

THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

Docket No. DW 13-0171  
IN RE: EASTMAN SEWER COMPANY, INC.

Sale of Assets and Liabilities to Village District of Eastman

**Affirm the Procedural Schedule noticed August 5, 2013**  
**Clarification of the Participants Roles for the Items on the Schedule (above)**  
**Request Participation of the Office of the Consumer Advocate**  
**Request that Future Meetings be Recorded**

On October 31, 2013, a 'Technical Session/Settlement Conference' was held according to the adopted Procedural Schedule. That schedule included a third round of Discovery Request(s) due December 19, 2013, Response(s) due January 9, 2014.

At the technical session the intervenors were told that the third set of discovery was not intended for the intervenors to ask more discovery, but for the petitioners to ask their discovery. That was not stated or clear in the original schedule. If, in fact, that was the intent, then that should have been made clear in the initial schedule, which showed all "Discovery Request" items distinguished only by a sequence number, e.g. "Discovery Request 1, or 2, or 3." The intervenors object to this apparent change in the purpose of the third round of discovery. We request that all items on the Procedural Schedule be clarified to show the roles of the parties and the intent of each entry.

Subsequently, the staff announced that it was ready to join the Petitioners to write a final settlement, accepting sale of Eastman Sewer Company. When all the questions, which we are entitled to pose, have not yet been asked and answered, it is premature for the staff to develop a conclusion, as it apparently has. This position unfortunately has biased the staff and brings into question its ability to render a fair decision going forward. The intervenors request that the Office of the Consumer Advocate immediately enter into this case to protect the interests of the consumers. As the Commissioners are aware, recent actions on the part of another member of the Joint Petitioners are viewed by the Intervenors as inappropriate and wrongful (Robert Logan, Geraldine Logan, Oct 30, 2013). The Intervenors request that the Office of the Consumer Advocate immediately enter into this case to protect the interests of the consumers.

Having announced that they were prepared to write an agreement with the Petitioners to approve the transaction, staff then asserted that the Procedural Schedule would be revised. With

concurrence of Petitioners, staff greatly accelerated the schedule which was then disseminated the same day (DW 13-171 Eastman Sewer Company, Inc., Proposed Revised Procedural Schedule). This action directly contradicts staff's own position as stated in the Commission's Order 25,583 (October 18, 2013) Denying Expedited Motion to Reconsider the Procedural Schedule and to Limit Intervention. The Intervenors believe that the Revised Procedural Schedule should be withdrawn in favor of the initial schedule endorsed by the Commission. Furthermore, Intervenors request a third opportunity for discovery with responses prior to their Testimony consistent with the Intervenors' understanding of the documented process. This would rectify the failure of staff to explain that the scheduled third round of discovery was intended for Petitioners.

It was a surprise to the Intervenors that the Technical Session was not being recorded. This decision was not stated prior to the session. The intervenors requested a recording of the meeting. Staff stated that having the meeting recorded would have required additional time and expense and the meeting would have to be delayed, so denied the request. It is now impossible to refer to a record to show what people actually said. What remains is only personal recollection of what individuals said or heard and as is well recognized, people often recall what they want to remember, similarly others recall what they think they heard. The absence of a recording, even just a voice recording without a court reporter, has rendered the meeting of questionable value. The petitioners request that any and all further session(s) technical or otherwise be recorded and that the recordings be provided to all participants.

The intervenors exposed a situation that focused on the ease with which the ECA might have inappropriately transferred funds from the sewer company to itself. The intervenors pointed out the obvious, which is that when the owner (ECA) determines the cost allocation and reimbursables from its wholly-owned private company (ESC), there is no check on whether those transfers are appropriate or correct. Intervenors indicated that historically when the VDE was created by ECA members, one of the reasons to set up a separate water municipality as a singular purpose was to eliminate the very situation of CEC/Water Company. Intervenors suggested that if the PUC allows the sale of the sewer company to the Village District (VDE) to proceed, the situation could be repeated because the VDE represents one constituency and the ESC is a separate, smaller constituency. As the Commissioners of the VDE have total authority to allocate and charge, it is possible that they will, even unintentionally, allocate expenses unevenly towards the sewer users. At the suggestion of the possibility of inappropriate allocation of expenses, (co-mingling of funds), intentional or otherwise, one of the Joint Petitioners reacted inappropriately and left the room. Somewhat later he returned and apologized to some, but not all of those present. Staff did nothing to address or control this situation.

In summation, the intervenors do not agree to the Proposed Revised Procedural Schedule of October 31, 2013, which contradicts the Commission's Order 25,583. Intervenors support the

initial Procedural Schedule, which was approved by Ms. Debra Howland on August 6, 2013. Intervenor request a third opportunity for discovery be added to the agenda to rectify the lack of clarity and confusion caused by the initial schedule being vague.

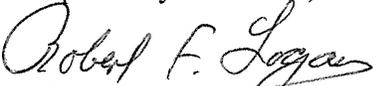
Furthermore, intervenors request clarification of the roles of the participants for each item on the DW 13-171 Eastman Sewer Company, Inc Procedural Schedule (August 5, 2013).

Furthermore, intervenors are requesting that the Office of Consumer Advocate participate actively DW 13-171 and be present at all future meetings that address this case.

Finally, intervenors request that all future public and private meetings regarding DW 13-171 Eastman Sewer Company, Inc be recorded and that the recordings be made available to all participants.

Dated November 5, 2013

Respectfully submitted,

  
  
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