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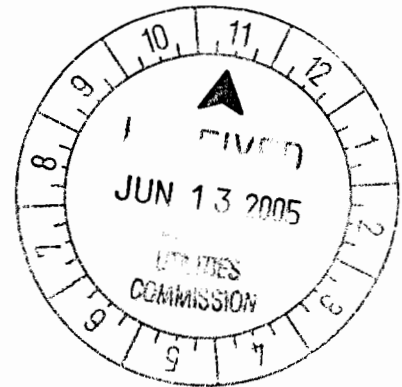
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June 13, 2005

Hand-Delivered

Deborah Howland
Executive Director and Secretary
Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

Re: DW 04-048 - City of Nashua
Our File No.45866-1



Dear Ms. Howland:

In accordance with PUC 202.07(a)(1), enclosed please find an original and eight copies of the within Objection to Pennichuck Corporation's Motion to Compel the Merrimack Valley Regional Water District to Answer Data Requests with regard to this matter.

Additionally, pursuant to PUC 202.07(a)(2) and PUC 202.08(a) and (b), please find a computer diskette containing the within documents which is being submitted electronically, all of which are provided in MS Word format.

Copies of this letter and Objection have been mailed to all parties on the attached service list and the consumer advocate in accordance with PUC 207.07(a)(3) and (4), as well as by e-mail to all parties on the attached service list.

Very truly yours,

Stephen J. Judge
e-mail: SJudge@wadleighlaw.com

SJJ:lll

cc: Service List (attached)

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Docket #: 04-048-1 Printed: June 10, 2005

FILING INSTRUCTIONS:

WITH THE EXCEPTION OF DISCOVERY (SEE NEXT PAGE) FILE 1 ORIGINAL & COVER LETTER, PLUS 8 COPIES (INCLUDING COVER LETTER) TO:

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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 04-048

City of Nashua
Taking of Pennichuck Water Works, Inc.

**OBJECTION TO PENNICHUCK CORPORATION'S MOTION
TO COMPEL THE MERRIMACK VALLEY
REGIONAL WATER DISTRICT TO ANSWER DATA REQUESTS**

NOW COMES the Merrimack Valley Regional Water District ("District"), by and through its attorneys, Wadleigh, Starr & Peters, P.L.L.C., and objects to Pennichuck Corporation's ("Pennichuck") Motion to Compel the District to Answer Data Requests. In support of this Objection, the following is submitted:

1. The City of Nashua has filed a Petition for Valuation pursuant to RSA 38 for a determination of the fair market value of the plant and property of Pennichuck Water Works.
2. The District has not filed a Petition.
3. The District moved to intervene and Pennichuck objected, alleging, among other things, that no substantial interest of the District will be effected by the proceeding.
4. Nevertheless, the request to intervene was granted.
5. A technical session was held at which the parties agreed to a schedule concerning the timing of various elements of the presentation of the case which included the agreement that supporting parties were required to file testimony on public interest by April 22, 2005. Order No. 24,457.

6. The District filed no testimony based, in part, on a general understanding from the session that a decision to file no testimony on the appointed date, while limiting the presentation of evidentiary testimony, would, correspondingly relieve the District of the necessity to be burdened by the formal discovery process.

7. In Order No. 24,457, the parties were authorized to file Data Requests on supporting parties, i.e. those parties who filed testimony on April 22, 2005.

8. Pennichuck has served Data Requests on supporting parties who filed testimony, but has also served Data Requests on the District.

9. Pursuant to PUC 204.04(a), Data Requests are confined to evaluating a “petition, application or testimony.”

10. The District has filed no petition, application, or testimony.

11. Upon information and belief, the longstanding practice before the Commission is that Data Requests are only served on a party who has filed a petition, application, or testimony. This was also the general understanding of the discovery format for the within proceedings as determined by the parties.

12. This understanding is supported by the objection of the Office of the Consumer Advocate, (OCA), which registered its opposition to Pennichuck’s motion by email dated June 2, 2005, when it indicated that ‘... *The OCA opposes the PWW Motion to compel answers to data requests that PWW submitted to parties not filing testimony on public interest. ...*’. (Emphasis added).

13. None of the authorities cited by Pennichuck in its motion to compel is contrary to the established practice before the Commission as noted above. In each PUC decision cited by Pennichuck, discovery had been sought against a party who had filed a petition and/or testimony or a utility that was the respondent to a complaint.

14. In reliance on PUC 204.04, the longstanding practice of the Commission, and the understanding of the parties that participated at the above referenced technical session to the effect that data requests would not be propounded to those that did not file testimony on the issue of public interest by the date indicated, the District decided not to file testimony in this proceeding.

15. To the extent that the Commission is persuaded by Pennichuck's argument that any party or even a nonparty with relevant information may be compelled to produce the same through the discovery process, the District asserts that, at least, Pennichuck should be held to the common and favored practice of requiring a party seeking discovery from one who was outside the scope of the immediate adversaries in the proceeding to make a preliminary showing that the discovery was directed to the disclosure of relevant information that would be of assistance to the trier of fact, as opposed to simply conducting a 'fishing expedition' to discourage participation in the matter.

16. Indeed, the Commission itself has recognized that not every request for discovery is one which is permissible and that it is occasionally appropriate to consider such requests with a view toward determining whether the information sought was relevant or material to the extent that it outweighed the burden imposed on the respondent. In Re Public Service Company of New Hampshire, 69 NHPUC 690 (1984).

17. The Town of Bedford filed testimony in this proceeding. The testimony was filed by Michael Scanlon, the Chairman of the District. Pennichuck has submitted Data Requests to Bedford. The 11 Data Requests propounded to the District are virtually identical and seek the same information as the Data Requests propounded to the Town of Bedford. Moreover, certain of the Data Requests propounded to the District exemplify a fishing expedition that has gone beyond overly broad and unduly burdensome. For example, Pennichuck has requested “copies of all documents that reflect, refer and/or relate to the Merrimack Valley Regional Water District.”

18. The District submits that the motion to compel should be denied, at least until Pennichuck has presented some showing that there is some likelihood that the Data Requests will produce relevant evidence.

19. Alternatively, if it is determined that Pennichuck is authorized to file Data Requests on the District, then the District respectfully requests that the Commission amend the procedural schedule to allow specific objections to the Data Requests and a new deadline for the submission of testimony by the District as a supporting party.

WHEREFORE, the District respectfully requests that the Commission schedule a hearing on said motion, allowing the undersigned an opportunity to argue the within objection and, following the same:

A. Deny the Motion filed by Pennichuck asking for an Order to compel the Merrimack Valley Regional Water District to respond to data requests; or,

B. Prior to considering granting the same, that the Commission require, at a minimum, that Pennichuck demonstrate the manner in which the information being sought is likely to give rise to any evidence that would be relevant or material to the Commission in these proceedings; or,

C. Alternatively, if said Motion is granted, to allow the Merrimack Valley Regional Water District an opportunity to file specific objections to the Data Requests and an opportunity to file testimony on the issue of public interest; and,

D. For such other and further relief as the Commission deems just.

Respectfully submitted,

Merrimack Valley Regional Water District
By and Through its Attorneys,
Wadleigh, Starr & Peters, P.L.L.C.


Dated: June 13, 2005

By: 

Stephen J. Judge, Esq.
95 Market Street
Manchester, NH 03101
(603) 669-4140

CERTIFICATION

I hereby certify that a copy of the foregoing has been forwarded this day by first class mail and electronically to all parties on the service list.


Stephen J. Judge, Esq.