

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

City of Nashua: Taking Of Pennichuck Water Works, Inc.

Docket No. DW 04-048

PENNICHUCK WATER WORKS, INC.'S MOTION FOR LEAVE TO RESPOND

NOW COMES Pennichuck Water Works, Inc. ("Pennichuck" or "PWW") and moves the Commission for leave to respond to the City of Nashua's ("Nashua" or the "City") objection to PWW's Motion for Summary Judgment. In support of its motion, PWW states as follows:

1. On September 6, 2005, PWW filed a Motion for Summary Judgment in which it requested that the Commission dismiss Nashua's Petition for Valuation Pursuant to RSA 38:9 on the basis that there was no genuine dispute of material fact that Nashua does not possess the required technical and managerial capabilities to provide water utility service.

2. On October 6, 2005, Nashua filed its Objection to PWW's Motion ("Nashua's Objection"). In its Objection, Nashua states its intention to file additional public interest testimony regarding its capabilities to operate a water utility. Such an additional filing is inconsistent with the Commission's rules and the procedural schedule.

3. Given that the Commission's procedural rules do not expressly provide for the filing of a reply to an objection to a dispositive motion, PWW now seeks the Commission's leave to file the attached reply to Nashua's Objection.

4. PWW requests that it be granted the opportunity to submit its reply in order to address Nashua's apparent assumption that, in ruling on PWW's Motion for Summary Judgment, the Commission may rely on significant additional information that Nashua failed to submit as part of its prefiled case on public interest as well as Nashua's contention that it is entitled to file

that information in the form of additional testimony at a later date. Principles of justice and due process support PWW's request to be afforded the opportunity to respond to Nashua's allegations, particularly given that they are being raised for the first time in this proceeding which has been pending for over a year and a half.

5. Moreover, granting PWW the right to reply to Nashua's Objection serves the public interest because it will allow for the full development of the record regarding PWW's Motion for Summary Judgment, which is appropriate given the dispositive nature of the relief sought. In addition, allowing PWW to file this reply will not disrupt the orderly conduct of the proceeding given that there are no filing deadlines in this matter until January 12, 2006.

6. For these reasons, pursuant to Puc 201.05, PWW requests that the Commission waive its rules to the extent necessary and allow PWW to file the attached reply to Nashua's Objection.

7. Nashua and the Merrimack Valley Regional Water District object to this motion. The Towns of Pittsfield and Merrimack and the Staff of the Commission have no objection to the relief sought herein, while the remaining parties were not able to respond prior to the filing of this motion.

WHEREFORE, PWW respectfully requests that the Commission:

- A. Grant this motion for leave to respond; and
- B. Grant such other and further relief as the Commission deems just and reasonable.

Respectfully submitted,

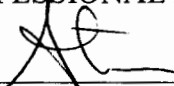
Pennichuck Water Works, Inc.

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: October 18, 2005

By:

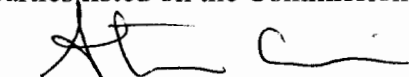


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Certificate of Service

I hereby certify that on this 18th day of October, 2005, a copy of this Motion for Leave to Respond has been forwarded to the parties listed on the Commission's service list in this docket.



Steven V. Camerino