that
9 happening, if I can apologize once more to the
10 Commission. I want to discuss with you the impact of
11 size. Do you agree that PWW is able to provide greater
12 expertise by combining to serve all the systems in the
13 various companies?
- 14 A. I do, yes.
- 15 Q. And, I gather that you would agree it is able to reduce
16 costs by combining to serve all of the systems?
- 17 A. I think the costs are lower than they otherwise would
18 be. I think --
- 19 Q. Okay. Fair enough.
- 20 A. -- I think using the term "reduce the costs" is
21 difficult --
- 22 Q. I agree. And, that's very difficult. And, I've been
23 saying that, and we should be talking about "lower than
24 they would be". Is it fair to say that, if Pennichuck

[Witness: Correll]

1 got larger, that it would increase its expertise?

2 A. I would say, as a general rule, that might happen. If
3 you say "if it got larger" and meant that its employee
4 base got larger, we might bring on more people with
5 more or broader expertise, that would be true.

6 Q. And, if it got larger because of economies of scale, it
7 could further reduce costs? I'm not saying that right
8 again. But it would be in a position to keep costs
9 from rising as fast as they otherwise would?

10 A. That, the latter point, I would agree with.

11 Q. And, by way of example, if Pennichuck Water Works was
12 able to grow as large as, say, American, it would be
13 able to increase its expertise in operating systems?

14 A. Hypothetically, that is true.

15 Q. And, if it grew as big as American, presumably its
16 increased experience would afford additional
17 opportunities to prevent costs from increasing?

18 A. I think the idea of examining the costs is something
19 that any company does, is required to do on an ongoing
20 basis. I don't think just the virtue of getting larger
21 makes you any better at it. I think getting larger
22 gives you better buying opportunities, through
23 economies of scale, or purchasing and the like.

24 Q. Would you agree then that, if Pennichuck grew as large

[Witness: Correll]

1 as Veolia, that would also give it an opportunity to
2 prevent these costs from increasing because of
3 synergies and economies of scale?

4 A. Are we just talking about size now?

5 Q. Yes.

6 A. I mean, Veolia is not a regulated utility, if that's
7 what --

8 Q. Right.

9 A. Just in terms of its size, meaning the number of
10 employees or --

11 Q. Yes.

12 A. -- revenues?

13 Q. Yes.

14 A. Then, the premise would hold, whether it was Veolia,
15 United or American or anyone else.

16 MR. UPTON: Thank you. I'm all done.

17 Thanks.

18 CHAIRMAN GETZ: Mr. Camerino, do you
19 have redirect?

20 MR. CAMERINO: Just a few questions.

21 REDIRECT EXAMINATION

22 BY MR. CAMERINO:

23 Q. Mr. Correll, you were asked some questions about the
24 potential interest of a company like American, not

[Witness: Correll]

1 necessarily just American, in acquiring the PEU and PAC
2 systems, do you recall that?

3 A. I do.

4 Q. And, let's take the specific situation that Nashua has
5 hypothesized in this case. Which is that the reason
6 that your company or any other investor-owned utility
7 is looking at acquiring PEU and PAC is that Pennichuck
8 Water Works has been taken over by eminent domain by
9 order of this Commission. If you had that additional
10 factor in the equation, what is the likelihood that an
11 investor-owned utility would consider acquiring PEU and
12 PAC? How would that factor into your thinking?

13 A. I would say not very positively. Given that, not only
14 would the core of the business have been ripped from
15 the organization, and we'd be dealing with a few very
16 small satellites, but it would certainly set the tone
17 for what the prospects were for growth and future
18 investments as well. In that, it might be signs of a
19 pattern of, you know, likely takeovers in the future as
20 well, making business growth opportunities much more
21 suspect.

22 Q. And, if I added to that hypothetical that the
23 Commission and the public had not expressed any
24 previous concern about the quality of the operations of

[Witness: Correll]

1 the utility that was taken over by eminent domain,
2 would that affect investors' view of whether they would
3 be interested in acquiring the remaining systems?

4 A. Well, I would add a significant additional risk factor
5 that would have to be taken into account, when the
6 Company might be looking at that kind of an investment,
7 because we'd be talking about the additional risk of
8 investing in that state.

9 Q. Now, Mr. Upton also asked you some questions about
10 potential savings in a public-private partnership, I
11 assume you recall those?

12 A. I do.

13 Q. Have you ever been a proponent of municipal ownership
14 of utility assets that are currently owned by a private
15 utility?

16 A. I have not.

17 Q. Is it fair to say that the savings you're talking about
18 are relative to municipal operation of the utility
19 assets?

20 A. That all of the testimony that I have given, as well as
21 all of the presentations I've made, either at
22 Pennichuck or United or at American, relate to the
23 savings that could inure from public-private
24 partnerships with a municipality or a regional

[Witness: Correll]

1 authority or whatever, that had already been in the
2 business for 25, 50 or more years, having acquired a
3 system or built a system and run it as a municipal
4 operation in the past.

5 Q. Now, Mr. Upton showed you an article that said
6 something to the effect of "Pennichuck has the highest
7 rates of any water utility with over 25,000 customers."
8 Do you recall that?

9 A. I do.

10 Q. And, I may be taxing your memory. If you don't know
11 the answer to this, just say so. But do you know how
12 many water utilities there are in the State of New
13 Hampshire that have more than 25,000 customers?

14 A. Investor-owned water utilities?

15 Q. Investor-owned, we can start with that.

16 A. I don't believe there are any that come anywhere close
17 to 25,000 on the investor-owned side. And, in terms of
18 --

19 Q. Other than Pennichuck, I assume?

20 A. Other than Pennichuck.

21 Q. And, then, in total --

22 A. And, on the municipal side, perhaps three, Manchester,
23 --

24 Q. Could you name any other than Manchester?

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[Witness: Correll]

1 A. Perhaps Portsmouth, but I don't -- I can't even recall
2 any others.

3 Q. Okay. And, lastly, Mr. Upton asked you to compare an
4 O&M figure for Pennichuck Water Works, which he said
5 was \$9 million. Do you recall that?

6 A. Yes. I think that was the total of the operation and
7 maintenance, if I'm not mistaken.

8 Q. And, then, he compared that figure, just the
9 maintenance expense, for the Hudson system, do you
10 recall that?

11 A. That's correct, yes.

12 Q. Is it fair, even assuming that every dollar of the
13 \$9 million in Pennichuck Water Works, in that column
14 that he showed you, would it be appropriate to compare
15 operating and maintenance expense to maintenance
16 expense?

17 A. No.

18 MR. CAMERINO: Excuse me one second, Mr.
19 Chairman. That's all I have. Thank you.

20 CHAIRMAN GETZ: Okay. Thank you. Then,
21 that completes the examination of Mr. Correll. You're
22 excused. Thank you. Are we prepared to move to
23 Mr. Joyner?

24 MR. CAMERINO: We are.

[Witness: Joyner]

1 MR. UPTON: We are.

2 CHAIRMAN GETZ: Then, let's proceed.

3 (Whereupon John E. Joyner was duly sworn
4 and cautioned by the Court Reporter.)

5 JOHN E. JOYNER, SWORN

6 DIRECT EXAMINATION

7 BY MR. CAMERINO:

8 Q. Mr. Joyner, could you just state your name and your
9 current employment for the record please.

10 A. Yes. My name is John Joyner. And, I'm the President
11 of Infrastructure Management Group.

12 Q. And, did you prepare testimony that was filed in this
13 case dated February 27th, 2006 that has been filed with
14 this Commission?

15 A. Yes, I did.

16 Q. All right. And, there were some exhibits to that, I
17 think just one exhibit, actually, to that testimony,
18 which would be a curriculum vitae for you?

19 A. I'm sorry?

20 Q. There was one exhibit to that testimony, which would be
21 your professional background that was included with
22 that testimony?

23 A. Yes.

24 Q. And, that testimony is true and correct to the best of

[Witness: Joyner]

1 your knowledge and belief?

2 A. Yes.

3 Q. And, if I asked you the same questions today, your
4 answers would be the same?

5 A. I believe so.

6 MR. CAMERINO: Thank you. Mr. Chairman,
7 those exhibits have been premarked as "Exhibit 3013" and
8 "3013A" for identification in this case. Thank you.

9 CHAIRMAN GETZ: Thank you. Ms.
10 Reinemann?

11 MS. REINEMANN: No, we have no
12 questions.

13 CHAIRMAN GETZ: Mr. Alexander?

14 MR. ALEXANDER: No questions.

15 CHAIRMAN GETZ: Ms. Thunberg?

16 MS. THUNBERG: Staff has no questions.

17 Thank you.

18 CHAIRMAN GETZ: Ms. McHugh?

19 MS. MCHUGH: No thank you.

20 CHAIRMAN GETZ: Mr. Upton.

21 Mr. Richardson.

22 MR. UPTON: Mr. Richardson is doing
23 this.

24 CROSS-EXAMINATION

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[Witness: Joyner]

1 BY MR. RICHARDSON:

2 Q. Good morning. Mr. Joyner, you're the President of
3 Infrastructure Management Group, or IMG?

4 A. Yes.

5 Q. And, I understand you were Vice President when you
6 joined?

7 A. Yes, that's correct.

8 Q. And, prior to that, from 1997 to 2001, you were Senior
9 Vice President of Business Development at United Water,
10 is that correct?

11 A. That's correct.

12 Q. Before that, from 1995 to '97, you worked for Ogden
13 Yorkshire Water?

14 A. That sounds correct.

15 Q. And, that was also in Project Development?

16 A. Correct.

17 Q. Is that similar to Business Development?

18 A. Yes, it is.

19 Q. Okay. And, then, from 1993 to '95, from your resumé, I
20 believe you were Vice President of Business Development
21 at Ogden Energy?

22 A. That's correct.

23 Q. So, is it fair to characterize your experience as in
24 the business development side of utilities, as opposed

[Witness: Joyner]

1 to the operations?

2 A. I would say that would be -- that would be fair, yes.

3 Q. Okay. Now, the purpose of your testimony, I believe,

4 was to review Nashua's process for selecting a third

5 party contractor to operate a wastewater -- a water

6 system in Nashua, as well as the contract itself?

7 A. That's correct.

8 Q. Okay.

9 A. Well, myself, and it was the Company.

10 Q. Now, you mean there were other individuals that

11 participated in the process?

12 A. Oh, absolutely.

13 Q. And, did you prepare your testimony or did those other

14 individuals draft it for you?

15 A. The testimony was prepared by me, but their -- you

16 know, the underlying memos and investigation were

17 performed by my team.

18 Q. And, did you check to see if the analysis was correct

19 in those memos?

20 A. To the best of my ability, yes.

21 Q. Okay. Now, and in your opinion, I assume IMG has

22 significant experience in the utility industry?

23 A. Yes, we're active in three industries; utilities,

24 surface transportation, and aviation. In particular,

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[Witness: Joyner]

1 our utilities practice has a pretty deep bench. In
2 this particular case, the people involved in doing the
3 underlying work were former vice presidents with U.S.
4 Water, U.S. Filter, the predecessor for Veolia.

5 Q. But -- I'm sorry. In terms of the subject matter, I
6 mean, that also includes other areas related to
7 utilities, such as investment banking?

8 A. We -- The Infrastructure Management Group has two
9 practices that work across those three industries that
10 industries that I referred to. One is a management
11 consulting practice and the other is a financial
12 advisory practice. In our financial advisory practice,
13 we have former investment bankers and financial
14 advisors.

15 Q. Uh-huh. And, well, why don't we bring up exhibit 1099,
16 Page 22. And, this is from a report I believe you
17 co-authored with members of your firm, entitled
18 "Tapping Public Assets: Frequently asked" --

19 A. The Reason Foundation, right. I remember this.

20 Q. And, could we blow up, for example, Mr. Wolf's
21 experience on the bottom there. Could you read that
22 for me.

23 A. You want me to read it?

24 Q. Yes, please.

[Witness: Joyner]

- 1 A. "Brian Wolf: Senior Manager is an SEC registered
2 broker-dealer" -- well, he's referring to "IMG Capital,
3 LLC", which is "an SEC registered broker-dealer
4 providing financial advisory and private placement
5 services for infrastructure project financing.
6 Mr. Wolf has assisted officials at every level of U.S.
7 government in divesting infrastructure assets and
8 raising capital for new facilities through innovative
9 financing structures and durable lease and contracting
10 arrangements. Mr. Wolf is a Series 7 and Series 63
11 registered general securities representative with the
12 National Association of Securities Dealers. He can be
13 reached at bwolf@imggroup.com".
- 14 Q. Okay.
- 15 A. How did I do?
- 16 Q. There's a plug for you. So, and you collaborated with
17 Mr. Wolf, I assume, in the drafting of this article?
- 18 A. No. No, I did not. He's no longer with the firm.
- 19 Q. Okay. But he's listed as an author here of IMG, with
20 IMG Capital?
- 21 A. That's correct. At the time that this was written,
22 which I believe was maybe 2003, something like that.
- 23 Q. Yes, February of 2003. So, is it your testimony that
24 he -- this statement is not accurate at the --

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[Witness: Joyner]

- 1 A. No, it was accurate at the time.
- 2 Q. Accurate at the time.
- 3 A. He had no involvement in this matter.
- 4 Q. Okay. I apologize. Yes. He was involved in this
- 5 article. So, let's jump ahead a little bit in this
- 6 article. Why don't we look at Page 5, I think
- 7 Paragraph C at the bottom. I believe this section is
- 8 entitled "How do I know what my infrastructure assets
- 9 are worth?" Did I read that correctly?
- 10 A. Yes.
- 11 Q. Okay. And, if we jump down to Page 6, I think we get
- 12 to the section that relates to municipal water
- 13 utilities. Linda, could you enlarge that please.
- 14 Let's take a look at the two paragraphs below the box,
- 15 discussing what "regulated utilities usually sell for".
- 16 And, could you read me the two paragraphs below the
- 17 box.
- 18 A. Okay. "Regulated utilities usually sell for or close
- 19 to their rate base, i.e. roughly the original cost of
- 20 the utility, less depreciation. The rate base
- 21 determines how much the state regulatory commission
- 22 will allow the owner to charge its customers. In
- 23 general, the larger the rate base relative to the
- 24 number of customers, the higher the water or sewer

[Witness: Joyner]

1 rates."

2 The next paragraph reads: "Sale price
3 for water utilities usually range from \$1,500 to \$3,500
4 per customer connection, with a \$2,000 per connection
5 median, but they can go higher if the opportunity for
6 growth or operating cost savings is exceptional. Sewer
7 utilities would sell for approximately \$1,000 per
8 customer connection."

9 Q. So, and the three members of the -- and the three
10 authors participated in this section, is that right?

11 A. As I recall.

12 Q. Okay. I'd just like to walk you through how you would
13 apply that analysis to Pennichuck Water Works. Is it
14 your understanding there's approximately 25,000
15 customers?

16 A. Yes, that was - I refreshed my memory earlier today.

17 Q. Okay. You heard Mr. Correll use that number?

18 A. Correct.

19 Q. So, if we were to assume that Pennichuck Water Works,
20 and I don't know if this is true or not, had a high
21 opportunity for growth, and we used \$3,500 per
22 customer, I'm not very good at math, 3,500, so times
23 25,000, that works out to about 87.5 million, does that
24 sound correct?

[Witness: Joyner]

1 A. That sounds correct.

2 Q. Uh-huh. And, if we were in the middle of the range,
3 the 2,000 times 25,000, that's 50 million?

4 A. I follow what you're saying here. But, perhaps you
5 don't -- did you look at the rest of this article that
6 was prepared for the Reason Foundation, really, what it
7 was, frankly, before its time, given what's happened
8 today with infrastructure investment by private
9 companies, this was intended to be something that would
10 explore all the categories of public use
11 infrastructure, where there was an opportunity that a
12 municipality, for example, could sell a bridge that was
13 needing private investments, so that structurally it
14 was repaired, and a private company could come in. So,
15 it was intended to be, if you know anything about the
16 Reason Foundation, sort of an expanding thinking. So,
17 what you're looking at here are just some very, very
18 loose rules of thumb for a municipal official to look at
19 this, to help them think through what some of their
20 assets might be worth. I am not a valuation expert.
21 And, frankly, none of the people involved in this,
22 writing this are valuation experts.

23 Q. But you are utility experts?

24 A. Yes. We're experts with respect to negotiating

[Witness: Joyner]

- 1 public-private partnerships, procurement advisory,
2 operation -- operation improvement, organizational
3 assessment, those things, yes.
- 4 Q. And, in particular, the sale of public assets to
5 private utilities, for example?
- 6 A. Yes.
- 7 Q. Okay.
- 8 A. But we would probably collaborate with someone else on
9 the valuation piece.
- 10 Q. Right. That's fair enough. So, your general
11 experience was reflected in these statements. I just
12 want to clarify one thing. At Section D, that's not
13 the section on bridges, is it? It's the section on
14 water utilities?
- 15 A. Correct.
- 16 Q. Okay.
- 17 A. The principle is the same.
- 18 Q. Now, in this article, if we could go to the first page
19 of this exhibit. I just want to clarify the date.
20 February of 2003, is that when this was prepared?
- 21 A. I think that's correct.
- 22 Q. Okay. Now, Mr. Sansoucy -- I mean, so -- well, let me
23 back up. So, this -- you indicated that things have
24 changed a little bit in the industry, and more is known

[Witness: Joyner]

1 today than it was in February of 2003. Was that a fair
2 characterization?

3 A. I would say that the industry has evolved, yes.

4 Q. So, were you aware that Mr. Sansoucy prepared an
5 appraisal that was the valuation, I believe, as of
6 December 31st, 2005? So, that would be approximately
7 two years later?

8 A. Frankly, I'm not aware of that. But, okay.

9 Q. Were there major changes between those two dates?

10 A. Industry-wide?

11 Q. Sure. I mean, was there a departure in how you would
12 value assets, between February of 2003 and 12/31/05 --
13 or, 12/31/04, excuse me. Is it "04? I apologize. I
14 believe Mr. Sansoucy's exhibit was 12/31/04. Why don't
15 we pull that up just to clarify. I believe that's
16 Exhibit 1000A (1007A?), Page 65 in the electronic
17 document. The page is marked as "Page 60" in the hard
18 copy.

19 So, if we look at the bottom sentence,
20 it appears that Mr. Sansoucy was valuing -- or, I'll
21 represent to you he's valuing the assets of 12/31/04.
22 Were there major changes in the valuation or the
23 assessment of value of utilities between February of
24 2003 and 12/31/04?

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[Witness: Joyner]

1 A. Again, I'm not a valuation expert. So, I'd hesitate to
2 make any conclusion.

3 Q. My boss has pointed out to me that the appraisal is
4 written by Mr. Walker and not by Mr. Sansoucy. Now, I
5 mean, it seems to me that, at least according to the
6 analysis that we looked at in your February 2003
7 report, when we said it was 87.5 at the high end, with
8 significant opportunity for revenue growth, we came to
9 87.5 million, is that the number?

10 A. And, frankly, this is not something that we ever
11 focussed on in the scope of the work that we did for
12 Pennichuck. So, --

13 Q. But, just applying the principles that are in your
14 article, you would agree that, following the approach
15 that was outlined there, we -- the high end is
16 approximately what Mr. Sansoucy's value of 85 million
17 is?

18 A. Again, I'm not -- I'm not familiar with what you're
19 referring to here.

20 Q. Okay. That's fine. I'll move on. Now, Mr. Joyner, I
21 believe in your testimony you state that the savings
22 under the Veolia contract will be -- the term you used
23 I believe is "illusory at best". Do you recall that?

24 A. I do recall that.

[Witness: Joyner]

1 Q. And, one of the examples you looked at was
2 Mr. Sansoucy's estimate for unplanned maintenance. Do
3 you recall you state that in your testimony?

4 A. I recall that we looked at the analysis that was
5 performed comparing the proposed costs by Veolia and
6 how it was evaluated against the current costs of
7 Pennichuck. And, based on the information that was
8 provided to us by Pennichuck, it did not appear to us
9 that the evaluation had been done correctly.

10 Q. So, you were looking then at Pennichuck's costs
11 compared to what Veolia's costs would be?

12 A. We were looking at the cost figures that Pennichuck
13 provided to us.

14 Q. Okay.

15 A. We never did any due diligence on our own.

16 Q. Okay. So, those were -- I mean, what sort of cost
17 information did you review? Was it Pennichuck's work
18 orders?

19 A. It was what they told us were their current maintenance
20 expenses.

21 Q. Okay. So, it's Pennichuck's current maintenance
22 expenses. And, why don't we take up Exhibit 3013, Page
23 12, Line 17 to 20. And, that's what you just
24 described. You looked at Pennichuck's maintenance

[Witness: Joyner]

1 costs, based on information, was that Mr. Ware provided
2 you that, I assume?

3 A. I think the information came from Mr. Correll, but I'm
4 -- and I'm not sure where he got it from.

5 Q. Okay. So, did you ever discuss it with Mr. Ware, the
6 cost information for unplanned maintenance?

7 A. I did not, but some of our operations experts may have.

8 Q. Okay. But Mr. Correll was your primary point of
9 contact?

10 A. That's correct.

11 Q. Okay. Do you know if Mr. Ware had any involvement in
12 understanding what the data being provided to you was?

13 A. I don't know for sure, no.

14 Q. Okay. Now, I'd like to move on -- well, I believe Mr.
15 Ware testified yesterday, as I understand -- or, excuse
16 me, the day before yesterday, you weren't here, that
17 the unplanned maintenance cost of around \$1 million, I
18 believe, was actually a projection of what the Veolia
19 costs would be, and not Pennichuck's records. Is that
20 consistent with what you did?

21 MR. CAMERINO: Objection.

22 Mr. Richardson is characterizing what Mr. Ware said. I
23 don't believe he characterized it correctly. And, I'm
24 concerned that he's now giving the witness a false

[Witness: Joyner]

1 premise.

2 MR. RICHARDSON: I'll rephrase the
3 question.

4 BY MR. RICHARDSON:

5 Q. Mr. Joyner, I mean, I understand, based on your prior
6 responses today, that your estimate of I believe it was
7 \$1 million, that wasn't a calculation of what Veolia's
8 costs would be based on Pennichuck's records, it was a
9 calculation of Pennichuck's current costs. Is that
10 what that paragraph says right there?

11 A. I believe that that was an unplanned maintenance
12 assumption that was used in the analysis that the
13 consultant did for the City.

14 Q. So, were you looking at Pennichuck's costs or were you
15 calculating Veolia's costs?

16 A. All we were doing was making sure that there were, you
17 know, proper apples-to-apples and oranges-to-oranges in
18 the analysis that was done, and making sure that all of
19 the costs were really included in this estimated
20 savings. And, that realistic numbers were being used
21 for, you know, what all of those other fees would be.
22 In any public-private partnership, the issue is always
23 those unplanned maintenance expenses, you know, the
24 base fee is what's used to do the evaluation, and the

[Witness: Joyner]

1 devil is always in the details with what the additional
2 costs are. So, we were trying to drill down the best
3 we could with very limited information.

4 Q. Okay. That's fair. So, do you not know whether this
5 million dollars is Pennichuck costs or Veolia costs? I
6 assume they're Pennichuck costs, because, based on
7 reading this, it says "Nashua" -- "which is much closer
8 to Pennichuck's actual experience". Doesn't that
9 suggest that that's a Pennichuck cost?

10 A. I agree. It does suggest that.

11 Q. Okay. Now, --

12 A. But, just to reiterate what I said earlier, my
13 understanding was, that was the number that the
14 consultant used in their assumption. That there was a
15 million dollars of unplanned maintenance. I believe,
16 in the evaluation that the consultant did for Nashua,
17 that was the assumption that they used.

18 Q. Okay. Well, let me back up in time just a little bit,
19 because I believe you did an initial assumption or an
20 evaluation after the bids were essentially awarded to
21 the various parties. There was R.W. Beck. There was
22 Veolia. Do you remember that time period?

23 A. I do.

24 Q. And, I'm going to show you a document. Tell me if you

[Witness: Joyner]

1 recognize it. I'll have to switch to ELMO. Is that an
2 analysis that your firm -- your firm provided to
3 Pennichuck?

4 A. Looks like it is, yes.

5 Q. Okay. And, that's dated October 3rd, 2005?

6 A. Correct.

7 Q. Now, why don't we pull up Exhibit 1000 -- oh, but
8 before we leave this, let me walk through one thing.
9 Now, on October 3rd, 2005, I'll flip the page for you,
10 and it looks to me like it states at the top of that
11 page, I believe that's -- it says that "the time of
12 unplanned maintenance, we also found that the
13 assumptions used in the savings calculations for
14 unplanned maintenance was much lower than Pennichuck's
15 experience. Pennichuck spends close to 2 million for
16 both maintenance and unplanned maintenance." That to
17 me suggests that you were looking at Pennichuck's costs
18 during that time period?

19 A. That must have been a number that Pennichuck gave to
20 us, yes.

21 Q. Okay. And, it looks like, if you look on the box
22 that's on the right, you have a number for unplanned
23 maintenance, actual, of 1.5 million. So, was it --
24 what caused you then to reduce that number by 500,000,

[Witness: Joyner]

1 do you know?

2 A. Frankly, I don't recall.

3 Q. Okay. But it was your understanding then, prior to or
4 at October 3rd, 2005 that it was 1.5 million, is that
5 fair?

6 A. That's what's in this analysis.

7 Q. Okay.

8 A. I believe that's what they thought.

9 Q. Let's look at 1005, the contract is B. Okay. Now, you
10 see a date on the bottom there -- well, is this the
11 contract that you would have looked at preparing your
12 testimony for February 27th, 2006?

13 A. I believe it was the contract that was included in the
14 original procurement documents, and not one that was
15 subsequently negotiated.

16 CHAIRMAN GETZ: Excuse me,
17 Mr. Richardson. Are you about to go into a different
18 area?

19 MR. RICHARDSON: No, no. I was just
20 trying to confirm with the witness that this contract was
21 subsequent to his memo. But I'll just -- both documents
22 are in the record. I'll just move on.

23 CHAIRMAN GETZ: I'm just trying to, for
24 administrative purposes, it's about time for the morning

[Witness: Joyner]

1 recess. How much more cross do you have for Mr. Joyner?

2 MR. RICHARDSON: I am about a third of
3 the way through, but I'm at a good stopping point. This
4 is a break for me.

5 CHAIRMAN GETZ: Okay. And, I expect
6 that there will be some redirect?

7 MR. CAMERINO: Yes. Let me say, just
8 for planning purposes, I can tell you at the moment it's
9 going to be extremely brief.

10 CHAIRMAN GETZ: And, then, I'm just
11 trying to figure out for the rest of the morning, with
12 respect to bringing Ms. Hartley back on the stand,
13 Ms. Thunberg, will you have questions for Ms. Hartley?

14 MS. THUNBERG: Yes. Staff expects to
15 take no more than 20 minutes to half hour with Ms.
16 Hartley.

17 CHAIRMAN GETZ: And, the Company -- or,
18 the City will have examination?

19 MR. UPTON: I would assume about the
20 same amount, assuming I can find exhibits.

21 CHAIRMAN GETZ: Okay. Assuming the
22 best, let's take the morning recess, and we'll resume at
23 11:00.

24 (Recess taken at 10:38 a.m. and

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[Witness: Joyner]

1 reconvened at 11:07 a.m.)

2 CHAIRMAN GETZ: Okay. We're back on the
3 record with the examination of Mr. Joyner. Mr.
4 Richardson.

5 MR. RICHARDSON: Thank you, Mr.
6 Chairman.

7 BY MR. RICHARDSON:

8 Q. Now, Mr. Joyner, there's a part of your testimony where
9 you talk about Veolia Water's experience. And, why
10 don't we bring up Exhibit 3013, on Page 4. And, on
11 Lines 4 to 6, I believe you state that "Veolia has only
12 one domestic water system operation contract that is
13 comparable to the size of the Nashua core system and
14 that is the one in Indianapolis." Is that statement
15 accurate?

16 A. I believe it to be accurate.

17 Q. Okay. And, further down, on Lines 8 to 9, you state
18 that this information is "Based on the information that
19 I understand Veolia has provided in response to
20 questions from PWW." Did I read that correctly?

21 A. That's correct.

22 Q. Now, I'm a little confused by the part about what you
23 "understand that Veolia has provided". Does that mean
24 that you didn't actually review the information that

[Witness: Joyner]

- 1 Veolia provided or what does that mean?
- 2 A. Well, we had a copy of the proposal. I'm not sure why
- 3 the wording is exactly that way.
- 4 Q. Okay. But this was information that was in a response
- 5 to questions from PWW, if you look back up at Lines 8
- 6 to 9. So, the proposal wasn't in response to PWW.
- 7 A. What's your point?
- 8 Q. Okay. So -- well, the question was that you reviewed
- 9 information that Veolia provided in response to PWW, is
- 10 that what I'm to understand from your testimony?
- 11 A. I think that's correct.
- 12 Q. Okay. So, what is your understanding of the population
- 13 that the Nashua core system serves?
- 14 A. The number of customers?
- 15 Q. Well, number of customers I think we've discussed, --
- 16 A. All right.
- 17 Q. -- and that is?
- 18 A. I don't recall exactly what the population is of
- 19 Nashua.
- 20 Q. Okay. So, is it your understanding that the
- 21 Indianapolis system serves slightly over --
- 22 A. About a million, I think.
- 23 Q. Okay. That's good. So, if -- they're not really
- 24 comparable, in fact, Indianapolis is much larger, isn't

[Witness: Joyner]

1 it?

2 A. It is larger.

3 Q. And, so, by "comparable", do you mean that there are
4 few systems or there's only one system that is
5 actually, in fact, larger than the Nashua core system?
6 Is that how I'm to read your testimony?

7 A. The point here was that Indianapolis was the best
8 reference of a relatively large water system, as
9 opposed to a wastewater system.

10 Q. Uh-huh. But, if I read correctly up on Lines 4 to 6,
11 you say that there is "only one domestic water system
12 operation contract that is comparable to the size of
13 the Nashua core system." And, by "comparable" there,
14 you mean "as large as or larger", is that right?

15 A. Large and in complexity customers --

16 Q. But you specifically say "the size of the Nashua core
17 system". So, it's size that you're comparing, isn't
18 it?

19 A. Yes.

20 Q. Okay. Why don't we take a look at Exhibit 1051,
21 Page 4. Bring up the first page of the document.
22 Looking at Page 1, and then scrolling down to Page 2,
23 have you seen this document before? Was this the
24 information that Nashua and Veolia provided in response

[Witness: Joyner]

1 to PWW that you referenced in your testimony?

2 A. Frankly, I don't recall.

3 Q. Okay. Well, was there some other information that you
4 might have -- that you're aware of that you reviewed?

5 A. I don't recall.

6 Q. Okay. Well, let's look at -- why don't we look at Page
7 4 -- excuse me, yes, Page 4, the section on
8 Atlanta-Fulton County. Were you aware that Veolia
9 operates a water system in Atlanta-Fulton County?

10 A. Frankly, no. I guess, maybe now that you mention it, I
11 recall that they now operate that. It was previously
12 operated by another company. But, perhaps they have
13 won that. It was rebid, and I guess they won that.

14 Q. Okay. And, so, that -- presumably that system is
15 larger than the Nashua core system in size?

16 MR. CAMERINO: Objection. Attorney
17 Richardson is asking about a system that he said he wasn't
18 familiar with, and he's confusing distribution and water
19 supply. There's been --

20 MR. RICHARDSON: Mr. Chairman.

21 MR. CAMERINO: There's been testimony on
22 this point, and he's trying to recharacterize the prior
23 testimony to a witness who said he wasn't familiar.

24 MR. RICHARDSON: Mr. Chairman, I'm being

[Witness: Joyner]

1 put at a disadvantage. Because the objection is in the
2 character -- is in the form of an answer, and the witness
3 is going to hear the answer and know the path that the
4 attorney wants him to take. I mean, if the question is
5 inappropriate, on a legal basis, I think it's fine to
6 enter an objection. But it shouldn't go in the direction
7 that it's going. The witness remembered that he had heard
8 of this system. And, so, I think it's fair to ask if that
9 system is -- if he remembers it being approximately
10 350,000. If he doesn't remember, he can say so. He
11 doesn't need Attorney Camerino to point out the
12 differences between the two systems.

13 CHAIRMAN GETZ: I'm going to allow the
14 questions. Let's just proceed.

15 BY MR. RICHARDSON:

16 Q. So, Mr. Joyner, is it your understanding that the
17 Atlanta-Fulton County system is larger than the Nashua
18 core system?

19 A. I look at the information that you're showing me here,
20 and it appears to be the case.

21 Q. Okay. And, on Page -- the bottom of Page 4, top of
22 Page 5, Veolia appears to have identified a system in
23 Brockton, Massachusetts. Were you aware that Veolia
24 provided service in Brockton?

[Witness: Joyner]

1 A. Actually, yes.

2 Q. And, does the fact that -- or, does the Brockton system
3 sound comparable in size to you, based on your
4 knowledge in the water industry, your experience as a
5 planner in Massachusetts, that it might be comparable
6 to the Nashua core system?

7 A. I'll accept that.

8 Q. Okay. And, did you consider any information, prior to
9 making your statement that "Veolia had only one system
10 that was comparable to the Nashua core", did you
11 consider the system on the Lynn Water Commission that's
12 shown on Page 9 of Exhibit 1051?

13 A. I don't mean to lose my patience, but never have we
14 questioned Veolia's capabilities and experience.
15 They're a very capable, experienced water system.

16 Q. But wasn't I to infer from reading your testimony that
17 Veolia has only operated one system comparable to the
18 Nashua core that you were suggesting that that was a
19 limitation on its ability to operate this system in
20 this case?

21 A. I think we were pointing out, in our view, at that time
22 when we prepared this, I guess in -- under the short
23 time frame that we had, that they, in fact, had limited
24 experience operating larger water systems, and you're

[Witness: Joyner]

1 pointing out some other examples here, and I accept
2 that.

3 Q. Okay. And, the Lynn water system, that's in the
4 Northeast LLC, isn't it?

5 A. I'm not sure of --

6 Q. Okay. Well, --

7 A. -- the geographic areas of their LLC.

8 CHAIRMAN GETZ: Mr. Richardson, you've
9 got to let him get his answer out before you pop the next
10 question. I believe he said he's not aware of --

11 MR. RICHARDSON: Okay.

12 CHAIRMAN GETZ: -- of what constitutes
13 the Northeast LLC. So, --

14 BY MR. RICHARDSON:

15 Q. Are you -- I mean, members of your team included a
16 former U.S. Filter employee, I believe, was that David
17 Mason?

18 A. That's correct.

19 Q. And, so, members of your team might generally be aware
20 of the operating region of the Northeast LLC, is that
21 right?

22 A. Uh-huh.

23 Q. And, in fact, I believe in your testimony, if we go
24 back to -- why don't we look at Page 4. I'm not sure

[Witness: Joyner]

1 of the exact page. It's going to be below Lines 8 to
2 9. I'm sorry, 1000 -- his testimony is 3013, Page 4.
3 And, just that first top paragraph, if you can pull
4 that up so we can read that. Now, okay, so you state
5 in the final sentence that "Based on information that I
6 understand Veolia has provided, ... Veolia operates
7 only two water distribution systems in the entire
8 northeast." So, it appears you were referring to the
9 northeast. And, so, then I'll ask you then, is it your
10 understanding that Brockton and Lynn, Massachusetts are
11 both in what you would consider to be the "northeast"?

12 A. I believe that to be true.

13 Q. Okay. And, I'm not asking if those contain
14 distribution systems, just to be clear. I'm not asking
15 about something you might not know. And, I don't --
16 I'm not sure how the record plays out on that point.
17 Well, let's go back then, and let me just ask you in
18 general, did you consider or evaluate Veolia's
19 operations in Moore, Oklahoma?

20 A. Not that I'm aware of.

21 Q. Okay. So, that might be a system that you didn't
22 consider in making that statement?

23 A. Apparently not.

24 Q. Okay. What about Tupelo, Mississippi, did you consider

[Witness: Joyner]

1 the size of that operation?

2 CHAIRMAN GETZ: Mr. Richardson, I think
3 we're getting into cumulative and repetitive evidence on
4 the issue of his statement about "Veolia having only one
5 domestic water system operation contract comparable".

6 MR. RICHARDSON: Yes. That was my final
7 question on this line. I don't recall if the witness
8 answered it. Can we allow him to do that and I'll move
9 on?

10 CHAIRMAN GETZ: Are you aware of the
11 Tupelo system?

12 THE WITNESS: No, sir, I'm not.

13 BY MR. RICHARDSON:

14 Q. Okay. Now, I believe on your resumé, why don't we
15 bring up 3013, on Page 1. Now, you state that you were
16 "the Chief Marketing Officer for one of the biggest
17 water companies." And, that I assume was at United
18 Water?

19 A. That's correct.

20 Q. Okay. And, that you "led the business development
21 efforts for groundbreaking public-private partnerships
22 in the water industry." Does that sound correct to
23 you?

24 A. That sounds correct.

[Witness: Joyner]

1 Q. And, that those systems "included the Milwaukee
2 wastewater system outsourcing, the Atlanta water system
3 outsourcing"?

4 A. That's correct.

5 Q. Okay. And, you were the -- okay. So, let me ask you a
6 question. Are those successful projects?

7 A. Overall, during my time at the United Water, those are
8 approximately \$800 million worth of backlog added in
9 contracts. The two that you mentioned, I would say
10 that Milwaukee would be characterized as a very
11 successful public-private partnership, particularly
12 from the view of the MMSD. In the case of Atlanta,
13 that's probably a great example of an unsuccessful
14 public-private partnership. My role in that project
15 was up to the submission of the bid and some
16 preliminary negotiations. Had no responsibility during
17 the operating period.

18 Q. Well, so then, as the executive in charge of the
19 marketing approach, you needed to ensure that there
20 were sufficient revenues for your bid so that you could
21 operate the system successfully, didn't you?

22 A. I would say that would be in part my responsibility,
23 yes.

24 Q. And, was that successfully done in Atlanta?

[Witness: Joyner]

1 A. Well, we can spend the next few hours talking about
2 Atlanta, and I would be happy to do that if everybody
3 would like to do that. But, in the case of Atlanta,
4 it's an excellent example of a procurement process that
5 led some companies to take some risks perhaps that they
6 should not have taken. They had a best and final step
7 in their procurement process that caused the companies
8 to be extremely competitive and aggressive with their
9 risk-taking. It was a municipality who was strongly
10 resisting the privatization process. The director of
11 the Water Department had an adversarial relationship
12 with the operating company from the beginning.

13 Similar to this case, the due diligence
14 process was hampered by certain information not being
15 available to the private bidders, with respect to what
16 the true operating expenses were and with respect to
17 what the true condition of the assets, especially the
18 underground assets, what's the condition of those
19 assets. So, in hindsight, that's correct. The
20 operating expenses were much higher than United Water
21 had anticipated. And, like most contracts like this,
22 the lawyers -- the lawyers couldn't save the day when
23 operating expenses were higher and the revenues were
24 inadequate. So, this public-private partnership was

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[Witness: Joyner]

1 doomed from the very beginning. But it's -- and, my
2 experience is that, I've done a lot of these
3 public-private partnerships in my 25 years, and you
4 learn a lot from the mistakes that you make. And, I
5 think that, in the case of Atlanta, it has been a great
6 example for the public -- for the water industry in
7 shaping the way that, you know, future deals are being
8 done, because a lot of lessons were learned.

9 Q. There were a lot of mistakes made in Atlanta, weren't
10 there?

11 A. Yes. But mistakes made by the City, mistakes made by
12 the procurement advisor, the mistakes made by the water
13 company, sure.

14 Q. And, your resumé, which was attached to your testimony,
15 describes Atlanta as one of the "groundbreaking
16 public-private partnerships". So, I take it
17 "groundbreaking" wasn't meant to imply that it was a
18 successful project?

19 A. Oh, it was the largest privatization of a water utility
20 in the United States. And, as I just stated, it shaped
21 the marketplace in many respects, you know, just by
22 virtue of the size and the complexity of a private
23 water contract operator taking over the full scope of
24 operating a water utility, --

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[Witness: Joyner]

- 1 Q. Okay.
- 2 A. -- as opposed to an individual water plant.
- 3 Q. All right. Isn't it true that the Atlanta contract was
- 4 entered into in January of 1999?
- 5 A. I'm sure you have your facts straight.
- 6 Q. Does that sound correct to you?
- 7 A. That sounds correct.
- 8 Q. Okay. And, that contract was terminated by the City on
- 9 January 23rd, 2003?
- 10 A. I can't -- if that suffering went on that long, I guess
- 11 so.
- 12 Q. So, that's approximately four years of operations?
- 13 A. I guess that sounds correct.
- 14 Q. On a contract that was supposed to last 20 years?
- 15 A. Correct.
- 16 Q. And, isn't it true that United Water, on January 23rd,
- 17 when they announced the termination of the deal, also
- 18 announced that they agreed to pay the City of Atlanta
- 19 \$6 million in settlement of all legal claims?
- 20 A. I believe I recall reading that. I had no involvement
- 21 in any of that, of course.
- 22 Q. Okay. Well, in fact, you left United Water in 2001,
- 23 right?
- 24 A. I think that sounds right.

[Witness: Joyner]

1 Q. And, Mr. Correll, who was CEO of United Water, he also
2 left in 2001?

3 A. I think that sounds correct, yes. Most of senior
4 management left then.

5 Q. Okay. Most of senior management left. Okay. Now, was
6 that because of the Atlanta project?

7 A. No.

8 Q. Okay. Now, isn't it true that your local partner, the
9 Atlanta Mayor, Bill Campbell, was prosecuted and went
10 to jail for tax evasion? He was prosecuted by the U.S.
11 attorney?

12 A. I remember reading that.

13 Q. Okay. And, isn't it true that Mike Sullivan, a United
14 Water employee -- do you know Mike Sullivan?

15 A. I know who Mike Sullivan is.

16 Q. And, did he work for you?

17 A. He was in my group, yes.

18 Q. Okay. He testified at Mayor Campbell's trial, didn't
19 he?

20 A. I don't have any firsthand knowledge of that.

21 Q. Well, do you remember hearing that Mike Sullivan
22 testified that he gave the Mayor -- he arranged a
23 \$12,000 donation from United Water to send the Mayor
24 and its Chief Operating Officer, Larry Wallace, to

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[Witness: Joyner]

- 1 Paris for \$12,000?
- 2 A. I recall reading about that.
- 3 Q. Okay. And, isn't it also true that, in 2001, Larry
- 4 Wallace pled guilty to bribery charges related to that
- 5 transaction?
- 6 A. I believe that to be true.
- 7 Q. Okay. He spent 46 months in prison?
- 8 A. I'm not aware of that, but you're probably right. I'm
- 9 sure you've done the --
- 10 Q. He used to work in your group, so obviously --
- 11 A. Who? Larry Wallace?
- 12 Q. Excuse me. No, I stand corrected. You're correct. I
- 13 misread my notes.
- 14 A. He was the City Manager.
- 15 Q. Okay. Now, Mike Sullivan, who testified at the
- 16 Campbell trial, he no longer works for United Water, is
- 17 that right?
- 18 A. No, I don't believe so.
- 19 Q. Okay. And, in fact, also there was another individual,
- 20 David Sherman. Do you remember who he was?
- 21 A. Yes, I do.
- 22 Q. And, he was the president of your Service Division, is
- 23 that right, in United Water?
- 24 A. That's correct.

[Witness: Joyner]

1 Q. Okay. And, so, he also testified at trial, at the
2 Campbell trial, is that right?

3 A. I wasn't aware of that, but okay.

4 Q. And, he no longer works for the Company either, is that
5 correct?

6 A. I'm sure you're correct.

7 Q. So, David Sherman, Don Correll, John Joyner, Mike
8 Sullivan, all people involved in the Atlanta
9 transaction, none of them work for United Water
10 anymore?

11 A. The people you just mentioned, that's correct.

12 Q. And, the Mayor went to jail for tax evasion, is that
13 right?

14 A. I believe that to be true.

15 Q. And, his Chief Operating Officer also went to jail. Is
16 that a successful implementation of a project? I mean,
17 I don't understand how you can hold this out as a
18 "groundbreaking project", with all these events. How
19 do you explain that?

20 A. Well, I thought I just did, but I'll do it again. As I
21 said, it was, in fact, a groundbreaking project in the
22 water industry. For a whole lot of reasons, it's a
23 great example of some of the mistakes that were made in
24 negotiating a public-private partnership. Now, tying

[Witness: Joyner]

1 all of those things together, I'm not sure exactly what
2 your -- what your point is. Are we talking about
3 public-private partnerships? Because I still believe
4 in public-private partnerships. It's just the right
5 model needs to be applied in the right place. And, the
6 procurement and the contract negotiation, all of it
7 needs to be conducted properly, or you end up with a
8 case like Atlanta.

9 Q. Well, wouldn't that be something, I mean, if you're
10 going to hold -- cite Atlanta in your testimony as one
11 of the projects you've been involved on, based on your
12 experience in the water industry, don't you think this
13 Commission would want to know how that project ended
14 up?

15 CHAIRMAN GETZ: Well, we've covered this
16 twice already, and you're just re-plowing the same ground.
17 Move on.

18 BY THE WITNESS:

19 A. When I just listened to an interview of Bill Gates, and
20 Bill Gates today is hiring people who have been through
21 the war, people that have experience in unsuccessful
22 ventures, deals that have gone bad. That's where
23 people learn the real important lessons that they bring
24 to future transactions. So, I still stand behind that

[Witness: Joyner]

1 as those -- those mistakes won't be made again in deals
2 that I or my company is involved in.

3 MR. RICHARDSON: Thank you. I have no
4 further questions.

5 CMSR. MORRISON: If someone could bring
6 up Exhibit 1099 please. And, go to Page 5.

7 BY CMSR. MORRISON:

8 Q. Earlier today, Mr. Joyner, Attorney Richardson asked
9 you to read the first sentence, and you did. I'm
10 asking you now to read the second sentence of
11 Characterization C. Beginning with "valuing them".

12 A. "Valuing them is not a job for a local appraiser."

13 Q. Yes. Could you tell me why that's in there and what
14 that means to you?

15 A. In the context of this, as I recall from when this was
16 written, we were talking primarily about understanding
17 the value equation. And, you know, looking at both the
18 opportunity for someone else to come in and operate the
19 system or the asset more efficiently, leveraging new
20 technology that they might bring that typically a
21 public agency, you know, might not be available to
22 them. So that that, you know, that value equation
23 needs to be included. The condition of the asset, in
24 terms of a typical municipal or publicly owned asset,

[Witness: Joyner]

1 the asset -- the assets tend to not receive the level
2 of investment and maintenance necessary. So that, you
3 know, while the private operator might create some
4 value on the side of the -- of more efficient
5 operations and less operating expenses, there also
6 might be a investment required to upgrade the asset.
7 And, I think the point here was that both of those two
8 things need to be, you know, deeply understood. And,
9 perhaps a local appraiser might not be in a position to
10 appreciate those needs.

11 CMSR. MORRISON: All right. Thank you.

12 I have no further questions.

13 CHAIRMAN GETZ: Redirect, Mr. Camerino?

14 MR. CAMERINO: Thank you, Mr. Chairman.

15 REDIRECT EXAMINATION

16 BY MR. CAMERINO:

17 Q. Mr. Joyner, if we can, just for the sake of efficiency,
18 stay on that article for the moment. There were some
19 questions on cross-examination about the valuation
20 methodology that is mentioned in here. Do you recall
21 that?

22 A. Yes, I do.

23 Q. And, I think you've said before, you're not a
24 professional appraiser, are you?

[Witness: Joyner]

- 1 A. No, sir.
- 2 Q. And, do you have any professional training in appraisal
3 techniques?
- 4 A. No, sir.
- 5 Q. So, I'm assuming that the statement in there was
6 relying on somebody else?
- 7 A. That's exactly, I think there was a footnote, if I
8 remember correctly.
- 9 Q. Okay. So, the footnote is what that statement was
10 based on?
- 11 A. Yes. We were basing this based on someone else's
12 expertise, and I don't recall who it is.
- 13 Q. And, it appears from, I'm looking at my copy, on Page
14 6, it looks like it's Footnote 3, which is on Page 23
15 of Exhibit 1099. And, do you have a copy in front of
16 you of this document? I could give you a hard copy, if
17 you need one.
- 18 A. I do.
- 19 Q. Can you just tell me, have I got it correct that there
20 were two articles that you were relying on with regard
21 to that statement?
- 22 A. Yes. I believe it's a 1996 survey.
- 23 Q. That's -- So, the one that relates to water utilities
24 was from 1996?

[Witness: Joyner]

1 A. Correct.

2 Q. So, when Mr. Richardson asked you whether a lot has
3 changed since the date of the article, the reference
4 date would really be from the source you were relying
5 on?

6 A. Yes. Exactly, '96.

7 Q. And, the other article, that appears to relate to
8 electric utilities? In other words, there are two
9 articles cited there.

10 A. Right. Right.

11 Q. The first article is one that relates to valuing
12 electric utilities?

13 A. I believe that's 1996 as well.

14 Q. Just, as I'm looking at it, it looks like 1999 to me,
15 but I just want to make sure we're looking at the same
16 footnote.

17 A. Oh, I'm sorry. Yes. Yes.

18 Q. Okay. And, so, you took some concept from an electric
19 utility article and apparently applied it in a water
20 context?

21 A. Correct.

22 Q. Okay. The next thing I want to ask you about is
23 Mr. Richardson showed you a memo dated October 3rd,
24 2005 that you -- Mr. Steckler of your company sent to

[Witness: Joyner]

1 Mr. Correll?

2 A. Correct.

3 MR. CAMERINO: And, actually, I don't
4 think Mr. Richardson marked this. So, if we could mark
5 this for identification with the next exhibit number.
6 Which I guess is going to be, unless it turns out that
7 Nashua tells me they have marked this and the copy I have
8 just doesn't have a number --

9 MR. UPTON: We have not. And, we've
10 been using -- we don't object to this, but we've been
11 using exhibits like this for cross-examination, and when
12 we've used them, there's no way they're getting into
13 evidence. But, when they want them in, they suddenly come
14 in as exhibits. There ought to be some consistency about
15 what happens with these exhibits that are used for
16 cross-examination.

17 CHAIRMAN GETZ: I'm not sure where
18 "there's no way that the exhibits are getting into the
19 record" comment comes from. But there's no objection to
20 marking this exhibit, we'll mark it for identification.
21 And, the number is?

22 MR. CAMERINO: The number is 3260. And,
23 I'm proceeding on the basis that once counsel uses a
24 document, the entire document is appropriate, and not to

[Witness: Joyner]

1 just show one sentence.

2 BY MR. CAMERINO:

3 Q. And, one of the things that struck me in here, and I'm
4 a little surprised Nashua didn't mention this, there's
5 a sentence on the first page that says "We found the
6 proposal submitted by Veolia to be professional and
7 comprehensive." You see that?

8 A. Yes, I do.

9 Q. Why would you say something like that, if you -- later
10 you go on and identify costs that the City hasn't
11 included. So, why would you say it was "professional
12 and comprehensive"?

13 A. Because it was. You know, it was prepared by
14 knowledgeable people, and I hate to bring up the
15 "Atlanta" word again, but, you know, the lessons
16 learned from a project like that are understood by
17 everyone very clearly today. So, Veolia was very
18 careful to assign the risk to the municipality for
19 risks that they were unable to manage, based on the
20 limited information that they had available to them on
21 the operation and the condition of the asset.

22 Q. Now, Mr. Richardson asked you some questions about the
23 comparability of Atlanta-Fulton County. Would you say
24 that operating a water treatment plant, water supply

[Witness: Joyner]

1 source, is comparable to operating a distribution
2 system and all of the many thousands of retail
3 customers that it serves?

4 A. Well, that's the -- I'm glad you asked that question.
5 That is the point, in that it's completely different to
6 provide operating and maintenance expenses for a
7 facility versus the entire distribution system,
8 managing the customer base, being responsible for
9 customer services, leak repair, all of those more
10 retail-related services.

11 Q. And, I'm going to try and speed this along. I'm going
12 to represent to you he mentioned "Atlanta", "Lynn" and
13 "Brockton", I think I've gotten all the ones he
14 mentioned, I may have missed one. If I represented to
15 you that if I looked on Exhibit 1051 that he was
16 pointing to, and none of those involved distribution
17 systems, would you say that those cities are
18 comparable?

19 A. Not if they don't include distribution systems and
20 customer services.

21 Q. I'm showing you an excerpt from the deposition of
22 Mr. Ashcroft, who's testified previously. And, I've
23 highlighted a portion of it. And, I'm going to read it
24 into the record. But my question to you, before I do

[Witness: Joyner]

1 that, because I want you to think about it as you read
2 this, is whether, having read that, whether that would
3 provide a basis for your statement in your testimony
4 that the only distribution systems that Veolia operates
5 in the Northeast are in -- I don't remember whether the
6 testimony was that there are only two or that they are
7 in Smuggler's Notch and Stockbridge [Sturbridge?]. But
8 let me read it first, and then I'll have you answer
9 that question. "Question: In the Northeast, the only
10 operations that you have in Veolia, in which you both
11 operate a treatment plant and the distribution system,
12 are in Smuggler's Notch, Vermont and Sturbridge,
13 Massachusetts, correct? Answer: Could be correct.
14 Sounds okay. But, again, I'd have to check the facts.
15 Question: And, neither of those systems approach the
16 size of Nashua, correct? Answer: Correct."

17 Would that have been one of the bases on
18 which you testified as you did about Veolia's
19 operations in the Northeast?

20 A. Exactly, yes.

21 Q. Would you expect somebody at the level of Mr. Ashcroft
22 to know if there were more than two systems in which
23 they operated distribution and supply?

24 A. Yes.

[Witness: Joyner]

1 Q. Finally, I want to show you something that's been
2 marked as -- I need to just check the exhibit number
3 actually, I can see the three and the two, and the last
4 number is cut off. I'm going to show you something
5 that's been marked as "Exhibit 3222", and look on your
6 screen. And, this is a complaint in a case in Georgia
7 entitled "City of Atlanta versus Veolia
8 Environnement/Vivendi Environnement. You see that?

9 A. Yes.

10 Q. And, I'm going to turn you to Paragraph 11.

11 MR. UPTON: I object. I think this is
12 way beyond the scope of cross-examination.

13 MR. CAMERINO: I'm happy to give you the
14 relationship, if you'd like.

15 CHAIRMAN GETZ: Well, of redirect, but
16 it's the point that other entities have had problems in
17 the Atlanta vicinity?

18 MR. CAMERINO: I'm going to try and do
19 this without doing it in a way that would suggest the
20 answer to the witness. But this is a lawsuit involving
21 Veolia, relating to operation on an outsource basis of a
22 biosolids facility, that's Paragraph 11, with allegations
23 of failure to fulfill the contract obligations, that's
24 Paragraph 27, relating to a contract that is four years

[Witness: Joyner]

1 old. Which I'm just trying to put in the record is very
2 similar to what Mr. Richardson was questioning this
3 witness about with regard to United.

4 MR. UPTON: If I can respond?

5 CHAIRMAN GETZ: Mr. Upton.

6 MR. UPTON: The cross-examination
7 related to his testimony, and the fact that the word
8 "Atlanta" shows up doesn't make, in this contract, doesn't
9 make Atlanta, I mean, Atlanta the whole issue of anything
10 related to Atlanta is not now opened.

11 CHAIRMAN GETZ: Well, this seems to be
12 beyond the scope of redirect.

13 MR. CAMERINO: All right. Let me try it
14 in a different way then, and see if the question is
15 appropriate.

16 BY MR. CAMERINO:

17 Q. Understanding that, and this is in evidence that there
18 was litigation between Veolia and the city involving a
19 biosolids contract and performance under that, --

20 MR. UPTON: Again, this is -- it has to
21 be related to his testimony. It has to be related to the
22 cross-examination.

23 MR. CAMERINO: I'm about to do that.

24 MR. UPTON: You can't just open up

[Witness: Joyner]

1 something new in redirect.

2 CHAIRMAN GETZ: We're trying to make
3 that point. I want to hear what the question is and what
4 the -- but I want the witness to hold off on an answer
5 until I understand where we're going.

6 BY MR. CAMERINO:

7 Q. And that, during approximately the same time period,
8 there was litigation between United and the City of
9 Atlanta relating to their outsourcing operations
10 contract. Does that tell you something about the
11 nature of doing business in the City of Atlanta or
12 doing business under contracts like this, in terms of
13 the potential for litigation?

14 CHAIRMAN GETZ: Well, I think that's
15 fairly related to the inquiry on cross-examination, about
16 the nature of relationships, contractual relationships
17 with the city. So, I'll allow it.

18 BY THE WITNESS:

19 A. Well, I guess there are two parts to answer your first
20 question. Based on my experience, being a public
21 official and being a private company doing business
22 with municipalities, and now being in a position in
23 between the two as an advisor, Atlanta was a very
24 difficult place to do business. And, the fact that the

[Witness: Joyner]

1 Atlanta project, you know, turned out the way that it
2 did is one of the reasons why I'm in this business of
3 trying to make sure that public-private partnerships
4 going forward are successful, and that the proper model
5 is applied and the proper contracts are in place, and
6 either party doesn't accept risks that they shouldn't
7 take or at least completely understands them.

8 CHAIRMAN GETZ: Well, now we're getting
9 beyond the answer to the particular question.

10 THE WITNESS: Very well. It's a
11 difficult city.

12 MR. CAMERINO: That's all I have.

13 CHAIRMAN GETZ: Okay. All right. Then,
14 that completes the examination of Mr. Joyner. You're
15 excused, sir. Thank you. Is Ms. Hartley ready to take
16 the stand?

17 (Whereupon Bonalyn J. Hartley was
18 recalled to the stand, having been
19 previously sworn.)

20 CHAIRMAN GETZ: And, I'll note for the
21 record that Ms. Hartley is still under oath, based on the
22 direct examination from the other day. Ms. Knowlton.

23 MS. KNOWLTON: Chairman Getz, I have a
24 very limited line of questioning for Ms. Hartley related

[Witness: Hartley]

1 to Synergen. There's been much discussion over the past
2 couple of days about Synergen. And, I can do that as
3 redirect or I can do it as rebuttal. But I do have a very
4 brief line of questioning that I would like to conduct on
5 that topic.

6 MR. UPTON: I don't see how she can go
7 into it unless I do it on cross-examination. Otherwise,
8 it's just new direct testimony.

9 MS. KNOWLTON: Well, I guess my view
10 would be is that I'm entitled to do rebuttal, to the
11 extent that it was an issue, and what the Commission said
12 in one of the orders it issued in this case is that it
13 would allow rebuttal to the extent that the issue could
14 not have been fairly anticipated. And, we certainly
15 didn't anticipate that Synergen was going to come up, you
16 know, in this case. And, I think that there's a lack of
17 understanding about what Synergen is and what it does and
18 how the Company uses it, and it would benefit the
19 Commission's understanding to have that information before
20 it.

21 CHAIRMAN GETZ: Well, it strikes me as
22 supplemental direct testimony that you're trying to
23 introduce at this point. Can you cite me in the other
24 documents that you made a reference to "rebuttal testimony

[Witness: Hartley]

1 would be allowed"?

2 MS. KNOWLTON: Yes, I can cite the order
3 for you. If you can just give a minute please.

4 MR. UPTON: And, I just would say,
5 Mr. Chairman, what that means is, we're going to want to
6 call a rebuttal witness to this testimony more than
7 likely. So, it just seems to me it's inappropriate.

8 CHAIRMAN GETZ: Well, before I make my
9 ruling, I just want to see exactly what she's referring to
10 in the record.

11 MS. KNOWLTON: Okay. Order
12 Number 24,667, and the quote that I have is at, and this
13 is, I apologize, I don't have the page number in front of
14 me, but "At hearing the parties can expect us to require
15 Nashua to take advantage of its role defined by Puc 203.06
16 and 203.26 to make its case in chief via direct testimony,
17 confining rebuttal testimony to issues raised by opposing
18 parties (including Commission Staff, as appropriate) that
19 Nashua could not reasonably have been expected to
20 anticipate." And, I think that same right should apply to
21 Pennichuck as well. That we could not have anticipated
22 that this issue of Synergen would come up. And, you know,
23 I think a brief explanation of what Synergen is and how
24 it's used by the Company would be beneficial.

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[Witness: Hartley]

1 The witness that was asked the question
2 about Synergen isn't the person that really operates the
3 Synergen system. We had questions of Mr. Reilly yesterday
4 on Synergen, and Mr. Reilly doesn't work with Synergen at
5 the Company on a daily basis, whereas Ms. Hartley does.

6 CHAIRMAN GETZ: Okay. One moment.

7 (Chairman and Commissioners conferring.)

8 CHAIRMAN GETZ: What's the date of the
9 24 -- of the order you're citing? I'm sorry, "24,667" did
10 you say?

11 MS. KNOWLTON: 24,667 is September 22,
12 2006. And, it was -- I have a copy of it here. It was an
13 order on a motion to strike or exclude testimony.

14 CHAIRMAN GETZ: Okay. Let's handle it
15 this way. I'm going to hold this in abeyance while I go
16 back and revisit this. We're at the point of hearing
17 Ms. Thunberg's examination of Ms. Hartley. Let's do that
18 for the moment.

19 MR. RICHARDSON: Mr. Chairman, if I may
20 respond to one comment made by Ms. Knowlton. The
21 testimony of Don Ware discussed CMMS system. Synergen is
22 a CMMS system. So, it was anticipated that that could
23 have been involved in that sense. It's also, I believe,
24 valued in Mr. Reilly's report at \$8 million. And, so, I

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[Witness: Hartley]

1 think there's different aspects that, I mean, obviously,
2 you can't anticipate everything someone will do in
3 cross-examination, but it certainly was not unforeseeable.

4 CHAIRMAN GETZ: Okay. Thank you. Let's
5 proceed with Ms. Thunberg at this point.

6 MS. THUNBERG: Good morning, Ms.
7 Hartley.

8 THE WITNESS: Good morning.

9 BONALYN J. HARTLEY, PREVIOUSLY SWORN

10 CROSS-EXAMINATION

11 BY MS. THUNBERG:

12 Q. I have just a few issues to cover with you. And, I'm
13 going to refer to Exhibit 3003, which is your
14 testimony, although I don't necessarily think it needs
15 to be pulled up, but we can pull that up if your memory
16 of your testimony needs to be refreshed. But, in that
17 testimony, you talk about the number of customers that
18 the Pennichuck family serves. And, I will posit to you
19 that those numbers were 24,500?

20 A. Correct.

21 Q. And, then, another 5,500, another 8,600, and another
22 7,300?

23 A. Correct.

24 Q. And, of that total, can you please tell me how many

[Witness: Hartley]

1 customers are just in the Nashua core system, if you
2 know?

3 A. The core system is comprised of about 24,000 customers.

4 Q. You said "24,000"?

5 A. Uh-huh.

6 Q. Okay.

7 A. Including satellites, which would refer to the total
8 PWW system.

9 Q. Okay. So, if that 24,500 includes the satellites, what
10 I'm just trying to get to are what are the City of
11 Nashua customers of that larger number, to the extent
12 you know?

13 A. I believe it's around 22,000.

14 Q. I'd like to move onto the next subject in your
15 testimony regarding training, if you recall that. And,
16 can you tell me if that training is ongoing or how
17 frequently is that training?

18 A. Typically, it's an ongoing training. But, when we have
19 a new customer service rep, it takes us about a year to
20 train that representative, so they have a full
21 understanding of the complexity of the systems we
22 serve, as well as all of the water-related inquiries
23 that they will receive, and also train them in billing
24 and responding to billing inquiries. So, it's an

[Witness: Hartley]

1 extensive training. And, then, beyond that, we provide
2 training to our service reps for just how to handle
3 difficult customers and those types of seminars that
4 might be of use.

5 Q. I know you've been in this hearing room the last week
6 intermittently, but do you recall there being testimony
7 from the Veolia panel concerning customer service
8 process charts?

9 A. Yes, I did.

10 Q. Okay. For the record, that is Exhibit 1053. Did you
11 review that exhibit?

12 A. Just briefly.

13 Q. Okay. Well, I will ask you, of the training that you
14 conduct with your employees, do you cover the issue of
15 not sufficient funds checks?

16 A. Yes.

17 Q. Do you cover the issue of payment arrangements?

18 A. Yes.

19 Q. Do you cover the issue of processing payments from
20 collection agencies?

21 A. Yes.

22 Q. Do you cover the issue of how to process calls relating
23 to bills not received?

24 A. Yes.

[Witness: Hartley]

1 Q. Burst meter calls?

2 A. I'm not sure of that terminology. But we certainly
3 take care of all meter calls, related to meters and
4 their operation and questions regarding their readings.

5 Q. With respect to burst meters, do you have a process for
6 when a call comes in where a customer is reporting a
7 burst meter, how that Customer Service Representative
8 should handle that call or direct that call?

9 A. We not only have a process, and, again, "burst" is a
10 terminology that's quite unfamiliar to me, so if
11 someone could give me a definition, then I think I
12 could be of more assistance in that matter. If this
13 was from the Veolia exhibit, it might be a terminology
14 that they use that we maybe refer to it differently.
15 So, that would be helpful.

16 Q. Let me show you this exhibit.

17 MS. THUNBERG: For the record, I'm going
18 to be showing Ms. Hartley Exhibit 1053, and starting on
19 Page 59. Can I have Page 60 pulled up please? Whoops.
20 Sixty-one.

21 BY MS. THUNBERG:

22 Q. And, Ms. Hartley, you had asked for a definition of the
23 sense that Veolia is -- how it is using this. And,
24 does this page give you a sense of how they're using

[Witness: Hartley]

1 it?

2 A. Yes.

3 Q. Okay.

4 A. Yes, it did does.

5 Q. Now, the question being, does Pennichuck have --

6 Pennichuck Water Works have a standardized response

7 similar to the scenario that is outlined in this

8 exhibit?

9 A. Yes. And, in fact, we have flow charts very similar to
10 what I noted on Page 60, and those have been recently
11 reviewed as part of our compliance with Sarbanes-Oxley.
12 And, so, all of our policies and procedures in Customer
13 Service have been documented in this way and flow
14 charted.

15 Q. Okay. I'll move onto the next issue of customer
16 service process charts regarding final billing
17 disputes. Does Pennichuck have those?

18 A. Yes.

19 Q. And, also, how to change customer information?

20 A. Yes.

21 Q. Are there other subjects, other than what we've just
22 covered here this morning, that Pennichuck has that we
23 just haven't discussed in this list?

24 A. Yes.

[Witness: Hartley]

1 Q. And, what would those subject matters be?

2 A. Well, we're a full service department. And, so,
3 therefore, there are many other activities that are
4 provided by the customer service reps. And, those
5 activities can range from questions regarding water
6 quality and procedures for addressing those issues, as
7 well as backflow testing, which we also provide a
8 service for in the Company, and also questions
9 regarding leaks on people's property. There's just a
10 host and a myriad of questions and situations that
11 arise in the water industry. And, we have flow charts
12 and procedures and policies that is available to the
13 customer service reps, and that we even have management
14 flow charts that enable them to follow the policies and
15 procedures for their duties as well.

16 Q. Okay. Can I have Exhibit 1068 pulled up please? It's
17 a two-page exhibit. I'm going to show Ms. Hartley the
18 hard copy. Daniel, thank you for the two-page purview.
19 Ms. Hartley, I'd like to draw your attention to
20 Paragraph C of this response. Do you recall writing
21 this response?

22 A. I do.

23 Q. And, of the responsibilities that you have listed,
24 would it be fair to say that there are customer service

[Witness: Hartley]

1 process charts or an equivalent thereof to cover these
2 areas?

3 A. Yes. The Consumer Confidence Report would be the one,
4 the procedures for preparing that information is done
5 by our laboratory, how we prepare the printing and
6 mailing of those confidence reports. So, for the
7 exception of that particular item, there are policies,
8 procedures, and instructions on how to respond to
9 customers. And, in some cases, the instruction would
10 be to elevate it to a higher level, which would be to
11 Don Ware, President of the Company, or myself.

12 Q. Okay. Thank you. I don't need that exhibit anymore.
13 With respect to the training, is that conducted by one
14 employee, and one employee being a one full-time
15 equivalent, or is that function shared among employees
16 at Pennichuck?

17 A. It's shared. We have a -- We have a level of customer
18 service reps which we -- which is a little higher level
19 of expertise in there, Customer Service Reps 1, and
20 those reps are very capable of training new customer
21 service reps or also adding others in the process of
22 responding to customers' inquiries or billing issues.

23 Q. Okay. Are you generally familiar with Nashua's
24 proposal to have two Veolia employees dealing with

[Witness: Hartley]

1 customer service operational issues, and then have a
2 group of employees in the billing and collections
3 department at the City handling billing functions? Are
4 you familiar with that general framework?

5 A. Yes.

6 Q. I'd like to get Pennichuck's version of the customer
7 count or employee count of those two. And, I'd like to
8 ask you, of the -- to the extent you know what the
9 operational employees are doing from Veolia, how many
10 does Pennichuck have that cover those services?

11 A. Okay. The two employees that the City, this is my
12 understanding and from Mr. Ashcroft's testimony, they
13 intend to employ two additional employees to service
14 the customer inquiries. In addition to that, Veolia,
15 as you stated, will hire an additional two. However, I
16 said in my testimony, and I will state it clearly
17 today, that is woefully inadequate. First of all, we
18 have four -- we have two full -- we have, let's say 2,
19 4 -- 6 full-time operational customer service reps
20 located at the Company's headquarters who handle -- two
21 of them primarily handle calls, the others handle
22 calls, as well as do operational and administrative
23 activities regarding billing and receivables.

24 In addition to that, which certainly is

[Witness: Hartley]

1 far greater than the number that Ms. Raswyk had
2 proposed. But, in addition to that, we have two
3 administrative assistants located at our Will Street
4 facility, who also help to handle operational
5 situations, as well as activities regarding the water
6 utility. So, to me, to just have two for Veolia, those
7 folks are already gainfully employed, and will not have
8 a great deal of time, in terms of -- after they have,
9 you know, set up appointments and worked with some of
10 the administrative activities, to respond to customer
11 inquiries. So, that seems to me woefully inadequate.
12 In addition to that, we also have an administrative
13 assistant at the treatment plant, who can also process
14 information and administrative activities. And, all of
15 these folks deal with customers, if not directly,
16 indirectly by talking to the customer service reps
17 located at headquarters. And, I don't see how you can
18 do this with two people at Will Street, if that's where
19 they would be located, and two individuals at City
20 Hall. It sounds very fragmented, woefully inadequate.
21 And, certainly, I think the tasks have been
22 underestimated.

23 Q. Have you reviewed Veolia's OM&M contract?

24 A. No, not in detail.

[Witness: Hartley]

1 Q. Okay. I'd like to just, if I could, Daniel, have you
2 pull up Exhibit 1005B, and Page 50, and 51, if you can
3 do both of those. And, Ms. Hartley, when I am
4 referring to the "Veolia operational employees", I'm
5 referring to the services Veolia is providing through
6 those two employees under this Section 7 of Appendix D.

7 A. Uh-huh.

8 Q. Can you just familiarize yourself or review this a
9 little bit? Okay. The question to you is, with your
10 understanding of what the Veolia folks will be doing,
11 the two customer service employees, and this right up
12 here (indicating), or the two pages of this exhibit,
13 are these consistent with your understanding of what
14 they're doing?

15 A. You mean the Veolia or our people?

16 Q. I'm trying to get a handle on, when I'm trying to get
17 the Pennichuck equivalent of the Veolia employees, that
18 we have an apples-to-apples comparison. And, when you
19 said that you had scanned the OM&M contract, I thought
20 I would show you this customer service section, to make
21 sure that, when -- if you are categorizing the Veolia
22 employees by job function, that it is consistent with
23 the contract and that I can rely on your parceling out
24 of or comparison of Pennichuck to Veolia employees?

[Witness: Hartley]

1 That's all.

2 A. Yes. Absolutely.

3 Q. Okay. So, with the answer "yes", that is "yes", that
4 the functions described here are consistent with your
5 general understanding of what those employees will be
6 performing?

7 A. Yes.

8 Q. Okay.

9 A. It doesn't look like they're going to have a lot of
10 time to respond to customer inquiries.

11 Q. I don't need that exhibit anymore. Thank you. You
12 mentioned in your response to how many Pennichuck
13 employees would equate to the Veolia employees, and my
14 understanding was that you said "six Pennichuck
15 employees"?

16 A. There's currently six full-time equivalents at
17 Pennichuck and two part-time employees at Pennichuck,
18 and two supervisors. One is a billing supervisor and
19 the other is the manager of the department. That's at
20 Pennichuck. And, then, we have two administrative
21 assistants located at our Will Street facility, and one
22 administrative assistant located at the Water Street --
23 at the water treatment plant, and then administrative
24 assistant for engineering. And, in some fashion, those

[Witness: Hartley]

1 folks and those administrative assistants in the
2 outlying, outside the department, still service
3 customers in one fashion or another. So, even though
4 there are six customer service reps, and a
5 receptionist, I neglected to mention that, at the front
6 desk to take payments, we have a complement of people
7 with different expertises and even cross-trained in the
8 Customer Service Department to answer any question a
9 customer has regarding their service, their water
10 quality, or pressure, or any of the various items that
11 may come forward.

12 Q. I just have a couple more questions on this customer
13 account issue.

14 A. Sure.

15 Q. If you can bear with me?

16 A. Sure.

17 Q. Do you understand Nashua to be adding two customer
18 service employees in its billing/collections, but that
19 they will also be cross-training the existing billing
20 and collections employees at the City level to handle
21 water calls? Do you understand that to be the case?

22 A. That's what I heard.

23 Q. Now, getting back to the training, are you aware of any
24 proposal by the City of Nashua to train its -- the

[Witness: Hartley]

1 customer service folks that will be within the City?

2 A. No, I don't believe that was mentioned. I haven't read
3 that anywhere. But I can't say for sure.

4 Q. And, one last question on this training issue. With
5 respect to Pennichuck's training, it covers the billing
6 and collections folks and the duties that the Veolia
7 operations folks would be performing, is that fair?

8 A. Yes.

9 Q. I'd like to have Exhibit 1066 pulled up please. I'm
10 sorry. Yes, 1066. Thank you. And, if I could have
11 Page 2 also shown. Thank you. Ms. Hartley, Page 2 is
12 a little small, but do you recall this response?

13 A. Yes, I do.

14 Q. And, this is a summary of the calls for Pennichuck
15 Corporation in total, is that correct?

16 A. No.

17 Q. Is this the calls for Pennichuck Water Works?

18 A. This includes the calls, the direct calls that come in
19 to Customer Service only.

20 Q. And, do those calls come from Pennichuck Water Works,
21 Pennichuck East Utilities, --

22 A. Yes.

23 Q. -- Pittsfield Aqueduct Company?

24 A. Yes. All of the calls come into Customer Service from

[Witness: Hartley]

1 all of those regulated utilities.

2 Q. Do you have -- Is the Pennichuck Corporation set up
3 enough to know which calls, looking at this log, would
4 go to Pennichuck Water Works, Pittsfield Aqueduct, or
5 Pennichuck East at this point?

6 A. That would be difficult. Because circumstances change
7 from system to system, and issues can come up that can
8 create more calls in one regulated utility versus
9 another. So, at this point, we never track them, we
10 haven't tracked them separately.

11 Q. Okay. Fair enough. With respect to Page 1, and there
12 is, on the third and fourth line up, a statement that
13 "this log categorizes the nature of the calls received,
14 but does not include every call received." Do you see
15 that statement? On Page 1?

16 A. Oh. Yes. Thank you.

17 Q. Third or fourth line up.

18 A. That's correct.

19 Q. So, is it fair then to say that Pennichuck Corporation
20 does not track all calls?

21 A. That's correct.

22 Q. And, why doesn't it track these calls?

23 A. These are what I call "quick and easy calls". And,
24 what we're referring to here is we track the call down

[Witness: Hartley]

1 below, just to clarify, it's the log, we don't log
2 every call that comes in. The reason for that is some
3 of these are very simple calls and do not require
4 follow-up and are handled immediately. And, it's only
5 matters that may reoccur with a customer, such as an
6 issue about a high bill or something of that matter
7 that we would log that call.

8 Q. Do you have an estimate of how many calls this
9 untracked group comprises?

10 A. I don't. I would like to mention, too, in this age of
11 computerization, not everybody calls in anymore. We
12 get a great deal of e-mails from our customers. And,
13 those aren't included here either. And, those are
14 responded to by our customer service reps. Also, the
15 calls that may come through, inter-departmental
16 employees to our customer service reps to handle a
17 certain situation, those aren't tracked here either.

18 Q. Okay.

19 A. And, outbound calls are not tracked. So, many calls we
20 have to call back and resolve an issue with the
21 customer, or help them through some type of a query.
22 And, those calls are not included here either. These
23 are just direct calls that came into Customer Service.
24 So, there are a great deal more inquiries than are

[Witness: Hartley]

1 being presented here.

2 Q. Of the universe of calls that you just articulated, the
3 e-mails, the outbound calls, the "quick and easy calls"
4 that aren't tracked, how much or what percentage of the
5 calls are tracked? Is it greater than 50 percent are
6 tracked? Less than 50 percent are tracked? If you
7 know?

8 A. I would be reluctant to answer that. I'm really not
9 sure of that exact amount.

10 Q. Do you know how many calls per month Pennichuck Water
11 Works would receive?

12 A. Well, on an average, and I just checked this before I
13 came, we are averaging about 1,800 to 2,000 calls,
14 direct calls. And, again, that could include calls
15 from Pennichuck East, as well as PAC.

16 Q. Okay. I just wanted to make sure. And, you recall
17 answering that same question in a data response as
18 well?

19 A. Yes.

20 Q. Okay. Could you tell me if some of these calls -- I
21 don't need this exhibit anymore -- some of the calls
22 that the customer group at Pennichuck receives, do they
23 also include calls that relate to wastewater issues?

24 A. Yes. Although we help them as much as we can, but

[Witness: Hartley]

1 usually refer them become to the City of Nashua.

2 Q. Okay. For simplicity sake, I'll just call these the
3 "overlap calls" --

4 A. Yes.

5 Q. -- for these questions.

6 A. But there are very few. It's not major.

7 Q. If there are very few, do you have a percentage of the
8 calls? Is it maybe 5 percent or 10 percent, if you
9 know?

10 A. That's too high. We might get a call a week or two,
11 two or three calls a week tops.

12 Q. And, I would like to just ask you if you recall -- or,
13 were you present during Ruth Raswyk's testimony?

14 A. I was.

15 Q. Do you remember a portion of the testimony talking
16 about that Ruth stated that they "receive the calls
17 already, and that the add-on of the Pennichuck Water
18 calls is going to be incremental." Do you remember a
19 characterization like that?

20 A. I did.

21 Q. So, getting back to this percent of overlap calls, the
22 number of the calls that Nashua, they're saying they
23 get these already, is it fair to say that's going to be
24 a very small percentage?

[Witness: Hartley]

1 A. That's a small percentage. What she was referring to
2 is -- are property transfers, and that's it basically.
3 And, those are -- currently, there's not many pieces of
4 property transferring. So, there can't be too much
5 overlap there. So that, occasionally, a customer will
6 call both the Sewer Department and the Water Company to
7 notify them of a property transfer. That's what she
8 was referring to, and only those situations.

9 Q. So, would you disagree that the addition of water calls
10 is just going to be merely an increment?

11 A. It's going to be a large increment.

12 Q. Okay. I'd like to show you a transcript from Day II.
13 I'm going to put it up on the ELMO.

14 MS. THUNBERG: Mr. Chairman, I expect to
15 finish by the 12:30 break.

16 CHAIRMAN GETZ: Thank you.

17 BY MS. THUNBERG:

18 Q. In particular, I'd like to focus on Line 7 to 13.

19 A. Yes.

20 Q. And, I'd like to draw your attention to Ms. Raswyk's
21 statement that the Department already receives "pipe
22 sizes", "group numbers", "consumption history",
23 "periods of billing", etcetera. Do you see that?

24 A. Yes, I do.

[Witness: Hartley]

1 Q. And, the sentence "We're already buying all this
2 information from Pennichuck right now"?

3 A. Yes, I see that.

4 Q. Are you aware of this arrangement?

5 A. Yes, I am. A big, big piece is missing here. They're
6 going to need meter readings. I mean, I'm reading
7 this, and she doesn't have all of the information. All
8 they get from us -- I'm sorry, I didn't mean to --

9 Q. I'll ask my questions --

10 A. I got a little passionate, I apologize.

11 MR. UPTON: I'm really hesitant to
12 object, and I've tried to -- I've tried not to this time.
13 But this is having her testify about somebody else's
14 testimony. This is rebuttal. It's not redirect. I mean,
15 it's not even cross-examination, it's rebuttal of Ruth
16 Raswyk's testimony. And, I don't think it's appropriate.
17 If Ruth Raswyk was here, she could have done it with Ruth
18 Raswyk.

19 CHAIRMAN GETZ: Ms. Thunberg, do you
20 have a response?

21 MS. THUNBERG: In this line of
22 questioning, I thought it was generated out of
23 Ms. Hartley's issues on direct. But Mr. Upton is probably
24 right, so I will move on. Thank you.

[Witness: Hartley]

1 MR. UPTON: If I am, it's probably the
2 first time today. So, thank you. Well, it didn't involve
3 electronics.

4 MS. THUNBERG: I think that concludes my
5 questions. Thank you.

6 THE WITNESS: Thank you.

7 CHAIRMAN GETZ: Thank you.

8 Mr. Richardson, Mr. Upton, how much cross for Ms. Hartley?

9 MR. UPTON: I have probably half,
10 three-quarters of an hour at the most.

11 CHAIRMAN GETZ: Okay. I was --

12 MR. UPTON: Maybe we could have a short
13 lunch break and --

14 CHAIRMAN GETZ: I'm debating the issue
15 of whether to try to move through this or take the lunch
16 break. We still have to deal with Ms. Knowlton's motion.

17 MS. KNOWLTON: If you would consider our
18 preference, it would be to take a short lunch break. I
19 would agree with Mr. Upton. And, then, we could finish
20 earlier today. If the Commission would consider that,
21 we'd appreciate it.

22 CHAIRMAN GETZ: Well, let me, before we
23 take a lunch break, yes, if we can -- let's do this. I
24 want to understand -- make sure I understand your

[Witness: Hartley]

1 argument. Now, there's a couple pieces to this. One is,
2 it looks like you've got some, whatever we want to call
3 this, supplemental, rebuttal, some additional testimony
4 that you would like Ms. Hartley to make with respect to
5 the Synergen issue?

6 MS. KNOWLTON: That's correct. And, in
7 particular, what I'm thinking about is a question that
8 Commissioner Below asked Mr. Reilly yesterday about. He
9 was asking a line of questioning with regard to the entry
10 of the work orders into the Synergen system and what the
11 output of that looked like, and what the -- what the
12 concern was relative to there was an audit issue that had
13 come up, and whether or not, in fact, the Synergen system
14 -- system, excuse me, was used and useful. And,
15 Mr. Reilly answered the question, and then what
16 Commissioner Below said back, he said "well, you're
17 assuming this, right?" And, he said, you know, "Yes, I'm
18 assuming that. I don't" -- you know, Mr. Reilly is not
19 working with the output. So, you know, what I want to do
20 is show the Commission and the witness a printout from
21 Synergen of a work order, so we can all see what we're
22 talking about and just have Ms. Hartley briefly explain --

23 CHAIRMAN GETZ: Okay. Ms. Knowlton, --

24 MS. KNOWLTON: -- what that is.

[Witness: Hartley]

1 CHAIRMAN GETZ: Okay. I'm getting the
2 direction there. And, the other thing was, when you were
3 citing order 24,667, you were citing to the discussion at
4 the bottom of Page 5, carrying over to Page 6, is that
5 correct?

6 MS. KNOWLTON: I'm not sure.

7 CHAIRMAN GETZ: "At hearing the parties
8 can expect us to require Nashua to take advantage of its
9 role" --

10 MS. KNOWLTON: Yes. That's the
11 paragraph.

12 CHAIRMAN GETZ: -"to make its case in
13 chief via direct testimony"? Okay. I just want to make
14 --

15 MS. KNOWLTON: That's correct. That's
16 what I'm referring to.

17 MR. UPTON: I don't have that, so I
18 don't know what she's referring to.

19 CHAIRMAN GETZ: Well, I'll do one thing,
20 is I don't believe that this discussion here is relevant
21 to the issue that you're raising. So, I would find this
22 not controlling, in terms of whether we allow this
23 testimony or not. But I think it's important for opposing
24 counsel to have a better understanding exactly of what

[Witness: Hartley]

1 you're going to try to bring into the record. And, I
2 think what it really comes down to, is there going to be
3 an objection and does the Bench want to hear this as a
4 matter of discretion, does it think it needs to hear this
5 to round out the record?

6 So, I would say we take the lunch recess
7 till 1:00. And, I would ask you to make sure that Mr.
8 Upton and Mr. Richardson know exactly what you want to get
9 into the record, to see if they have an objection to it
10 when we come back at 1:00.

11 MS. KNOWLTON: I'd be glad to. Thank
12 you.

13 CHAIRMAN GETZ: All right. Let's take
14 the recess until 1:00.

15 (Lunch recess taken at 12:29 p.m. and
16 the hearing reconvened at 1:03 p.m.)

17 CHAIRMAN GETZ: Okay. We're back on the
18 record with the examination of Ms. Hartley. Mr. Upton,
19 did you happen to reach any agreement or --

20 MR. UPTON: No, we were unable to.

21 CHAIRMAN GETZ: -- or is there a level
22 of disagreement that you would like to express at this
23 point on the issue of the supplemental?

24 MR. UPTON: They want to show her copies

[Witness: Hartley]

1 of the Synergen reports and ask her about what's in them
2 and whether it's functional and all that sort of thing.
3 And, if that's the case, I feel like I've got to bring
4 back somebody from Veolia, who is an expert in Synergen,
5 to rebut that testimony. It's new testimony, I should be
6 entitled to rebut it somehow. And, I just don't think
7 it's fair at this point in the trial to try to raise it.
8 Synergen has been a part of this case from the beginning,
9 CMMS. So, I just think it's totally inappropriate for
10 them to be trying to raise it at this point.

11 CHAIRMAN GETZ: Okay. Thank you.

12 MS. KNOWLTON: My view of what's
13 happening here is that the City of Nashua is showing the
14 witness a document, and the witness really doesn't have a
15 lot of experience or information with that document. And,
16 then, when there's a company witness that's coming later,
17 that we're not afforded an opportunity to show the person
18 who's the most knowledgeable person the relevant document,
19 asking the question, and let them explain. And, so, what
20 happens is, and what I'm really concerned about here, is
21 that the record gets left with incomplete or inaccurate
22 information. And, we're not offered the opportunity to --
23 ever offered the opportunity to make that clarification or
24 correction.

{DW 04-048} (09-13-07/Day IX)

[Witness: Hartley]

1 CHAIRMAN GETZ: Okay. We've heard the
2 arguments. Let's continue with the --

3 MR. UPTON: I just have one more thing I
4 want to say about this. Mr. Ware testified that they did
5 not use Synergen, that they used OPS32 for work orders.
6 And, now she's going to produce these work orders and try
7 to make this witness rehabilitate Mr. Ware. And, I don't
8 think that's appropriate.

9 CHAIRMAN GETZ: All right. Let's move
10 on with the examination of Ms. Hartley.

11 MR. UPTON: How are you?

12 THE WITNESS: I'm good.

13 BY MR. UPTON:

14 Q. You joined Pennichuck in 1978?

15 A. I did.

16 Q. And, so, you've been there about 28 years?

17 A. More like 29.

18 Q. Okay. That's most of your working career?

19 A. Yes.

20 Q. Now, according to your testimony, Pennichuck Water
21 Works, at the time you filed your testimony, had 93
22 employees, does that sound right?

23 A. That's correct.

24 Q. And, also, according to the testimony, 44 of those were

[Witness: Hartley]

- 1 union contracts --
- 2 A. That's correct.
- 3 Q. -- union employees at that time, right?
- 4 A. That's correct.
- 5 Q. And, those are the people who operate and maintain the
- 6 system?
- 7 A. That's correct.
- 8 Q. And, the remaining 49 employees are administrative and
- 9 management?
- 10 A. That's correct.
- 11 Q. How many employees are there now?
- 12 A. About 103, I believe.
- 13 Q. Okay. How many of those are O&M at this point?
- 14 A. Forty-five -- you mean union?
- 15 Q. Union. Union.
- 16 A. I believe it's about 45.
- 17 Q. So, --
- 18 A. Or 46. I am not sure, to be honest. It's one of
- 19 those. I'm not really comfortable answering that.
- 20 It's either 45 or 46.
- 21 Q. So, it's either 57 or 58 administrative or management
- 22 now?
- 23 A. Correct.
- 24 Q. Okay. Now, from January of 2006, when you filed your

[Witness: Hartley]

1 testimony, until the end of that year, or till now, the
2 O&M number has increased by one?

3 A. Or two.

4 Q. Or two. And, management and administration has
5 increased by eight or nine?

6 A. That would be correct.

7 Q. I'm showing you the F-58, "Distribution of Salaries and
8 Wages, contained in the 2005 Annual Report. You see
9 that?

10 A. Yes, I do.

11 Q. What I first want to take a look at on this exhibit are
12 the "Administrative and General" salary distribution.
13 At the top, or the first two sections, you have
14 "Operations" and "Maintenance", is that correct?

15 A. Yes.

16 Q. And, then, in the middle of the page, there's "Total
17 Operations and Maintenance", correct?

18 A. Yes.

19 Q. So, the "Administrative and General" that are shown on
20 Lines 8 and Lines 15 are totalled on Line 24, is that
21 correct?

22 A. That appears to be correct.

23 Q. Okay. And, then, starting on Line 29, there are "Other
24 Accounts", which appear to me to be "Administrative and

[Witness: Hartley]

- 1 General", would you agree?
- 2 A. Yes.
- 3 Q. So, if I total up Line 24 and Line 37, the total, as I
- 4 got it, is \$4,186,000. Do you agree with that?
- 5 A. No.
- 6 Q. Does it look about right?
- 7 A. Because the -- yes, that would be correct.
- 8 Q. Okay. And, that represents about 76 percent, if my
- 9 math is right, of the total salaries and wages of
- 10 \$5,531,843?
- 11 A. Correct.
- 12 Q. Now, if you go back up to "Operations", the total is
- 13 966,000, and of which 458,000 is Administration and
- 14 General, correct?
- 15 A. Correct.
- 16 Q. So, if I subtract the Administrative and General from
- 17 the total, that should give me the salaries and wages
- 18 paid to the people who actually operate the system, is
- 19 that right?
- 20 A. Yes.
- 21 Q. Okay. And, would you accept that that number is
- 22 507,619?
- 23 A. Subject to check, yes.
- 24 Q. Okay.

[Witness: Hartley]

1 CHAIRMAN GETZ: Mr. Upton, is there a
2 chance that you're going to want to make this an exhibit
3 or we need to reserve some of these numbers? We may want
4 to get around to erasing this board one day.

5 MR. UPTON: No, I don't think that I'm
6 going to care about preserving it. Just it's going to be
7 easier for me if I have it written where I can go back to
8 it and add other things to it.

9 BY MR. UPTON:

10 Q. Now, let's do the same for "Maintenance", starting at
11 Line 10. The "Total Maintenance" is "1,024,846", is
12 that right? You can probably see it better than I can.

13 A. It looks like it. It looks a six.

14 Q. Okay. And, if you subtract out the Administrative and
15 General of 269,186, that's 755,660, would you agree?

16 A. Subject to check.

17 Q. Okay. And, those are the salaries and wages paid for
18 maintenance of the system, the actual maintenance of
19 the system?

20 A. Yes.

21 Q. And, if I told you that the total of these two figures
22 was 1,263,279, would you accept that?

23 A. Yes.

24 Q. Now, I assume, looking at this another way, that what

[Witness: Hartley]

1 I've just written on the board, the 1,263,279, are the
2 wages and salaries of the union employees, correct?

3 A. I think you need to include some other items here. The
4 jobbing, which I see down on "Other Accounts", that's
5 performed by our union, that's "\$677,621".

6 Q. I thought that was administrative?

7 A. No. Well, it's under "Other Accounts", and this I
8 believe was from our Public Utilities Commission Annual
9 Report.

10 Q. Okay.

11 A. And, this is how we categorize the work as a request,
12 and jobbing is always considered under "Other
13 Accounts", and doesn't come under the what I would
14 consider the real O&M portion of our operations. So,
15 and there's -- so, I think you would need to include, I
16 don't think, I know you need to include that \$677,621,
17 for jobbing, which is done for customer work.

18 Q. And, that's reimbursed directly by the customer?

19 A. Yes.

20 Q. Okay. So, it's an in-and-out account?

21 A. Yes, but it's still union labor.

22 Q. All right. But you're not paying that salary? That's
23 not something that the ratepayers are paying, is it?

24 A. No.

[Witness: Hartley]

- 1 Q. Okay. So, the ratepayers are paying for the union
2 salaries 1,263,279, is that correct?
- 3 A. Yes. But, depending on how you categorize your work,
4 you will still need to do the jobbing, so you still
5 need this union salary included.
- 6 Q. Okay. I understand that. Now, looking at Line 30 of
7 this exhibit.
- 8 A. Yes.
- 9 Q. "Officers"?
- 10 A. Yes.
- 11 Q. That's "1,129,114", correct?
- 12 A. Correct.
- 13 Q. How many officers are there?
- 14 A. There are currently five of us.
- 15 Q. At the end of 2005, how many were there?
- 16 A. I believe there were four.
- 17 Q. Okay. So, four officers at the end of 2005 made
18 1,129,114, while the 44 or 45 union people, who
19 actually operate the system, were making \$1,263,279?
- 20 A. Oh, they made 1 million, because I add the 677 back,
21 because even though we were reversed, the Company
22 employees were paid for that work.
- 23 Q. Okay.
- 24 A. So, you need to add that back. I don't mean to persist

[Witness: Hartley]

1 in that, but it is union work.

2 Q. Based upon what the ratepayers and customers paid for,
3 though, they paid 1,263,000 for 44 or 45 people, and
4 1.2 million -- or, 1.129 for the officers, correct?

5 A. That could be correct.

6 Q. Okay. Now, could you bring up 1069.

7 A. I would like to make a correction, there were five
8 officers at the end of 2005.

9 Q. Okay. And, I thought you were short, but --

10 A. Yes.

11 Q. -- I thought you knew better than me.

12 A. Well, there were some changes at that time. I just
13 wanted to make sure I was correct. Yes, five.

14 Q. This is the 2004 F-58.

15 A. Yes.

16 Q. And, all I want to do here is look at Line 24, which we
17 know is the "Total Administrative and General"
18 expenses. And, that here is "666,643". And, then, the
19 Line 37, which is, as I understand it, the other
20 Administrative and General expenses. And, in 2004,
21 that represented 58 percent of the total, does that
22 look right to you?

23 A. Subject to check.

24 Q. Okay. And, it looks to me like, from 2004 to 2005,

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[Witness: Hartley]

- 1 Administrative and General, as percentage of total
2 salaries, rose from 58 percent to 76 percent. Now,
3 that's an almost 20 percent increase, correct?
- 4 A. Correct.
- 5 Q. And, if I'm looking at Line 30, "Officers", in 2004 it
6 was "913,000", from 2004 to 2005, that rose by 215,000.
7 Does that look about right?
- 8 A. That would be right.
- 9 Q. And, that's about a 24 percent increase? Would you
10 accept that?
- 11 A. Subject to check.
- 12 Q. Thank you. Now, Veolia's plan that's been presented in
13 this case will make drastic cuts in Administrative and
14 General, correct?
- 15 A. If you say so. I'm not sure what their plan is for
16 administrative employees, but --
- 17 Q. All right. Have you seen their employment plan?
- 18 A. No.
- 19 Q. Okay. Do you agree that -- all right, let me ask you
20 this. You haven't heard in the testimony that what
21 Veolia intends to do is to take on O&M employees, but
22 not administrative employees?
- 23 A. I haven't been here every day, Mr. Upton. So, perhaps
24 they stated that and I might have missed it, but I

[Witness: Hartley]

1 don't recall it.

2 Q. I'm showing you the staffing plan that's contained in
3 Veolia's proposal to the City. Have you seen this
4 before?

5 A. No.

6 Q. Well, take a look at it, if you would. And, look
7 through the administrative positions. And, let me know
8 if you see anybody in there from Pennichuck?

9 A. I don't see any names that are familiar to me from the
10 Pennichuck team.

11 Q. So, would that make you think that they're probably not
12 planning on taking any of the administrative people
13 from Pennichuck?

14 A. I would say that would be the case.

15 Q. Thanks. Now, if they -- one of the reasons, would you
16 agree, that one of the reasons for making these --
17 well, no, let me strike that. Now, looking at the
18 total administrative cost on this exhibit, which I
19 think we concluded was just over 4 million, if Veolia
20 was able to just reduce Administrative and General
21 costs in half from what Pennichuck spends, that would
22 be over 2 million years [dollars?] alone, wouldn't it?

23 A. Yes. I'd like to make a comment. What isn't showing
24 here is the allocation of administrative salaries to

[Witness: Hartley]

1 the other subsidiaries. So, therefore, this isn't
2 really a true reflection of the administrative cost to
3 serve just Pennichuck Water Works.

4 Q. Well, I can only, you know, go by what you file at the
5 PUC, Mrs. Hartley. And, I understand that, according
6 to the instructions at the top, the filer is supposed
7 to "segregate amounts originally charged to clearing
8 account to Utility Departments, Construction, Plant
9 Removals, and Other Accounts." Now, I assume that that
10 refers to Pennichuck Water Works, not PEU and PAC?

11 A. All of the employees' salaries, and that's why we have
12 a management fee allocation between Pennichuck Water
13 Works and the affiliates -- and its affiliates, all of
14 the salaries, except for the Southwood, which also
15 there's two employees who are not included, who are
16 paid directly by Southwood, all of those salaries are
17 paid for by Pennichuck Water Works and are allocated
18 out through a management fee agreement, which is on
19 file with this Commission. And, the Commission Staff,
20 this is the way we have to show the salaries. And,
21 then, there is an allocation out on it based on a
22 formula that has been approved to recognize those costs
23 for salaries, administrative salaries that need to be
24 charged out. And, that is not reflected. These are

[Witness: Hartley]

1 gross salaries.

2 Q. "Gross" meaning what?

3 A. That means the total salary, without the allocation.

4 Q. Okay.

5 A. And, the form does not instruct us to eliminate the
6 allocation on this particular form. There's another
7 page in this report that will show you the management
8 fee allocation.

9 Q. But that doesn't mean that Veolia isn't going to be
10 able to eliminate that cost, does it, if it cuts that
11 by 50 percent?

12 A. I can't speak to that. I don't know what costs they
13 are going to have --

14 Q. All right.

15 A. -- going forward.

16 Q. And, I would just point out to you, if it cut just
17 salaries alone, that wouldn't be the extent of its
18 cutting as to administration, would it?

19 A. Probably not.

20 Q. Do you agree that, under City ownership, there would be
21 lower audit costs?

22 A. Yes.

23 Q. It's not publicly traded. If it left the office in
24 Merrimack, it would have lower rent and associated

[Witness: Hartley]

1 expense?

2 A. I don't know that. We have a very favorable rate in
3 Merrimack.

4 Q. It has no income tax preparation?

5 A. I assume so.

6 Q. No legislative or lobbying costs?

7 A. You're talking about the City of Nashua?

8 Q. Yes.

9 A. I would assume so. I don't know.

10 Q. Doesn't pay a Business Profits Tax, a Statewide Utility
11 Tax, or a Federal Income Tax?

12 A. I don't know, but I believe not.

13 Q. Okay. A while back we mentioned the union. What is
14 the union at Pennichuck?

15 A. It's the United Steelworkers of America.

16 Q. And, these are the employees that Veolia has indicated
17 it would likely hire?

18 A. Yes.

19 Q. Okay. By the way, has Pennichuck allowed the City or
20 Veolia to have access to its employees, to explain the
21 City's plan or employment under Veolia?

22 A. No, we have not.

23 Q. Okay. The union hasn't intervened in this proceeding,
24 has it?

[Witness: Hartley]

1 A. Well, not formally. But I believe they wrote a letter
2 expressing their views some time ago.

3 Q. But it did intervene when the Company was being
4 acquired by Philadelphia, didn't it?

5 A. I don't recall that, Mr. Upton.

6 Q. Okay. Now, your testimony expresses concern about loss
7 of institutional knowledge about the physical
8 attributes of the system to the disadvantage of the
9 customer. Do remember that?

10 A. It does.

11 Q. Now, if Veolia is able to hire the O&M employees, won't
12 they bring that institutional knowledge with them?

13 A. In some manner, yes, but not completely. The
14 administrative employees at Pennichuck, and including
15 the officers of Pennichuck, are very active in the
16 day-to-day operations of that utility, and other
17 utilities we serve. And, we have a great deal of
18 institutional knowledge, both in customer service,
19 engineering, and other departments in the Company that
20 are going to be vital to the proper maintenance of this
21 system and operation.

22 Q. Now, I know you don't want this acquisition to occur.
23 But you aren't suggesting, when you say that, that the
24 Company won't fully cooperate in the transition of

[Witness: Hartley]

1 ownership, to make sure the City is fully prepared to
2 protect the customers, if the Commission allows this
3 acquisition, are you?

4 A. I would cooperate in any way that is within the law.
5 And, if that was a legal order, that's what we
6 cooperate with.

7 Q. Don't you think that this is an -- that the smooth
8 transition is an issue of public health and safety, and
9 for the benefit of the customers?

10 A. Yes, I do. And, I haven't seen a transition plan that
11 provides for that yet.

12 Q. Right. You're not suggesting that the Company would
13 just walk away and leave the City without information?

14 A. I would hope that there would be a very, very sound
15 transition plan. But I haven't seen one and none that
16 I've seen or heard about.

17 Q. Now, I gather from your testimony that you're proud of
18 the role that the Company plays in the community?

19 A. Yes, I am.

20 Q. And, of the participation of employees in community
21 activities?

22 A. Yes.

23 Q. And of the charitable donations made by the Company?

24 A. Yes, I am.

[Witness: Hartley]

1 Q. And, your testimony expresses fear that all of this is
2 going to disappear if Nashua acquires Pennichuck. Why
3 is that?

4 A. Well, my understanding, as I said, I'm not real
5 familiar with the Veolia structure and the City
6 structure, but my understanding is many of the boxes
7 you showed me on the organizational chart will not be
8 -- many of those folks will not be necessarily in
9 Nashua or the surrounding communities, at least on a
10 permanent basis. I think they're going to be lent out.
11 Some may be and some may not. And, so, that is my
12 opinion. Where we all live locally and we serve -- we
13 live in the community that we serve, we drink the
14 water, most of us that's in the community, obviously,
15 we're a fabric of the community. And, I didn't see
16 anything in the Veolia plan that also provided for what
17 I would consider philanthropic activities.

18 Q. Did you make any inquiry about what Veolia's experience
19 in Indianapolis was as a corporate citizen?

20 A. No, I did not.

21 Q. Well, --

22 MR. CAMERINO: Was this marked before?

23 Is this a new exhibit?

24 MR. UPTON: It's the same thing we just

[Witness: Hartley]

1 went through.

2 MR. CAMERINO: What's that?

3 BY MR. UPTON:

4 Q. I want to show you the annual performance report to the
5 City of Indianapolis that Veolia made.

6 MS. KNOWLTON: And, before we show it to
7 the witness, I'd like to object to this. I have not seen
8 this before. I don't know what this is. It certainly
9 does not look like it's anything new. And, we had
10 premarking of exhibits, again, the whole point was to
11 premark the exhibits before we came in here. And, to the
12 extent that there's been pre-existing information, you
13 know, it should have been premarked last December when we
14 marked all of our exhibits. So, you know, I just -- I
15 have to object to this on that basis alone.

16 CHAIRMAN GETZ: So, you're taking the
17 position that last September --

18 MS. KNOWLTON: December.

19 CHAIRMAN GETZ: -- that they should have
20 premarked every exhibit that they were going to use for
21 cross-examination of a witness?

22 MS. KNOWLTON: That was the whole
23 purpose. I mean, that's why we put together these lists
24 that are about this long of exhibits [indicating], was,

[Witness: Hartley]

1 you know, to put together a list of all the things that
2 were going to be used, whether it was going to be used for
3 impeachment or not. And, that's why we have extensive
4 markings.

5 CHAIRMAN GETZ: Mr. Upton.

6 MS. KNOWLTON: Don Kreis, in fact,
7 instructed us to do that. Which is why -- I mean, it's
8 not the normal course at the Commission to do that. And,
9 we did that at Don Kreis's instruction.

10 MR. UPTON: To the extent we were able.
11 And, I, in preparing for her testimony, I discovered this
12 in response to it.

13 MS. KNOWLTON: Well, and I would further
14 add that they added Mr. Siegfried's resumé, and they added
15 another document from 2004 to their exhibit list, which
16 they refiled with the Commission at some point in August
17 of this year. So, if a month ago they knew about this,
18 why didn't they send it then? I still think it would have
19 been too late in August, but that would have been better
20 than, you know, four days into the hearing.

21 MR. UPTON: All right. I'll withdraw
22 it.

23 BY MR. UPTON:

24 Q. Refer to Exhibit 1013. I want to look at the portion

[Witness: Hartley]

- 1 of the exhibit that we've just blown up. The second
2 sentence: "Since the contract began, VWI has
3 contributed more than \$2 million to local
4 not-for-profit organizations." The second paragraph:
5 "VWI's community involvement involves a major
6 educational outreach component to provide water boxes."
7 Doesn't this indicate to you that Veolia is going to
8 be, at least it was in Indianapolis, and is probably
9 going to be a good corporate citizen here in Nashua?
- 10 A. I don't know what they're going to do in Nashua. Was
11 this part of their contract with Nashua? What am I
12 looking -- what is this I'm looking at?
- 13 Q. This is just their report to the community of
14 Indianapolis?
- 15 A. Okay. I don't know what they will be doing in Nashua.
- 16 Q. Okay.
- 17 A. I think they have a very strong presence in
18 Indianapolis, and that's to be commended. But, whether
19 they will do the same in Nashua, certainly hasn't been
20 declared.
- 21 Q. Now, your resumé submitted with your testimony says
22 that you support the Company's business development of
23 acquisitions?
- 24 A. Yes, from an administrative perspective.

[Witness: Hartley]

1 Q. You and I talked a fair bit about that during your
2 deposition, didn't we?

3 A. Yes, we did.

4 Q. And, that would include, I know from the deposition,
5 the acquisition of the so-called "troubled systems"?

6 A. Yes. Once they're acquired, I provide the
7 administrative support for those systems.

8 Q. Okay. And, I only have a few questions on this, Mrs.
9 Hartley, but bear with me, if you will. Has the
10 Company purchased every troubled system it's ever
11 looked at?

12 A. No.

13 Q. And, in your deposition, we identified a couple of
14 systems that you looked at recently and had not
15 acquired, the Gunstock Glen system and the Fryeburg
16 Water system in East Conway. Do you remember those?

17 A. Yes.

18 Q. And, one of the reasons you identified for not buying
19 some of these systems is that they don't make economic
20 sense, correct?

21 A. No and yes.

22 Q. Okay.

23 A. There are several factors that are considered when we
24 acquire a troubled system. The Gunstock Glen had a tax

[Witness: Hartley]

1 lien issue, so therefore we -- that was an issue in
2 actual legality in acquiring the system. So, that
3 didn't make economic sense for us.

4 Q. Right. Now, my understanding was, from your
5 deposition, that Mr. Densberger has a model that he
6 uses for determining affordability of these systems?

7 A. That was my testimony.

8 Q. And, the Company doesn't buy systems that don't fit his
9 model, do they?

10 A. I think I testified -- not necessarily. I think I
11 testified that also that the model is used to determine
12 not just affordability, but more in tune with what rate
13 group it might fall in. We have three regulated
14 utilities.

15 Q. Right.

16 A. So, there's an analysis that takes place. And, there's
17 many other critical factors that are considered in
18 taking over a system.

19 Q. I'm showing you a data response by Staff to an inquiry
20 from Nashua about the list of troubled systems that the
21 Pennichuck companies had acquired. Does that list look
22 accurate to you?

23 A. The list is accurate. I would have to defer to Mr.
24 Ware and Mr. Densberger as to the degrees of how

[Witness: Hartley]

- 1 troubled some of these systems were.
- 2 Q. Oh, I'm not going to ask you about that.
- 3 A. I have no --
- 4 Q. You're safe. I'm safe, too.
- 5 A. I would just say that that is the list of -- those are
- 6 the list of systems that we have acquired.
- 7 Q. Okay. Would you go to the next page. And, Nashua also
- 8 asked Mr. Naylor to identify troubled systems acquired
- 9 by other systems, other companies. Does that look
- 10 accurate to you?
- 11 A. I can't, I don't know.
- 12 Q. Okay. Would you agree with me that, looking at Lakes
- 13 Region Water Company, that it's been fairly active
- 14 since 2002?
- 15 A. It appears to be.
- 16 Q. And, so, it looks like it's acquired approximately five
- 17 companies in that period?
- 18 A. "Companies" may be a stretch, but probably "systems".
- 19 Q. Systems. Yes, ma'am. I agree.
- 20 A. Yes.
- 21 Q. And, according to this response by Staff, how many --
- 22 how many companies has the Penn -- how many systems has
- 23 the Pennichuck companies purchased since 2002 -- since,
- 24 let's say, 2001?

[Witness: Hartley]

- 1 A. Ten systems. But the Consumer New Hampshire Water
2 acquisition really was a very large acquisition, and it
3 was comprised of many systems.
- 4 Q. Ten systems?
- 5 A. That's what I counted.
- 6 Q. Oh, I'm talking since 2002.
- 7 A. Oh, 2002.
- 8 Q. Or 2001.
- 9 A. Northland and Valleyfield is the only one that I see
10 here.
- 11 Q. Okay. I pulled off the --
- 12 A. And Consolidated and Central, at the bottom, sorry.
- 13 Q. Okay.
- 14 A. And, there's Northern shores. We have several here.
- 15 Q. Okay. I pulled off the PUC's website a list of the
16 regulated water companies, the water companies
17 regulated by the PUC. Does this look accurate to you?
18 Well, I'm not getting it all on. Let me show it to
19 you. As I suspect the Commission knows better than you
20 and I what they regulate.
- 21 A. Subject to check, this may or may not be an accurate
22 list of all the systems that the PUC regulates. I
23 don't know when this list was printed.
- 24 Q. Okay.

[Witness: Hartley]

- 1 A. I don't know where it came from, but I assume it's
2 correct.
- 3 Q. Okay. Let me -- I'm sorry. I should have showed you
4 the first page.
- 5 A. Yes. I assume this was printed on August 28, 2007.
6 So, this was the list as of that date.
- 7 Q. This is, wouldn't you agree, the universe of regulated
8 companies that any troubled systems you might buy would
9 have to come from?
- 10 A. No.
- 11 Q. Okay. Are there other regulated companies?
- 12 A. I'm questioning the word "regulated".
- 13 Q. Okay.
- 14 A. Because we have bought systems that needed our
15 assistance who were not regulated. And, I don't know
16 particularly which ones those are, and we have looked
17 at systems that have been unregulated.
- 18 Q. All right.
- 19 A. And, we have purchased many of them.
- 20 Q. All right.
- 21 A. That are unregulated.
- 22 Q. And, those are -- those are generally condominium
23 systems?
- 24 A. No, they could be small community water systems that

[Witness: Hartley]

1 haven't been regulated as of to date, or a newly --
2 being newly developed. And, again, I'm not the expert
3 on this matter, but that's a general comment.

4 Q. Okay. Now, during much of the time you've been
5 employed at Pennichuck, Mr. Arel was the CEO, is that
6 correct?

7 A. He was.

8 Q. And, I think you and I would both agree that Mr. Arel
9 was a good CEO of Pennichuck companies, wouldn't you
10 agree?

11 A. Yes.

12 Q. He ran the Company well and contributed to its success?

13 A. Yes.

14 Q. And, would you say that he was knowledgeable about the
15 Company?

16 A. Yes.

17 Q. And, he certainly understood its value?

18 A. Depending on what perspective you're looking at when
19 you talk about "value".

20 Q. Okay. Well, let me show you. Exhibit 1059.

21 A. He's certainly not a valuation expert. I mean, he's a
22 good CEO, knowledgeable, but not a valuation expert.

23 Q. I want you to look at this Nashua Telegraph article.

24 A. Uh-huh.

[Witness: Hartley]

- 1 Q. It appeared on November 28, 2002. Would you agree that
2 this was right after the vote of the Aldermen to seek
3 to acquire the assets of Pennichuck Water Works?
- 4 A. I presume so. I really can't -- I really don't know.
- 5 Q. If I represented to you that they took their vote in
6 early November 2002, would you accept that?
- 7 A. I believe that was correct.
- 8 Q. Okay. And, at that time, the Company had a merger
9 agreement with Philadelphia Suburban?
- 10 A. Correct.
- 11 Q. And, if you look at this article, isn't he outlining
12 what it's going to take for a superior offer from the
13 City, in order to supplant the Philadelphia offer?
- 14 A. I really don't know what he's referring to here, in
15 what context.
- 16 Q. Okay.
- 17 A. I really can't speak to what Mr. Arel was referring to
18 or what his thoughts were on this matter.
- 19 Q. Well, he's indicating that, if I'm reading it right,
20 that "the Company would only accept a superior offer
21 from the City over Philadelphia's current offer."
- 22 A. That's what it says. But then we're quoting a
23 Telegraph article. And, you know how newspapers are.
24 So, I would want to hear that directly from him.

[Witness: Hartley]

1 Q. All right. Fair enough.

2 MS. KNOWLTON: And, I'm going to just
3 object on the basis that the witness has already indicated
4 that she doesn't have any knowledge about this. So, if
5 there's any further questions on this exhibit, I just
6 don't think she has the knowledge to answer them.

7 MR. UPTON: I don't intend to ask any
8 more questions.

9 CHAIRMAN GETZ: Then proceed.

10 BY MR. UPTON:

11 Q. A few questions about Customer Service.

12 A. Sure.

13 Q. How many Customer Service employees do you have?

14 A. Okay. In the department, customer service
15 representatives that work under the Customer Service
16 Department, currently, there are nine, including the
17 manager and the supervisor and the receptionist.

18 Q. So, there are nine?

19 A. Right.

20 Q. Now, how many full-time equivalents do you have for the
21 Service Company?

22 A. Actually, there's currently only one full-time
23 equivalent, which is the Vice President of the Service
24 Company.

[Witness: Hartley]

- 1 Q. No, I'm talking about in Customer Service?
- 2 A. None.
- 3 Q. Do you have full-time equivalents --
- 4 A. Oh, I'm sorry. I apologize. I go back. Yes, we do
- 5 have -- I would have to sit down and analyze that more
- 6 fully, because we're so integrated that, to understand
- 7 specifically how many full-time equivalents, I would
- 8 suspect there would be at least one.
- 9 Q. All right.
- 10 A. And perhaps one and a half.
- 11 Q. How about for the insurance program that the Service
- 12 Company manages?
- 13 A. None.
- 14 Q. All right. How about PEU?
- 15 A. I couldn't. Again, we're so fully integrated, I'd have
- 16 to sit down and really analyze, because the folks in
- 17 the Customer Service don't look at our customers as
- 18 just being one system or another system. We're fully
- 19 integrated and they respond to all customers real-time.
- 20 So, you're going across the continuum of all our
- 21 regulated utilities. And, for me to identify
- 22 specifically how many employees it takes for one system
- 23 would take a more -- a significant analysis than I can
- 24 do here.

[Witness: Hartley]

1 Q. You don't track this?

2 A. Customer Service employees, administrative employees,
3 are allocated through the management fee. And, that is
4 how their salaries are allocated out to the affiliates.

5 Q. So, you make no effort to track how many calls are
6 attributable to PEU, --

7 A. No.

8 Q. -- to PAC, or the Service Company?

9 A. No. They're all treated equally, fairly, and
10 consistently across the continuum of our Customer
11 Service staff.

12 Q. If what you're saying to me is so, then you don't know
13 how many employees it requires for service for PEU or
14 PAC, or, for that matter, PWW?

15 A. I would know if I sat down and did an analysis. I
16 wasn't prepared to discuss that with you today. And,
17 that I could do and provide, but I don't have that off
18 the top of my head. And, I would want to have to
19 research it.

20 (Short pause.)

21 BY MR. UPTON:

22 Q. I'm not going to do that, I'm sorry. Ms. Hartley, is
23 there any place in the Veolia contract that you're
24 aware of that limits Customer Service to two people?

[Witness: Hartley]

1 A. That was what was related to me when they did an
2 analysis of the number of people that Veolia was
3 planning to hire. And, I was told they were going to
4 hire two.

5 Q. And, the Customer Service portion of the Veolia
6 contract is under the annual fee portion, correct?

7 A. I don't know.

8 Q. You referred to it, when you looked at it today, you
9 looked at it in Appendix D. Are you aware that
10 Appendix D are all the services included in the annual
11 fee?

12 A. I'm not really as familiar with that, Mr. Upton, as --
13 to answer your question as fully as I could.

14 Q. If I represent to you that Customer Service is a part
15 of Appendix D and included in the annual fee, would you
16 accept that for purposes of my questions?

17 A. I will accept that subject to check.

18 Q. Okay. Now, if that's true, isn't the risk on Veolia
19 that, if it can't do Customer Service with two people,
20 that it will have to use other personnel to provide
21 that service, because it is a part of its annual fee?

22 A. That could be a risk to Veolia. It also could be a
23 considerable risk to the customers, if that doesn't
24 happen.

[Witness: Hartley]

1 MR. UPTON: Once again, thank you very
2 much.

3 THE WITNESS: Thank you, Mr. Upton.

4 MR. CAMERINO: Not so fast.

5 THE WITNESS: I wanted to run away.

6 (Laughter.)

7 CHAIRMAN GETZ: Okay. Let's go to
8 redirect. After redirect, we're going to take a very
9 brief recess to address this pending issue about the
10 supplemental or additional, whatever we want to call this
11 testimony. So, proceed with your redirect.

12 MS. KNOWLTON: Okay. Thank you.

13 REDIRECT EXAMINATION

14 BY MS. KNOWLTON:

15 Q. I'd like to go back to Exhibit -- I believe it's 1070,
16 Page 131 please. First, Mrs. Hartley, does the Public
17 Utilities Commission prescribe the format for this
18 particular page that you're looking at as part of the
19 annual report?

20 A. They do.

21 Q. Including the categories that are listed there?

22 A. They do.

23 Q. If you look down under "Other Accounts", on Line 29, I
24 believe, do you see that?

[Witness: Hartley]

1 A. Yes.

2 Q. Are there any union employees in the "Customer Service"
3 line represented there?

4 A. No.

5 Q. None? Okay.

6 A. Only one. No, none.

7 Q. Let's get this clear. Are there any union people in
8 that "Customer Service" line --

9 A. No. I hesitate --

10 CHAIRMAN GETZ: Let's get one person on
11 the record at a time.

12 BY THE WITNESS:

13 A. I apologize. I'm trying to go back in time. This is
14 as of 2005. No.

15 BY MS. KNOWLTON:

16 Q. Are there currently any union employees in Customer
17 Service?

18 A. Yes.

19 Q. How many?

20 A. One.

21 Q. Are the "Engineering", Line 34, are those people
22 involved in the day-to-day operations and maintenance
23 of the system?

24 A. They are.

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[Witness: Hartley]

1 Q. Is that also the case with the Customer Service
2 Department people whose salaries are reflected on Line
3 32?

4 A. Yes, they are.

5 Q. And, the folks on the "Accounting" line, are they
6 involved in the day-to-day operations of the system?

7 A. They are. They are more involved in the reporting,
8 obviously, of and tracking of our information in
9 accounting duties.

10 Q. And, data processing, which is on Line 33, what does
11 that involve?

12 A. Data processing is day-to-day support of the systems
13 throughout the Pennichuck complement of software,
14 hardware, all three facilities, from the LIMS system,
15 which is the Laboratory Information system, to our
16 MUNIS billing system, they support our accounting
17 systems, and, yes, they support Synergen, and also all
18 of the hardware. And, they provide user support and
19 training to our employees. It's an integral part of
20 our operations.

21 Q. Mr. Upton asked you some questions about the City and
22 certain expenditures that the City might or might not
23 have to make if it was operating the water utility.
24 Would you have any basis to be aware of whether or not

[Witness: Hartley]

1 the City employed someone to lobby for it?

2 A. I have no clue.

3 Q. Are you familiar with whether or not the City would
4 have any obligations to engage in any public accounting
5 in association with its operation of the water system?

6 A. I have no idea how the City operates, from an
7 accounting perspective or any other matter. Other than
8 from my own experience in paying property taxes.

9 Q. In the your mind, does philanthropic -- excuse me,
10 philanthropic involvement in a community extend beyond
11 giving money?

12 A. It certainly does.

13 Q. Can you give me some examples of how Pennichuck is
14 involved philanthropically in the community, besides
15 donating money?

16 A. Right down to our employees, we've been very involved
17 in supporting, we've had -- we're part of a partnership
18 with schools, the Charlotte Ave. School in our
19 community. Our employees are given and awarded time to
20 go over and work with students during work hours. And,
21 in addition to that, many of our employees support,
22 obviously, other events, other nonprofit activities,
23 such as Boys and Girls Clubs and Big Brother and Big
24 Sister. And, beyond that, the officers of the Company

[Witness: Hartley]

1 have always been very involved in the community. I,
2 myself, have served on numerous boards. And,
3 Mr. Densberger has served on the Boys and Girls Club
4 board. We've been involved with higher educational
5 colleges within the community, such as Riviera, Daniel
6 Webster. We walk and I guess we believe at Pennichuck
7 that we are -- we are a part of the service to that
8 community, and we need to be out in that community
9 relating to our customers and showing that we give
10 back.

11 MS. KNOWLTON: Thank you. I have
12 nothing further for this witness.

13 CHAIRMAN GETZ: Okay. Then, we're going
14 to take a very brief recess.

15 (Recess taken at 1:59 p.m. and
16 reconvened at 2:08 p.m.)

17 CHAIRMAN GETZ: Okay. We're back on the
18 record. And, we've considered the motion by counsel for
19 Pennichuck Water Works to introduce additional testimony
20 with respect to the issue of the Synergen program or
21 operating system. And, consistent with our earlier -- my
22 earlier statements that the measure here or standard is
23 whether we believe it would assist us in our consideration
24 of the issues in the docket, we've determined not to allow

[Witness: Hartley]

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22 earlier statements that the measure here or standard is
23 whether we believe it would assist us in our consideration
24 of the issues in the docket, we've determined not to allow

[Witness: Hartley]

1 the additional testimony. And, also, consistent with my
2 earlier statement, it's not an issue that's covered by the
3 order issued on September 22nd in this docket. So, I
4 think that completes the examination of Ms. Hartley. So,
5 you're excused. Thank you.

6 THE WITNESS: Thank you.

7 CHAIRMAN GETZ: I believe that covers
8 all of the materials we had hoped to get to today. Is
9 there anything that we should address in advance of
10 resuming hearings on Tuesday September 18?

11 MS. KNOWLTON: I just wanted to notify
12 the Commission that our intention is to present the
13 witnesses on Tuesday in the following order,
14 Ms. Pannetier, Mr. Guastella, and then Mr. Patch.

15 MR. UPTON: We've agreed to that order.

16 CHAIRMAN GETZ: Okay. Thank you. And
17 then, let me raise this additional issue. On Wednesday,
18 September 19, the intervenor witnesses are scheduled to
19 appear. And, is there any concern on any of the parties'
20 minds about whether we're going to be able to reach all of
21 these witnesses on that day?

22 MR. UPTON: I don't know how the Company
23 feels, but I'd be really surprised if we didn't complete
24 everybody maybe even before the end of the day, well

1 before the end of the day.

2 CHAIRMAN GETZ: Because there's one
3 scheduling issue I have is tables have been somewhat
4 turned on me. I may have to testify at the Legislature on
5 Wednesday. I'll know better on Tuesday about that. So,
6 we may need to -- I anticipate we would still start at
7 9:00, but we may need to juggle the schedule, so that we
8 would go in a two-hour block, break and have an early
9 lunch or something like that. So, I just wanted to raise
10 that possibility.

11 MR. UPTON: We all thought it was crazy
12 to have two unused days at the end of the proceeding, but,
13 certainly, that will be available if that happens.

14 CHAIRMAN GETZ: All right. Is there
15 anything further then?

16 (No verbal response)

17 CHAIRMAN GETZ: Then, hearing nothing,
18 we will recess until Tuesday morning. Thank you.

19 (Hearing adjourned at 2:11 p.m. and the
20 hearing to reconvene on September 18,
21 2007, commencing at 9:00 a.m.)
22
23
24

