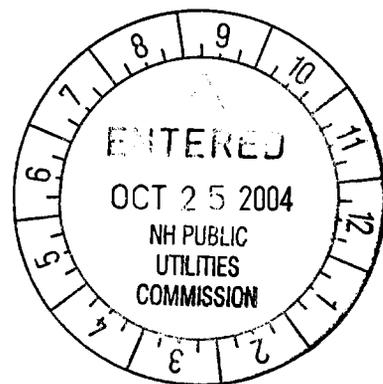


DW 04-048

Position Statement
By
Barbara Pressly, Intervener
11 Orchard Avenue
Nashua, NH 03060
October 25, 2004

In
Response to Pre-Hearing Conference Order
ORDER NO. 24,3379



HISTORY OF REGIONALIZATION OF PENNICHUCK WATER WORKS
and
OBJECTIONS TO THE CHARTER LANGUAGE

By

Barbara Pressly

Former State Senator, State Representative and Nashua Alderman
Current Consumer Advocate and Chairman of "Citizens for local water control"
October 2004

As an independent citizen having experience in government and believing in local control of our water I played an active role in the research, public participation and advocacy for the public purchase of our water delivery system. Enclosed is a time line of events starting in October 2001 up to the Nashua vote on January 14, 2003. (Some of the events were not known at the time and only became public knowledge later when public reports were required by the SEC and other government agencies.)

I became an early advocate of regionalization. It seemed difficult if not impossible to tear apart the very water system that the Company and the PUC had carefully created. I know of no one who was dissatisfied with the service of the Company. It seemed logical and in the public interest to maintain the status quo of the delivery service and transfer only ownership.

Nashua rate payers formed a group called "Citizens for local Water Control" to raise money to buy and put up signs, and get out the vote on January 14, 2003. We encouraged people to vote with the understanding that the rate payers would own and run their own water supply. (Enclosed is a bank statement sent to my home showing a balance of \$105.00. remaining in the "Citizens for Local Water Control" account.)

The original plan was for the City of Nashua to amicably purchase the Corporation at a fair price and eventually turn it over to a regional entity. Instead the single elected official from Nashua selected to be the "point person" focused on authoring a charter and the purchase did not move forward.

The Ad Hoc Committee that I created turned over all work and responsibility to the municipalities once a memorandum of understanding was operational. They began to create a charter using sample language created by my committee. The sample charter language was taken from successful water districts around the country. This sample was abandoned, replaced with a new concept authored by the political representatives on the panel. The Nashua delegate openly acknowledged objection for representational government and declared that Nashua must have a single, non debated opinion on the major issues facing the water board. Each municipal representative fought for their individual political interests. Unfortunately in their zeal to protect their municipal interests they overlooked the rights of the single water constituent – the RATE PAYER.

Therefore I support the purchase and the regionalization of the water company but adamantly object to the charter language as authored and approved by political

appointees from the municipalities. Having filed my objections with the Attorney General's Office (copy of AG response enclosed), I now raise my concerns in the manner suggested by that office.

SUGGESTIONS FOR CHANGES TO CHARTER:

1. All principles of representational government should apply with the RATE PAYER recognized as the single constituent with exclusive financial obligation.
2. All members of the governing board should be rate payers with only occasional exceptions permitted.
3. A separate, independent and fully funded position and staff for a consumer advocate should be included. (It was removed from the sample)
4. Nashua ratepayers (70%) deserve more than one representative to the water board. The criteria and method of selection for the Nashua representatives to the Water Board should be defined in the water charter and NOT left to municipal laws which can change with each new Mayor and Board of Aldermen.
5. No fees shall be charged before new construction is complete and the service is being delivered.
6. All delegates to the governing board of the water district should have reasonable qualifications and be selected in a uniform manner assuring public participation from the rate payers in each municipality.
7. Possible occasional review by the PUC beyond that required by the new statute.

I respectfully request that the Commission involve itself in changing the language of The Merrimack Valley Regional Water District charter to reflect the rights of the water ratepayer. Possibly an independent organization experienced in government language could be consulted to make the appropriate recommendation. Many examples of appropriate charters are available.

Thank you for your time and attention.

Sincerely,



Barbara Pressly

PENNICHUCK / WATER DISTRICT TIME LINE

Latest update – December 2, 2002

- October 2001 Pennichuck starts process of selling company
(Telegraph 11/28/02)
- December 2001 Pennichuck determines range of value of company
- March 2, 2002 PUC grants Pennichuck 19% rate increase
- April 17, 2002 Pennichuck considers three offers (2 cash offers)

Pennichuck selects stock for stock suburban offer in spite of knowing about and discussing the potential vivendi divestiture of 16.8 % of Philadelphia Suburban stock.

- April 29, 2002 Pennichuck announces sale to Philadelphia Suburban.
- April 30, 2002 Arel states Pennichuck **will file with PUC AFTER Shareholders OK purchase** (Telegraph page 7)
- Mayor Streeter announces City purchase of Pennichuck to be studied.
- May 3, 2002 Pennichuck Shareholders Meeting. Sale not on agenda but company announces shareholders meeting to vote on sale to take place in a “couple of months”.
(Telegraph – May 4, 2002)
- May 2002 Paris-based Vivendi Universal announces plans to sell its 17 percent stake in Philadelphia Suburban.
- May 28, 2002 First Meeting of the Pennichuck Watershed Council

PENNICHUCK WATERSHED COUNCIL MEETS MONTHLY

- June 9 – 10 – 11 Telegraph published three day series on history of Water Company.
- June 14, 2002 Pennichuck and Suburban send request to PUC (**NO SHAREHOLDERS APPROVAL and NO NOTICES SENT TO MUNICIPALITIES**)
- June 17, 2002 Formal Filing received at PUC (**NO SHAREHOLDERS APPROVAL**)
- June 19, 2002 Senior executives from Pennichuck and Suburban attend 4 ½ hour Nashua Aldermanic meeting. They discuss City Study money and PUC process. **Executives NO NOT DISCLOSE that they have ALREADY filed and the PUC clock is ticking.**
- June 21, 2002 Pressly learns of filing, obtains copy, distributes to Mayor (City) and press
- June 25, 2002 Telegraph prints story of filing.
- June 26, 2002 Aldermen approve Study Money with expressions of anger that that executives did NOT disclose PUC filing at previous meeting only 7 days earlier.
- June 25, 2002 Pennichuck shareholders meeting changed from July to sometime in the fall (Telegraph 6/25/02)
- June 29, 2002 Telegraph prints filing procedures
- July 3, 2002 Legal Notice appears in Union Leader day before major holiday (only required PUC notice)

IF FILING OF PETITION HAD NOT BEEN DISCOVERED BY PRESSLY – POSSIBLY NO AFFECTED COMMUNITY WOULD HAVE KNOWN ABOUT THE PUC PROCESS SINCE FEW READ LEGAL NOTICES AND RARELY BEFORE HOLIDAYS.

- July 8, 2002 Pressly takes PUC petition to selectmen meetings in Amherst, Milford and Hollis, discusses impact on their Communities and encourages them to intervene.
- July 10, 2002 Nashua Mayor holds regional meeting on Pennichuck
- July 15, 2002 Pennichuck Shareholders express concern about decision to sell (Telegraph July 15, 2002)
- July 16, 2002 Deadline for filing to intervene
- July 18, 2002 Arel says "Time will tell if the stock recovers, and time will tell if a deal is in place."--- "The key is that our shareholders get their fair value." (Globe 7/18/02)
- July 19, 2002 Prehearing Conference in Concord. Many complain of inadequate notification and announce Towns which need to be informed. Nashua and Towns ask for more time . Pennichuck wants September 2002 decision date.
- July 23, 2002 Philadelphia Suburban stock drops 30% due to Vivendi. Arel says PUC time extention now helpful to Pennichuck. (Telegraph 11/23/02)
- July 25, 2002 Pressly buys one share of Pennichuck stock for \$26.
- August 6, 2002 Quote from Arel (Telegraph 8/6/02) "**At first I foresaw having a fairly quick shareholders vote, but then, about a week after we announced the merger, the Vivendi situation cropped up, that changed everything,**" he said.
- August 8, 2002 First meeting of Ad Hoc Water Committee organized by Pressly composed of White, Singleakis, Sullivan, Gill and Wilson.

Ad Hoc Water Group met weekly at Public Library until October.

- August 14, 2002 Pennichuck posts quarterly loss due to costs associated with sale of Company. Land sales income to cover loss.
- August 15, 2002 Water people attend SB 437 hearing at State House Rep. Blanchard files LDR to allow revenue bonding for water districts.
- Pennichuck Corp. Shareholders newsletter states it is considering extending the termination date of the agreement due to Vivendi and PUC schedule.
- September 14, 2002 RPC and Nashua host Regional Round Table
- September 21, 2002 Pressly requests shareholder list
- September 22, 2002 Telegraph article again suggests that possible Vivendi divestiture of Philadelphia Suburban was learned **after** the merger was signed when in fact the **Proxy statement now shows that the Board of Directors of Pennichuck knew about the Vivendi situation before signing and chose to proceed with the agreement.**
- October 3, 2002 Water Committee meets with SB 437 and Representative Blanchard who filed bill
- October 24, 2002 Ad Hoc Water now meets at Nashua RPC – town lawyers meet to discuss strategy. NRPC creates Web site for Water Committee (nashuarpc.org)
- October 29, 2002 Pressly files in Superior Court
- November 1, 2002 City Study released.
- November 7, 2002 Town of Bedford votes to join Regional Water District
- November 8, 2002 Philadelphia Suburban reports record earnings primarily due to nine PUC rate increases

November 13, 2002 Pennichuck Corp reported third quarter earnings primarily due to March rate increase and land sale.
Bedford Town Manager meets with Nashua Mayor

November 18, 2002 Londonderry votes to join Regional Water District

November 26, 2002 Nashua Board of Alderman vote to purchase water company, schedule referendum vote and vote money to continue study and appraisal fees.

November 27, 2002 Pennichuck files proxy with the SEC (day before a national holiday again)

December 5, 2002 Bedford holds public meeting with towns and city to draft "Memorandum of Understanding".

January 14, 2003 Nashua Referendum VOTE



BANK OF NEW HAMPSHIRE

A division of Banknorth, N.A.

CITIZENS FOR LOCAL WATER CONTROL
11 ORCHARD AVE
NASHUA NH 03060

STATEMENT OF ACCOUNT

Page: 1 of 2
Statement Period: Sep 01 2004-Sep 30 2004
Cust Ref #: 9240771900-900-T-***
Primary Account #: 924-0771900

Non Profit Basic Business

CITIZENS FOR LOCAL WATER CONTROL

Account # 924-0771900

ACCOUNT SUMMARY

Beginning Balance	105.00	Average Collected Balance	105.00
Ending Balance	105.00		

DAILY ACCOUNT ACTIVITY

No Transactions this Statement Period

Call 1-800-224-5563 for 24-hour Direct Banking service



**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PETER W. HEED
ATTORNEY GENERAL

KELLY A. AYOTTE
DEPUTY ATTORNEY GENERAL



June 4, 2004

The Honorable Barbara Pressly
Chair, Citizens for Local Water Control
11 Orchard Avenue
Nashua, NH 03060

Re: Merrimack Valley Regional Water District Charter

Dear Senator Pressly:

Attorney General Heed has requested me to respond to your letter of May 18, 2004 regarding the Merrimack Valley Water District.

The Attorney General's role in reviewing intergovernmental agreements under RSA 53-A is set forth in the statute. We review the agreements for compliance with the law and the specific requirements set forth in RSA 53-A:3. In the event the Attorney General does not pose a written objection within the 30 day review period, the agreement is deemed approved. As the review period is statutory, we do not have the authority to unilaterally extend it.

In this instance, I believe the proposed agreement was also submitted to the Public Utilities Commission for review pursuant to RSA 53-A. The deadline and standard for review is similar. *See* RSA 53-A:5.

Even if neither the Attorney General nor the Public Utilities Commission submits any written objections with respect to the proposed charter, nothing in RSA 53-A prevents an interested party or concerned citizen from raising any policy concerns regarding the charter with appropriate local authorities. Nor does the statute prohibit a person with standing from challenging the legality of an intergovernmental agreement through judicial process or other lawful means. Certainly if you have concerns you should feel free to raise them in any appropriate forum.

Hon. Barbara Pressly
June 4, 2004
Page 2

We appreciate the concerns you have raised, and we have considered your concerns in reviewing the proposed charter. However, given the scope of our statutory role in this process we have not submitted any written objection under RSA 53-A and do not anticipate doing so at this juncture.

Thank you for your interest in this process. I encourage you to remain involved in the project as it progresses.

Very truly yours,



Suzanne M. Gorman
Senior Assistant Attorney General
Civil Bureau
Tele: 603-271-3650

cc: Amy Ignatious, General Counsel
NH Public Utilities Commission