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August 21, 2009

VIA HAND DELIVERY

Eileen Fox, Clerk
New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301



Re: *Appeal of City of Nashua et al.; No. 2009-0274*

Dear Ms. Fox:

Enclosed please find the original and one copy of Pennichuck's Motion to Permit Reply to its Motion for 15-Day Extension of Time to File Opening Brief and Request for Expedited Consideration, with Reply attached.

Very truly yours,

Thomas J. Donovan

TJD:dap
Enclosures

cc: Service List

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

NO. 2009-0274

Appeal of City of Nashua et al.

**PENNICHUCK’S MOTION TO PERMIT REPLY TO ITS MOTION FOR
15-DAY EXTENSION OF TIME
TO FILE OPENING BRIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

NOW COME Cross-Appellants Pennichuck Water Works, Inc., Pennichuck Corporation, Pennichuck East Utility, Inc., Pennichuck Water Service Corporation, and Pittsfield Aqueduct Company, Inc. (collectively “Pennichuck”) in this matter and in reply to the objection filed by the City of Nashua to the Motion for 15-Day Extension, states as follows:

1. Defendant, Nashua, filed today an objection to plaintiff’s Motion For 15-Day Extension Of Time To File Opening Brief, alleging the motion was not specific enough as to “exceptional circumstances”. While the standard under Supreme Court Rule 21 (6-A) for a 15-day extension does not require “exceptional circumstances”, in the interest of completeness, “exceptional circumstances” are set forth in detail in the attached reply.
2. Since Supreme Court Rule 21(3-A) does not permit replies without prior permission of the Court, this motion seeks that permission.

WHEREFORE, Pennichuck requests that this Court be permitted to file the attached
reply.

Respectfully submitted,

Pennichuck Water Works, Inc.
Pennichuck East Utility, Inc.
Pittsfield Aqueduct Company, Inc.
Pennichuck Water Service Corporation
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: August 21, 2009

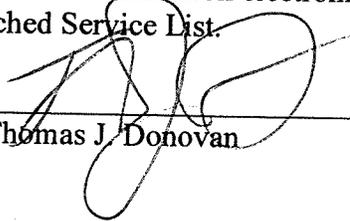
By:



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Steven V. Camerino, NH Bar No. 33
Sarah B. Knowlton, NH Bar No. 12891
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Telephone (603) 226-0400

Certificate of Service

I hereby certify that on August 21, 2009, I served the foregoing Pennichuck's Motion to Permit Reply to Its Motion For 15-Day Extension Of Time To File Opening Brief by electronic mail (to those parties on the Public Utilities Commission electronic mailing list) and by first class mail, postage prepaid, to the attached Service List.



Thomas J. Donovan

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

NO. 2009-0274

Appeal of City of Nashua et al.

**PENNICHUCK’S REPLY IN SUPPORT OF ITS MOTION FOR
15-DAY EXTENSION OF TIME
TO FILE OPENING BRIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

NOW COME Cross-Appellants Pennichuck Water Works, Inc., Pennichuck Corporation, Pennichuck East Utility, Inc., Pennichuck Water Service Corporation, and Pittsfield Aqueduct Company, Inc. (collectively “Pennichuck”) in this matter and in reply to the objection filed by the City of Nashua to the Motion for 15-Day Extension, states as follows:

1. Nashua’s objection references a conversation between the in-house counsel for Nashua and Pennichuck in which, apparently, the in-house lawyer for Nashua stated it would not consent to an extension. While avoiding the specifics of conversations between outside counsel for Pennichuck and Nashua—the counsel who have to write the briefs—suffice it to say that the tenor of the conversations concerning the desirability of extensions of time to file briefs went quite differently.

2. The standard to grant a fifteen day extension does not require a showing of “exceptional circumstances”. See, Supreme Court Rule 21 (6-A)(c). In fact, the rule is structured to permit just such an extension.

3. Still, “exceptional circumstances” exist here. Pennichuck has been reluctant to set forth all of the reasons for its request, well known to Nashua counsel. They include:

a) an intervenor in the underlying hearing that had not filed an appeal petition, Merrimack Valley Regional Water District, filed a lengthy brief on August 14, 2009, that also requires a response from Pennichuck;

b) the lawyer at this firm most familiar with the issues on appeal, Steven V. Camerino, is trying a utility rate case at the Massachusetts Department of Public Utilities. After extensive preparations, the hearings began on August 3, 2009 and will continue at least through September 4, 2009. Mr. Camerino as a result is not able to devote any time until after then to briefing;

c) Pennichuck is a publicly traded company, and this matter is material to Pennichuck such that additional counsel must review the brief, resulting in the need for additional time;

d) other “exceptional circumstances” exist which are not appropriate to disclose in a public pleading.

WHEREFORE, Pennichuck requests that this Court grant an extension of time for filing Pennichuck's opening and answering brief to September 29, 2009.

Respectfully submitted,

Pennichuck Water Works, Inc.
Pennichuck East Utility, Inc.
Pittsfield Aqueduct Company, Inc.
Pennichuck Water Service Corporation
Pennichuck Corporation

By Their Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

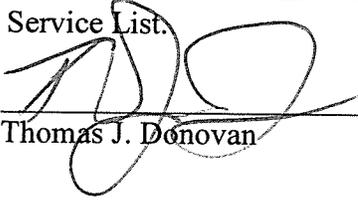
Date: August 21, 2009

By: 

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Certificate of Service

I hereby certify that on August 21, 2009, I served the foregoing Pennichuck's Reply in Support of Its Motion For 15-Day Extension Of Time To File Opening Brief by electronic mail (to those parties on the Public Utilities Commission electronic mailing list) and by first class mail, postage prepaid, to the attached Service List.


Thomas J. Donovan

Service List 8/21/09
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SUPREME COURT
NO. 2009-0274
Appeal of City of Nashua et al.

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