

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

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

Docket No. DW 04-048

**MOTION TO WAIVE APPLICATION OF Jus 800 RULES
AND INSTEAD TO APPLY Puc 200 RULES**

Pennichuck Water Works, Inc. ("PWW") respectfully requests that the Commission waive the application of Jus 800 Rules and instead apply the former Puc 200 procedural rules in the above-captioned proceeding. In support of its motion, PWW states as follows:

1. The Commission's previously adopted procedural rules, codified in New Hampshire Administrative Code Rules as Puc 200, have expired. As a result, the default Model Rules of Practice and Procedure contained in Jus 800 now apply to administrative proceedings before the Commission, including the above-captioned proceeding.
2. The Jus 800 Rules contain substantive differences from the Puc 200 Rules. For instance, Jus 806.01(c) provides that objections to motions must be filed within 30 days, as opposed to the 10-day period for objections under former Puc 203.04.
3. By the agreement of the parties to this docket, the Commission adopted a procedural schedule, first by Order 24,567 and then modified by Secretarial letter dated January 11, 2006. That schedule, as amended, imposes strict deadlines on all parties to assure the prompt completion of the data requests, pre-filed testimony and other discovery in order to maintain the January 2007 hearing date. The procedural schedule contemplated application of the Puc 200 Rules which were then in effect. The use of Jus 800 Rules threatens the integrity of

the procedural schedule and upsets the parties' settled expectations about the procedural rules to be employed in this case.

4. The Commission recognized the importance of the objection time limit imposed by the Puc 200 Rules in a March 16, 2006 Secretarial letter, which applied the Puc 200 Rules to Nashua's March 10, 2006 motion for protective treatment. The Secretarial letter noted that it was important to “expedite matters” and ordered a 10-day response period for that motion, in accordance with Puc 203.04.

5. PWW seeks a blanket waiver for this entire docket on the application of the Jus 800 Rules, applying instead the previously existing Puc 200 Rules. Such relief is justified under the waiver standard set forth in Jus 803.03 because it “would be more likely to promote the fair, accurate and efficient resolution of issues pending before the [Commission]”.

6. PWW has sought the assent of the other parties to this proceeding. The Commission staff, City of Nashua and the Towns of Litchfield and Hudson assent. Other parties did not have the opportunity to respond prior to the filing of this Motion.

WHEREFORE, Pennichuck Water Works, Inc. respectfully requests that the Commission:

- a. Grant this Motion for Waiver of the Jus 800 Rules pursuant to Jus 803.03 and instead adopt for all proceedings in this docket the former Puc 200 Rules; and
- b. Grant PWW such other and further relief as the Commission deems necessary and just.

Respectfully submitted,

Pennichuck Water Works, Inc.

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: March 22, 2006

By: 

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Certificate of Service

I hereby certify that a copy of this Motion has been forwarded to the parties listed on the Commission's service list in this docket.

Dated: March 22, 2006


Thomas J. Donovan