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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

September 7, 2007 - 1:06 p.m.
Concord, New Hampshire

DAY V

RE: DW 04-048
CITY OF NASHUA, NEW HAMPSHIRE:
Petition for valuation pursuant to RSA 38:9.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Connie Fillion, Clerk

APPEARANCES: Reptg. the City of Nashua, NH:
Robert Upton, II, Esq. (Upton & Hatfield)
Justin C. Richardson, Esq. (Upton & Hatfield)

Reptg. Pennichuck Water Works, Pennichuck
East Utilities & Pittsfield Aqueduct Co.:
Steven V. Camerino, Esq. (McLane, Graf...)
Sarah B. Knowlton, Esq. (McLane, Graf...)
Joe Conner, Esq. (Baker, Donelson...)

Reptg. Anheuser-Busch:
John T. Alexander, Esq.(Ransmeier & Spellman)

Reptg. the Town of Milford:
E. Maria Reinemann, Esq.(Brown Olson & Gould)

COURT REPORTER: STEVEN E. PATNAUDE CCR

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APPEARANCES: (C o n t i n u e d)
Claire McHugh, pro se
Barbara Pressley, pro se
Reptg. Residential Ratepayers:
Rorie Hollenberg, Esq.
Office of Consumer Advocate
Reptg. PUC Staff:
Marcia A. B. Thunberg, Esq.

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1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Okay. Good afternoon.
3 We'll reopen the hearing in docket DW 04-048. Before we
4 proceed, let's take appearances for the record.

5 MR. RICHARDSON: Justin Richardson, on
6 behalf of the City of Nashua. Mr. Upton will be here
7 shortly.

8 CHAIRMAN GETZ: Good afternoon.

9 CMSR. MORRISON: Good afternoon.

10 CMSR. BELOW: Good afternoon.

11 MS. REINEMANN: Maria Reinemann, Town of
12 Milford.

13 CHAIRMAN GETZ: Good afternoon.

14 CMSR. MORRISON: Good afternoon.

15 CMSR. BELOW: Good afternoon.

16 MR. ALEXANDER: John Alexander, for
17 Anheuser-Busch.

18 CHAIRMAN GETZ: Good afternoon.

19 CMSR. MORRISON: Good afternoon.

20 CMSR. BELOW: Good afternoon.

21 MS. PRESSLEY: Barbara Pressley, citizen
22 intervenor.

23 CHAIRMAN GETZ: Good afternoon.

24 MS. MCHUGH: Good afternoon. Claire

1 McHugh.

2 CHAIRMAN GETZ: Good afternoon.

3 MS. HOLLENBERG: Good afternoon. Rorie
4 Hollenberg, here for the Office of Consumer Advocate.

5 CHAIRMAN GETZ: Good afternoon.

6 CMSR. MORRISON: Good afternoon.

7 CMSR. BELOW: Good afternoon.

8 MS. THUNBERG: Good afternoon. Marcia
9 Thunberg, on behalf of Staff. With me today is Mark
10 Naylor and Doug Brogan. Thank you.

11 CHAIRMAN GETZ: Good afternoon.

12 CMSR. MORRISON: Good afternoon.

13 CMSR. BELOW: Good afternoon.

14 MS. KNOWLTON: Sarah Knowlton and Steve
15 Camerino, from the McLane law firm, here today for the
16 Pennichuck companies. And, with us today from the Company
17 is Donald Ware, the President of Pennichuck Water Works,
18 Inc.

19 CHAIRMAN GETZ: Good afternoon.

20 CMSR. MORRISON: Good afternoon.

21 CMSR. BELOW: Good afternoon.

22 CHAIRMAN GETZ: I see we have a panel, I
23 believe the gentlemen from R.W. Beck. Is there anything
24 that we need to address before we hear from the panel?

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1 MR. RICHARDSON: We've discussed, on a
2 preliminary basis, the arrangement for witnesses on
3 Monday. I believe Sarah has the list that we're going to
4 propose.

5 MS. KNOWLTON: Right. What we would
6 propose is starting with Mr. Fuller, and then the panel
7 testimony of Mr. Henderson, Ms. Hersh, and Mr. McCarthy.
8 Then, Ms. McHugh, and then Mr. Sansoucy and Mr. Walker.

9 CHAIRMAN GETZ: Okay. And, we're still
10 expecting this afternoon to get to the redirect of the
11 Veolia panel?

12 MR. RICHARDSON: That is correct.
13 They're here in Concord, and they should be coming with
14 Mr. Upton.

15 CHAIRMAN GETZ: Okay. All right. Is
16 there anything else? Then, Mr. Patnaude, if you could
17 swear in the witnesses please.

18 (Whereupon Stephen R. Gates, Paul B.
19 Doran, and Jack M. Henderson was duly
20 sworn and cautioned by the Court
21 Reporter.)

22 STEPHEN R. GATES, SWORN

23 PAUL B. DORAN, SWORN

24 JACK M. HENDERSON, SWORN

[Witness panel: Gates|Doran|Henderson]

1 DIRECT EXAMINATION

2 BY MR. RICHARDSON:

3 Q. Good afternoon. Could you please state your names and
4 positions.

5 A. (Henderson) My name is Jack Henderson. I'm a
6 Professional Engineer and Project Manager with Tetra
7 Tech, a consulting engineering firm.

8 A. (Gates) Good afternoon. My name is Stephen Gates. I'm
9 a Senior Vice President with R.W. Beck.

10 A. (Doran) And, good afternoon. My name is Paul Doran,
11 and I'm a Senior Consultant with R.W. Beck.

12 CHAIRMAN GETZ: Good afternoon,
13 gentlemen.

14 BY MR. RICHARDSON:

15 Q. And, just to clarify, Mr. Doran, you are also the
16 Project Manager for this case, correct?

17 A. (Doran) That is correct.

18 Q. Did you prepare testimony for this proceeding on
19 January 12, 2006, that I'll represent to you is marked
20 as "Exhibit 1006"?

21 A. (Gates) Yes.

22 A. (Witness Henderson nodding affirmatively).

23 A. (Doran) Yes.

24 Q. And, after preparing your testimony, did you provide

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[Witness panel: Gates|Doran|Henderson]

1 and prepare responses to data requests related to your

2 testimony that are marked as "Exhibit 1049 and 1050?"

3 A. (Doran) Yes, that's correct.

4 Q. And, do you adopt those exhibits as your testimony in
5 this proceeding?

6 A. (Doran) yes.

7 Q. Are you aware of any changes or additions to your
8 testimony at this time?

9 A. (Doran) No.

10 A. (Gates) No.

11 MR. RICHARDSON: Thank you. Your
12 witnesses.

13 CHAIRMAN GETZ: Well, before we turn to
14 you, Ms. Knowlton, I think we have the opportunity for --

15 MS. KNOWLTON: Excuse me.

16 CHAIRMAN GETZ: -- cross from
17 Ms. Pressley or Ms. McHugh, do either of you have
18 questions for these witnesses?

19 MS. MCHUGH: No thank you.

20 MS. PRESSLEY: No thank you.

21 CHAIRMAN GETZ: Ms. Hollenberg?

22 MS. HOLLENBERG: No thank you.

23 CHAIRMAN GETZ: Then, you're up.

24 MS. KNOWLTON: Thank you. Good

[Witness panel: Gates|Doran|Henderson]

1 afternoon, gentlemen.

2 WITNESS GATES: Good afternoon.

3 WITNESS HENDERSON: Good afternoon.

4 WITNESS DORAN: Good afternoon.

5 MS. KNOWLTON: Welcome to New Hampshire.

6 WITNESS HENDERSON: Thank you.

7 CROSS-EXAMINATION

8 BY MS. KNOWLTON:

9 Q. I'm going to start with you, Mr. Gates.

10 A. (Gates) Yes, ma'am.

11 Q. You're with R.W. Beck?

12 A. (Gates) That's correct.

13 Q. And, it's my understanding that Beck got involved with
14 the Nashua project by submitting a response to Nashua's
15 Request for Proposal for Oversight Services, is that
16 correct?

17 A. (Gates) Yes, ma'am.

18 Q. And, Beck teamed up with Mr. Henderson, from Tetra
19 Tech, and submitted a proposal, is that right?

20 A. (Gates) That's correct.

21 Q. The proposal was that Beck would be the oversight
22 contractor, and Tetra Tech would subcontract with Beck
23 to assist with certain technical water issues, like
24 watershed management and vulnerability assessment, is

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[Witness panel: Gates|Doran|Henderson]

1 that correct?

2 A. (Gates) Yes, ma'am.

3 Q. And, Tetra Tech is providing those services, because
4 Beck does not have that particular expertise?

5 A. (Gates) I would characterize it differently, if I may?

6 Q. Sure.

7 A. (Gates) Thank you. When we decided to pursue the RFP
8 that the City had issued, we took a look, as we always
9 do, to understand the issues of the client. And,
10 looking through the eyes of the client, we thought that
11 complimenting the skills that Beck has, and we do have
12 expertise in water treatment, however, our business
13 model is a little different from the traditional
14 consulting/engineering firm that you might be familiar.
15 We offer high-level technical consulting in financial
16 business consulting, and offer ourselves as business
17 consultants to utilities. So, while we have expertise
18 in water treatment, we generally offer at a high
19 conceptual level.

20 Furthermore, the expertise relative to
21 security issues that were included in the RFP and the
22 watershed issues seem to be of particular importance to
23 us. And, we determined that Tetra Tech would be an
24 excellent complement to our skills, given the fact that

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[Witness panel: Gates|Doran|Henderson]

1 they are among the most renown providers of those
2 services nationwide within the water treatment
3 business.

4 In addition, a third consideration for
5 us, we enter into subcontracting relationships very
6 carefully, in an intention to provide the best possible
7 service that we can for our clients. And, I have known
8 Jack Henderson for over 20 years. We've worked
9 together. And, so, from a business management/business
10 risk standpoint, I was very comfortable with having
11 Tetra Tech as a teammate under the circumstances.

12 Q. Okay. Thank you. Mr. Henderson, Tetra Tech first got
13 involved in this matter when you approached the Mayor,
14 Mayor Streeter, and Mr. Sansoucy about the project, is
15 that right?

16 A. (Henderson) That's correct, directly, but we were also
17 involved as Rizzo Associates in doing some of the
18 preliminary investigations and studies on the
19 Pennichuck system for the City of Nashua.

20 Q. And, that was prior to this case, this eminent domain
21 taking?

22 A. (Henderson) That is correct.

23 Q. That was back in the days when Pennichuck and
24 Philadelphia Suburban were trying to enter into a

[Witness panel: Gates|Doran|Henderson]

1 transaction?

2 A. (Henderson) That is correct.

3 Q. Okay. And, so, for this particular project, this
4 eminent domain case, you met with Mr. Sansoucy in
5 October 2004 to understand what his objectives were, so
6 that Tetra Tech could best position itself to win the
7 project?

8 A. (Henderson) That's correct.

9 Q. And, as you said, Tetra Tech used to be -- well, Tetra
10 Tech, did it purchase Rizzo Associates?

11 A. (Henderson) That's correct.

12 Q. And, Rizzo Associates, in that prior Philadelphia
13 Suburban/Pennichuck case, had hired Mr. Sansoucy to do
14 some work?

15 A. (Henderson) That's correct.

16 Q. And, I'm going to refer to some exhibits. I'm not
17 necessarily going to pull them up. The Beck contract
18 is contained in Exhibit 1006, Pages 80 through 104. I
19 just want to note that for the record. And, the Tetra
20 Tech contract is Exhibit 3047. Now, Mr. Gates, there
21 is no signed contract between the City of Nashua and
22 Beck?

23 A. (Gates) There's been some twists and turns. Paul, do
24 we have a signed -- do we have a signed authorization

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[Witness panel: Gates|Doran|Henderson]

1 for this --

2 Q. Actually, I'm asking you the question. Can you just
3 answer my question first, and then, if he has something
4 to add, we'll hear from him.

5 A. (Gates) Okay. Yes. I am unclear of the signing status
6 of our contract relationship with the City.

7 Q. Okay. Mr. Doran, is there a signed contract between
8 Beck and the City?

9 A. (Doran) We had broken out some contract issues where we
10 were selected to do some preliminary work. Among them,
11 that's with a separate contract, as we had said, for
12 this work, for the PUC support, and for the negotiation
13 support with the Veolia agreement that we participated
14 in. The contract that is part of the exhibit that you
15 referred to has not been signed.

16 Q. Thank you. And, that contract that I'm referring to,
17 that's Exhibit 1006, Pages 80 to 104, is the contract
18 for the oversight services that Beck would be providing
19 to the City of Nashua?

20 A. (Doran) Yes, ma'am. That's correct.

21 Q. And, the other document that you're referring to,
22 which, you know, I certainly agree is a contract, is
23 the Memorandum of Understanding between the City and
24 Beck?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) That was one.
- 2 Q. Okay. And, we'll talk about that one later. Are there
3 any others?
- 4 A. (Doran) Just that other one that I had mentioned for
5 the PUC support.
- 6 Q. Okay. So, two?
- 7 A. (Doran) That's correct.
- 8 Q. And, does that two include the oversight services or
9 are there three?
- 10 A. (Doran) The PUC support services was, in fact, part of
11 that unsigned contract, it is part of the exhibit that
12 you referred to. And, those two, there were two tasks
13 listed in that contract that you referred to in Exhibit
14 -- in our exhibit that was unsigned. And, we pulled
15 those two tasks for PUC support out and made a separate
16 agreement, because it was realized that support was
17 needed prior to entering into any kind of an agreement.
18 So, it was negotiated.
- 19 Q. Okay. And, that's the MOU, and we're going to get to
20 that in a few minutes. But let's stick right now, and
21 maybe let's just pull up Exhibit 1006, Page 80, just so
22 that we can all have at least the front page of that
23 document in front of us, so we're sure we're talking
24 about the same thing. And, you should, on your

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[Witness panel: Gates|Doran|Henderson]

- 1 computer screen in the witness box, have that in front
2 of you. Though, you're welcomed to look at a hard
3 copy, if you prefer that. Do you see the document
4 that's labeled "Exhibit 1006 Professional Services
5 Agreement"?
- 6 A. (Doran) Yes, that's correct.
- 7 Q. And, that's the oversight contract with the City of
8 Nashua?
- 9 A. (Doran) Yes, it is.
- 10 Q. And, that's the one that's not signed, correct?
- 11 A. (Doran) That is correct.
- 12 Q. Okay. And, certainly, this draft contract,
13 Exhibit 106 -- 1006, because it's not signed, could
14 change, Mr. Doran?
- 15 A. (Doran) Yes, ma'am. It depends on the wishes of the
16 PUC, if, in fact, they would like some additional
17 issues to be covered in the contract and an additional
18 -- anything that they would add, certainly, that would
19 be in addition.
- 20 Q. And, it's also subject to the wishes of the City of
21 Nashua, because the Board of Aldermen would need to
22 approve any final contract?
- 23 A. (Doran) That's correct.
- 24 Q. And, once that contract is signed, it can be terminated

[Witness panel: Gates|Doran|Henderson]

1 by either party with 30 days written notice, is that
2 right?

3 A. (Doran) I believe that's correct.

4 Q. So, Nashua has no obligation to R.W. Beck beyond 30
5 days, correct?

6 A. (Doran) That is your interpretation of that clause,
7 yes.

8 Q. Mr. Henderson, there is no signed contract between
9 Tetra Tech and R.W. Beck, correct?

10 A. (Henderson) I believe that's correct, yes.

11 Q. And, that contract, if we could go to Exhibit 3047, if
12 you would look on your screen there. And, is the
13 document that's titled "Subconsultant Agreement", is
14 that the draft contract that I've been referring to?

15 A. (Henderson) That appears to be, yes.

16 Q. Okay. And, certainly, because this is a draft, it
17 could change, correct?

18 A. (Henderson) Correct.

19 Q. All right. Now, under the proposal that the City of
20 Nashua has put forward in this case, the City is going
21 to be replacing the Pennichuck employees with
22 consultants. Mr. Doran, you don't take issue with the
23 quality of the work of any of the Pennichuck employees,
24 do you?

[Witness panel: Gates|Doran|Henderson]

1 A. (Doran) Not knowing specific knowledge of that, I can't
2 comment one way or the other.

3 Q. And, do you remember being deposed as part of this
4 case?

5 A. (Doran) I remember that I know through general
6 knowledge of the reputation that Pennichuck has in the
7 industry, but not specific employees.

8 Q. Okay. And, in your deposition, if I can, this might
9 refresh your memory about what you said, your testimony
10 in your deposition was that -- was that Pennichuck "has
11 very professional people working for them" and that
12 "they're very reputable in providing water service".
13 Does that sound about right to you?

14 A. (Doran) In fact, referring, you know, to the
15 deposition, that's correct. I still do not retract
16 anything from that statement.

17 Q. And, Mr. Henderson, in your words from your deposition
18 were that the people that you know at Pennichuck "do
19 their job very well". That sound right to you?

20 A. (Henderson) That does sound right to me.

21 Q. Okay. And, is that still your opinion today?

22 A. (Henderson) That is my opinion.

23 Q. Now, Mr. Gates, you filed testimony in this case, which
24 Mr. Richardson referred to as "Exhibit 1006". And, in

[Witness panel: Gates|Doran|Henderson]

1 that testimony, you stated that "R.W. Beck is
2 recognized nationwide for saving utilities money
3 through innovative funding, contracting, operating, and
4 business process strategies." That's at Page 3 of your
5 testimony. Here, my understanding is is that the
6 City's proposal is to hire four different contractors.
7 There's R.W. Beck. We have Tetra Tech sitting next to
8 you. And, yesterday, we heard -- or, Wednesday we
9 heard from Veolia, and we heard that Veolia is going to
10 have a relationship with Dufresne-Henry, which is now
11 called "StanTech".

12 MR. RICHARDSON: Mr. Chairman, the
13 question has gotten so compound and has so many conclusory
14 statements in it that I think it ought to be rephrased so
15 that the witness doesn't have to remember something they
16 said a few minutes earlier in answering the question.

17 MS. KNOWLTON: I guess I can break it
18 down --

19 MR. RICHARDSON: Because there are
20 characterizations that we object to in that as well.

21 MS. KNOWLTON: Okay. Well, I'll break
22 it into pieces, if you'd like?

23 CHAIRMAN GETZ: Please.

24 BY MS. KNOWLTON:

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[Witness panel: Gates|Doran|Henderson]

1 Q. Are there four contractors working on this project?

2 A. (Gates) Currently, the strategy is as you've
3 articulated, to that Veolia has the contract operator,
4 and Beck has the oversight contract, each with a
5 subcontractor.

6 Q. So, that was a "yes", there are four?

7 A. (Gates) Yes, ma'am.

8 Q. Okay. Thank you.

9 CHAIRMAN GETZ: Yes, Mr. Gates, I think
10 you're either going to need to move closer to the -- one
11 of two things has to happen, move closer to the microphone
12 or the microphone to you.

13 BY MS. KNOWLTON:

14 Q. And, the City went with that model because they didn't
15 want to have to hire employees to carry out that work,
16 is that your understanding?

17 A. (Gates) That's my understanding.

18 Q. And that, so, Beck essentially was going to perform the
19 same tasks as a city department head would that would
20 be in charge of the water system?

21 A. (Gates) Well, we have a specific scope of work attached
22 to our contract. I would not say that it's analogous
23 to a city department.

24 Q. Would you liken yourself to the senior management of a

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[Witness panel: Gates|Doran|Henderson]

1 utility?

2 A. (Gates) I would liken ourselves to an oversight
3 contractor of the operations contract.

4 Q. Okay. So, here, the innovative strategy that Beck
5 brought to the table was to have the four contractors
6 do the work of the Pennichuck employees?

7 A. (Gates) Beck was responsive to an RFP the City
8 submitted.

9 Q. Do you consider your RFP proposal innovative?

10 A. (Gates) I believe that it will offer high value to the
11 City.

12 Q. Okay. And, in turn, Beck's going to get paid for that
13 work, right?

14 A. (Gates) We're a professional services firm, yes.

15 Q. And, it's a for-profit company?

16 A. (Gates) It is.

17 Q. Do you know whether Veolia is a for-profit company?

18 A. (Gates) I believe it is.

19 Q. And, what about StanTech?

20 A. (Gates) Yes.

21 Q. And, Mr. Henderson, what about Tetra Tech?

22 A. (Henderson) It is.

23 Q. Okay. And, Mr. Henderson, does Tetra Tech bill out the
24 services of its employees by the hour?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Henderson) They do.
- 2 Q. Mr. Gates?
- 3 A. (Gates) Yes, ma'am.
- 4 Q. Does Beck do the same?
- 5 A. (Witness Gates nodding affirmatively).
- 6 Q. What is your current hourly rate, Mr. Gates?
- 7 A. (Gates) My current billing rate?
- 8 Q. Correct.
- 9 A. (Gates) I'm not sure what my billing rate is under this
10 contract.
- 11 Q. Tell me what you charge other clients then.
- 12 A. (Gates) Oh, it ranges. My billing rate would be
13 normally somewhere in the \$275 an hour range.
- 14 Q. Do you have any reason to believe that your rate for
15 purposes of this contract is not \$275 an hour?
- 16 A. (Gates) I don't recall what it is on this contract.
- 17 Q. Okay. Let's take a look at Exhibit 1006. And, let's
18 go to the -- let's go to Page 104. Are these the Beck
19 rates that would apply to this contract?
- 20 A. (Gates) Yes, ma'am.
- 21 Q. Where do you fall on this chart?
- 22 A. (Gates) Under the "Executive Engineer" category.
- 23 Q. So, that's \$252 to \$295 an hour?
- 24 A. (Gates) That's correct.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. And, where in that range are you?
- 2 A. (Gates) Well, I said before "\$275" would be the typical
3 billing rate for me.
- 4 Q. And, what will your -- what was your rate last year?
- 5 A. (Gates) I don't recall what was billed last year.
- 6 Q. You don't remember what you bill your work out at?
- 7 A. (Gates) Well, I don't know.
- 8 Q. Okay. Under this contract, do you expect that your
9 rate would increase from year to year?
- 10 A. (Gates) Normally, we have an escalation that's a
11 function of salary.
- 12 Q. Give me a sense of the percentage by which your rate
13 escalated from 2006 to 2007?
- 14 A. (Gates) Probably 4 percent.
- 15 Q. Is it fair to assume then, from 2007 to 2008, that your
16 rate would escalate by approximately 4 percent?
- 17 A. (Gates) That's a reasonable estimate.
- 18 Q. How many hours a year do you anticipate spending on the
19 Nashua project?
- 20 A. (Gates) Under the current scope of works that's been
21 defined in the contract, I would expect probably 100
22 hours.
- 23 Q. How many hours a year overall do you bill out?
- 24 A. (Gates) Excuse me. In my current role, I have

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[Witness panel: Gates|Doran|Henderson]

1 corporate responsibility that keeps me away from
2 customers more than it used to. So, it might be, in
3 this next year, 800 to 1,000 hours.

4 Q. I just did the math on my calculator, you can tell me
5 whether I did it right or not. Just use 800 hours a
6 year, at \$275 an hour, and that's \$220,000 a year if
7 you billed out that much time, is that right?

8 A. (Gates) Uh-huh. If your calculator says so.

9 Q. Okay. \$27,500 of which would be billed to the City of
10 Nashua under this contract, if your estimation of your
11 time is correct.

12 A. (Gates) Uh-huh.

13 Q. Is that right?

14 A. (Gates) Yes.

15 Q. Okay. Mr. Doran, what is your hourly rate that will be
16 billed to the City of Nashua under this contract?

17 A. (Doran) Based on the exhibit that's up on the screen, I
18 fit into the "Senior Project Manager" box.

19 Q. In that range of \$132 an hour to \$168 an hour --

20 A. (Doran) No, that's not correct, ma'am.

21 Q. Am I reading that wrong?

22 A. (Doran) I said the "Senior Project Manager" rate.

23 Q. Oh. My apologies. I gave you a demotion, I'm sorry
24 about that. In the range of 180 to 240 an hour. Where

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[Witness panel: Gates|Doran|Henderson]

- 1 does your hourly rate fall?
- 2 A. (Doran) It would be on the lower end of that range.
- 3 Q. What would it be?
- 4 A. (Doran) From, depending -- it would be in the \$190 to
- 5 \$200 an hour range.
- 6 Q. I'm curious. When will Beck decide what your rate will
- 7 be, for purposes of this contract?
- 8 A. (Doran) When the negotiations are concluded on the
- 9 contract with the City.
- 10 Q. And, will your rate from 2007 to 2008 escalate at
- 11 roughly the same 4 percent that Mr. Henderson -- excuse
- 12 me, Mr. Gates just referred to?
- 13 A. (Doran) You can use that as a guideline, yes.
- 14 Q. Okay. How many hours a year do you anticipate billing
- 15 out to the City of Nashua under this contract?
- 16 A. (Doran) I think the scope in Exhibit A lists the
- 17 assumptions and the coverages of hours for this
- 18 particular Scope of Services that we have.
- 19 Q. And, tell me what your understanding is of the amount
- 20 of time that you will spend on this contract for its
- 21 first year?
- 22 A. (Doran) For the first year of the contract?
- 23 Q. Correct.
- 24 A. (Doran) Are you including with that first year of the

[Witness panel: Gates|Doran|Henderson]

1 contract transition services?

2 Q. Yes. Let's, for purposes of my question, let's assume
3 that the PUC has approved the taking of the Pennichuck
4 assets, and the City of Nashua is now operating the
5 water utility. And, you're providing oversight
6 services under this contract that we have up here on
7 the screen, which includes, and we're going to get to
8 it later, Initial and Recurring Tasks, in that first
9 year of the contract, how many hours are you going to
10 work on it?

11 A. (Doran) I would say, roughly, and very roughly,
12 responding to the needs of transition services, which
13 have not been defined as of yet, so that is an unknown,
14 through the Scope of Services that have been defined
15 and the anticipated additional services through
16 transition, I would estimate from -- to approximately
17 maybe three-quarter time.

18 Q. How many hours a year does that calculate for you?

19 A. (Doran) Whatever three-quarters of a billable year is.

20 Q. What is a typical billable year for you?

21 A. (Doran) I run in the 90 percent billable.

22 Q. Okay. Well, I work at a law firm, and I bill my hours
23 out, and I know that I have a quota of hours that I
24 bill, and I can look back every year and see

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[Witness panel: Gates|Doran|Henderson]

- 1 approximately how much I bill, how many hours each
2 year. Tell me, based on the number of hours that you
3 billed last year, what would be three-quarters of that?
- 4 A. (Doran) Based on that question, approximately a
5 thousand hours.
- 6 Q. And, let's just do the math for me. A thousand hours,
7 at \$190 an hour, how much are you going to bill out a
8 year under the contract, in that first year?
- 9 A. (Doran) Well, I don't believe I need a calculator for
10 that.
- 11 Q. Okay. I'm a lawyer. I don't do math well. Just
12 kindly answer.
- 13 A. (Doran) Why don't you punch it in your calculator and
14 see what you get?
- 15 Q. Why don't you just -- you're here to testify today, I'm
16 not. Tell me the answer please.
- 17 A. (Doran) Seriously, ma'am, it's \$190,000.
- 18 Q. Okay. So, we've got 190,000 for you, we've got 27,500
19 for Mr. Gates. Mr. Henderson, you probably know you're
20 next.
- 21 A. (Henderson) I've been doing the math.
- 22 Q. What is your -- You've got to be better at math than I
23 am. What is your hourly rate under the Tetra Tech/Beck
24 draft contract?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Henderson) I would have to look at the contract to see
2 that.
- 3 Q. Okay. So, let's see 3047 please. Go to the last page
4 of that contract. Is that big enough to read?
- 5 A. (Henderson) Yes, I can read that.
- 6 Q. Where do you fall on this chart?
- 7 A. (Henderson) "Project Director" level and "Senior
8 Project Manager" -- "Project Director" level.
- 9 Q. \$165 an hour?
- 10 A. (Henderson) That's correct.
- 11 Q. How many hours do you anticipate billing out under the
12 Tetra Tech/Beck contract, assuming it gets signed, for
13 one year?
- 14 A. (Henderson) Hypothetically, we'd be looking somewhere
15 in the range of, I'm guessing 150, I'd have to go back
16 and look specifically at the tasks that we're
17 responsible for and where I would have to participate
18 in those tasks. But I'm guessing, estimate about 150
19 hours a year.
- 20 Q. I'll do the math for you. That's \$24,750?
- 21 A. (Henderson) If you say so.
- 22 Q. Okay. And, so, I'm going to add Mr. Doran's \$190,000
23 to your 24,750, plus Mr. Gates' 27,500, and that gets
24 me to \$242,250 total. Now, Mr. Henderson, any time

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[Witness panel: Gates|Doran|Henderson]

1 that you bill under that contract, that's marked up
2 10 percent by Beck, right?

3 A. (Henderson) I'm not sure. Is that --

4 Q. Mr. Gates, do you know the answer to that?

5 A. (Gates) Yes, that's the current payment terms of the
6 contract.

7 Q. All right. Let's turn to, for a minute, to the Veolia
8 contract, which I believe, Mr. Gates -- excuse me, R.W.
9 Beck was involved in assisting with those negotiations,
10 is that right?

11 A. (Gates) Yes, ma'am. We had a role.

12 Q. What was -- Please describe what your role was in those
13 negotiations?

14 A. (Gates) Well, Paul was the primary staff member
15 involved on behalf of R.W. Beck. And, we collaborated
16 with the rest of the City's negotiating team to offer
17 the technical advice as to how to structure the
18 performance of the contract.

19 Q. Were you effectively representing the City's interests
20 in those negotiations?

21 A. (Gates) Well, we certainly tried our best to
22 effectively provide for the City's interests. That was
23 our intent.

24 Q. Mr. Henderson, did you participate in those

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[Witness panel: Gates|Doran|Henderson]

1 negotiations with Veolia on their draft O&M contract?

2 A. (Henderson) Yes, I did.

3 Q. And, please describe what your role was in those
4 negotiations.

5 A. (Henderson) Again, technical support, in much the same
6 role as Beck's.

7 Q. And, Mr. Henderson, you thought that there were some
8 valid metrics that should have been included in the
9 contract that didn't end up in the final draft, is that
10 right?

11 A. (Henderson) I'm not sure what you're referring to.

12 Q. Okay. Well, let's see. When you were deposed, do you
13 remember being deposed in this case?

14 A. (Henderson) I do recall being deposed.

15 Q. And, in your deposition, an issue came up about
16 performance metrics, and, in particular, you mentioned
17 in your deposition, when asked, that "there was no
18 performance metric in the Veolia/Nashua contract that
19 would give Veolia any incentive to minimize its energy
20 consumption costs in running the water system." Does
21 that refresh your memory?

22 A. (Henderson) As I recall -- As I recall, those
23 performance standards were discussed, but not
24 implemented at that time as part of the contract.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. Do you know whether they're in the draft contract that
2 is before the Commission today?
- 3 A. (Henderson) I don't believe they are.
- 4 Q. Okay. And, apparently, at the time of your deposition,
5 though, you believed that that was a good idea to have
6 that kind of incentive for Veolia?
- 7 A. (Henderson) I think that, in general, having incentives
8 in these types of contracts are advantageous.
- 9 Q. You also thought it would be good to have a performance
10 metric for unplanned maintenance?
- 11 A. (Henderson) If that's what I said, yes.
- 12 Q. Would you still agree with that today?
- 13 A. (Henderson) Yes.
- 14 Q. And, at your deposition, what you said was that, if you
15 do a good job planning maintenance, then you hopefully
16 reduce your cost in unplanned maintenance?
- 17 A. (Henderson) That's correct.
- 18 Q. Okay. Now, both -- Mr. Gates, you've mentioned that,
19 or maybe it was Mr. Doran, you mentioned that you did
20 some work for the City in negotiating this Veolia
21 contract that you anticipated to be paid for, is that
22 correct?
- 23 A. (Doran) That's correct.
- 24 Q. And, at one point in time, is it your recollection that

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[Witness panel: Gates|Doran|Henderson]

- 1 Mr. Upton's firm issued a notice to proceed to R.W.
2 Beck to go ahead and perform that work, negotiating the
3 Veolia contract?
- 4 A. (Doran) That is correct.
- 5 Q. And, did R.W. Beck rely on that notice to proceed in
6 performing the negotiating work?
- 7 A. (Doran) Yes, we did.
- 8 Q. And, at some point, the City rescinded that promise, is
9 that right?
- 10 A. (Doran) That is correct.
- 11 Q. And, Beck --
- 12 A. (Doran) A correction, ma'am. The City did not rescind
13 it. It was the Upton firm that rescinded it, to be
14 accurate.
- 15 Q. Was it your understanding that Mr. Upton's firm was
16 representing the City when that decision was
17 communicated to you?
- 18 A. (Doran) Yes.
- 19 Q. And, so, I assume you must have been surprised to get
20 that communication from Mr. Upton?
- 21 A. (Doran) That was -- Yes, that was correct. I was very
22 surprised.
- 23 Q. Okay. And, what you did was you went to Mr. Sansoucy
24 to ask that he help intervene on your behalf to get you

[Witness panel: Gates|Doran|Henderson]

1 paid? Do you remember that?

2 A. (Doran) I believe that there was one conversation with
3 Skip Sansoucy regarding that, yes.

4 Q. Was he successful in helping you?

5 A. (Doran) Ultimately, I don't think his input was as
6 successful as we anticipated.

7 Q. Did you get paid?

8 A. (Doran) Ultimately, we did get paid.

9 Q. Okay. Let's see Exhibit 3254. Have you seen this
10 document before, Mr. Doran?

11 A. (Doran) I've seen this document, yes.

12 Q. Okay. Let's go to the next page please. Is this the
13 first page of this memorandum, MOU of understanding
14 that we've been speaking about?

15 A. (Doran) It's the wrong MOU of understanding, because
16 we're not Veolia. This is the MOU of understanding
17 with Veolia.

18 Q. My apologies. Let me get the -- sorry about that. Can
19 you see that okay?

20 A. (Doran) Yes. It's a little blurry, but I think, even
21 with my old, tired eyes, I can make it out.

22 Q. Okay. Well, do your best. So, this MOU is -- the
23 handwritten date on it is May 12, 2006, and it's
24 between R.W. Beck and the City of Nashua. And, it

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[Witness panel: Gates|Doran|Henderson]

1 looks like there was the dispute that we've heard you
2 talk about, in terms of not -- Beck not getting paid,
3 but that the MOU resolved that dispute, is that right?

4 A. (Doran) Yes, that's correct.

5 Q. And, if you would look, there's a number of "whereas"
6 clauses on this first page. If you would, there's one
7 that's highlighted, if you could look at that please,
8 and I'll move the document up a little bit so that you
9 can see it. Can you just read the first two sentences
10 of that please for the record.

11 MR. UPTON: Could the entire "whereas"
12 clause be made available to him, so he could read the
13 entire "whereas" clause --

14 MS. KNOWLTON: Sure.

15 MR. UPTON: -- and be able to have that
16 in context?

17 MS. KNOWLTON: He can't. He's got to
18 flip the page to read it. But I can show him the hard
19 copy first, if you'd prefer?

20 MR. UPTON: I would prefer.

21 MS. KNOWLTON: May I approach the
22 witness?

23 CHAIRMAN GETZ: Please.

24 (Atty. Knowlton handing document to

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[Witness panel: Gates|Doran|Henderson]

1 Witness Doran.)

2 MS. KNOWLTON: Why don't you let me know
3 when you're done reading that.

4 CHAIRMAN GETZ: Ms. Knowlton, is this an
5 exhibit?

6 MS. KNOWLTON: It is an exhibit, and I
7 apologize. What happened is the hard copy that we have up
8 on the track up there that was stickered is correct, and
9 for some reason what was scanned in is incorrect. And, I
10 apologize about that. I'd be happy to go get the
11 stickered original for the Commissioners, if you would
12 like to look at that? Or, I can put this up on ELMO.

13 CHAIRMAN GETZ: On ELMO is fine. And,
14 just the question was was "had it been marked as an
15 exhibit?"

16 MS. KNOWLTON: Yes, it was marked. And,
17 I apologize for the mix-up there with the document. Okay.
18 Maybe the mistake is just on my end.

19 BY MS. KNOWLTON:

20 Q. Mr. Doran, have you had a chance to read that full
21 recital clause that your counsel wanted you to look at?

22 A. (Doran) Yes, I did.

23 Q. Okay. And, so, what I had asked you is that can you
24 read that, the first two sentences of that into the

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[Witness panel: Gates|Doran|Henderson]

1 record please?

2 A. (Doran) "Whereas, the Parties have successfully
3 resolved misunderstandings related to services
4 performed by the consultant as summarized in this MOU.
5 In order to resolve these issues and move forward to
6 form a solid foundation for future work together, the
7 parties agree that the performances and payment issues
8 related to this MOU will be treated in a confidential
9 manner, and that neither Party will initiate any action
10 to disclose these issues to any third party."

11 Q. And, in effect, the City and Beck were trying to smooth
12 things over so, you know, that you could move forward
13 in a positive and productive manner?

14 MR. UPTON: I object to characterization
15 of "smooth things over". That's her testimony, not his
16 testimony.

17 MS. KNOWLTON: Okay.

18 BY MS. KNOWLTON:

19 Q. Well, the words of the MOU are that you were going to
20 "form a solid foundation for future work together". Is
21 that -- Are those words words that you agree with, in
22 terms of the nature of the relationship at that time?

23 A. (Doran) I don't totally agree with it, that there was
24 not a solid foundation in existence prior to this

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[Witness panel: Gates|Doran|Henderson]

1 document. There may be some misunderstanding
2 surrounding the issue of the notice to proceed, and,
3 after the work was completed, the rescinding of that
4 notice to proceed. However, we never stopped work. We
5 were faithfully there at the table, always,
6 representing the City's interest 100 percent, and built
7 relationships with City personnel. Also at the table
8 and City personnel within the City, the mayor, the
9 Chief Financial Officer, etcetera. So, I don't 100
10 percent characteristic that there was no solid
11 foundation prior to this. That we just -- And, I did
12 not develop the terms that you see in writing here. I
13 was not involved in developing this MOU, just so you
14 know. So, the incharacterization -- it's an incorrect
15 characterization. I think we were having a solid
16 foundation, and it was resulting -- any
17 misunderstandings were resulting from pure payment
18 issues regarding the notice to proceed and subsequent
19 rescinding of that notice to proceed. Regarding the
20 relationships that were built, they were solid, and
21 they continue to be even more so.

22 Q. Great. Let's go to Page 2 of this document. It's up
23 on your screen as well, if you prefer to look at the
24 digital copy. Now, the second paragraph of this

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[Witness panel: Gates|Doran|Henderson]

1 memorandum, which is from Mr. Rootovich to Mayor
2 Streeter, indicates that the Mayor disagreed with
3 certain of the charges that Beck had sent to the City
4 regarding its work for the City. Is that a fair
5 characterization of the situation?

6 A. (Doran) Could you repeat the question, Ms. Knowlton.

7 Q. Why don't you read the second paragraph of Page 2. Why
8 don't you read it out loud for the record please.

9 A. (Doran) "This Memorandum of Understanding pushes
10 payment of these bills out to the completion of the
11 process, or April 2007, whichever is sooner. And, in
12 consideration of my disagreement over certain charges
13 related to these bills, R.W. Beck will credit \$12,000
14 total against its future contracts with the City of
15 Nashua regarding oversight management services of
16 Veolia."

17 Q. Which of your bills did the Mayor dispute?

18 A. (Doran) I don't recall exact bills that he disputed.

19 Q. Were their services that he disputed?

20 A. (Doran) I think the negotiations took longer than
21 expected, and the frequency of the meetings, and that's
22 all my recollection of -- that it would impact any
23 pricing or bills that we would submit. I don't recall
24 any bill or exact bills or a dollar figure that he

[Witness panel: Gates|Doran|Henderson]

1 disputed. I just don't recall.

2 Q. R.W. Beck agreed to credit the City back \$12,000, isn't
3 that right?

4 A. (Doran) That's correct.

5 Q. Why is that?

6 A. (Doran) We have a stellar record of standing behind our
7 clients and our clients working with us. And, I'll
8 defer to Mr. Gates for reasons, because the crediting
9 is beyond my authority at R.W. Beck. But I know that,
10 too, if there were any misunderstandings, that we
11 credited that \$12,000 to continue the goodwill, that we
12 worked hard to establish with the City. And, beyond
13 that, I would defer to Mr. Gates to respond.

14 Q. Mr. Gates, I have a question for you about this. If
15 Beck and the City never enter into a contract, does
16 Beck still owe the City \$12,000?

17 A. (Gates) I believe the -- let me just refer to the memo
18 of understanding for just a minute, if you would. I
19 believe the four corners of the memo of understanding
20 are clear on that point.

21 Q. Can you explain your understanding of whether the
22 \$12,000 is owed, if there's no contract signed between
23 Beck and the City?

24 A. (Gates) The credit is to be applied for future

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[Witness panel: Gates|Doran|Henderson]

1 services.

2 Q. Can you answer my question "yes" or "no"?

3 A. (Gates) Why don't you restate the question for me.

4 Q. If Beck and the City of Nashua don't enter into a
5 contract, does Beck owe the City of Nashua \$12,000?

6 A. (Gates) I don't believe the MOU requires that.

7 MS. KNOWLTON: Mr. Chairman --

8 CHAIRMAN GETZ: And, gentlemen --

9 MS. KNOWLTON: I'm sorry.

10 CHAIRMAN GETZ: Excuse me, Ms. Knowlton.

11 As a general matter, we've got a lot to cover this
12 afternoon. I think there's a number of areas where Ms.
13 Knowlton, I understand the question, and I'm hoping that
14 you understand the question. I don't think there's any
15 reason to drag some of these out. We have the gentlemen
16 -- the panel from Veolia we're hoping to address today.
17 So, I would just ask Ms. Knowlton and the witnesses to
18 let's --

19 MS. KNOWLTON: Okay.

20 CHAIRMAN GETZ: -- let's move this
21 along.

22 MR. RICHARDSON: Mr. Chairman, just in
23 fairness. These aren't regular witnesses. And, they look
24 nervous as heck to me about all of this. And, I think

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[Witness panel: Gates|Doran|Henderson]

1 they're just, you know, there's not an intent here to not
2 respond. I just think they're trying to, you know, not
3 get tripped up.

4 CHAIRMAN GETZ: And, I understand that
5 sentiment entirely. So, maybe now we're all on the same
6 page.

7 MS. KNOWLTON: And, it's not my
8 intention to trip anyone up. I just want to understand
9 myself what the arrangements are here. So, anything you
10 can do to help me do that, I'd greatly appreciate.

11 BY MS. KNOWLTON:

12 Q. Mr. Henderson, has Tetra Tech been paid for its
13 services negotiating on the City's behalf for Veolia?

14 A. (Henderson) That's correct.

15 Q. Okay. Let's move on to another topic. We've heard
16 enough about the MOU. Let's talk about Beck's
17 oversight experience. Mr. Doran, you're not familiar
18 with any Beck oversight of a water distribution
19 utility, are you?

20 A. (Doran) No, I am not.

21 Q. Mr. Gates, in its discovery responses in this case,
22 R.W. Beck cited to the work that you've done with the
23 Tampa Bay Water Authority, as an arrangement, that that
24 was the most similar to the one that was proposed for

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[Witness panel: Gates|Doran|Henderson]

1 Nashua. Do you recall that?

2 A. (Gates) Yes, ma'am.

3 Q. And, my understanding is is that Tampa Bay is not a
4 water distribution utility, it's a wholesale water
5 provider, is that right?

6 A. (Gates) They treat and distribute water on a wholesale
7 basis.

8 Q. Who do they distribute it to?

9 A. (Gates) I believe that there is a regional -- They're a
10 regional authority and they have six member cities in
11 the Tampa Bay area.

12 Q. And, the way that my understanding of that
13 organizational structure of this water authority is
14 that the six participating municipalities all have a
15 seat on the board of the Water Authority. Is that your
16 understanding as well?

17 A. (Gates) I believe that's correct.

18 Q. Okay. And, the Water Authority in Tampa also retains
19 fairly significant internal expertise, you know, to
20 provide the wholesale water services, is that correct?

21 A. (Gates) They have a billion dollar capital program.
22 So, I'm sure that they have quite a staff to manage
23 that.

24 Q. Are you aware that Pennichuck Water Works serves

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[Witness panel: Gates|Doran|Henderson]

1 customers outside the City of Nashua?

2 A. (Gates) Yes, ma'am.

3 Q. And, can you name some of the communities in which they
4 provide service?

5 A. (Gates) Merrimack is one that immediately comes to
6 mind.

7 Q. Name three others.

8 A. (Gates) I'll defer to my --

9 Q. Do you know?

10 A. (Gates) No, I don't.

11 Q. Mr. Doran?

12 A. (Doran) The communities I believe, I'm not sure if it's
13 Milford that's part of the district or not.

14 Q. Pennichuck Water Works, I'm sorry.

15 A. (Doran) Oh.

16 Q. That serve the communities, can you just -- can you
17 tell me three communities other than the City of Nashua
18 that Pennichuck Water Works serves?

19 A. (Doran) I don't have that answer on the top of my head,
20 no.

21 Q. Okay. Are you aware, Mr. Gates, that the customers
22 that live outside the City of Nashua that are served by
23 Pennichuck Water Works don't have the ability to vote
24 for the elected officials of the City of Nashua?

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[Witness panel: Gates|Doran|Henderson]

1 A. (Gates) Yes.

2 Q. So, when R.W. Beck said, in its proposal to Nashua,
3 that it was creating a "community-owned water utility",
4 it's a bit of a misnomer to say that it's
5 "community-owned", because not all the communities that
6 are served are going to be owners, is that fair?

7 A. (Gates) Well, as I recall, at the time there was active
8 discussion about a regional district being formed as
9 well.

10 Q. But that's not before the Commission today, is it?

11 A. (Gates) As I understand, no.

12 Q. Mr. Doran, you've been with Beck since 2004, correct?

13 A. (Doran) Yes.

14 Q. And, you've got a lot of experience in wastewater, is
15 that right?

16 A. (Doran) Yes, that's correct.

17 Q. And, is that mostly design and build experience?

18 A. (Doran) It expands the full gamut of experience, from
19 process design to contractual management of contracts,
20 construction management, etcetera.

21 Q. How many of those, just roughly speaking, how many of
22 those projects have you done?

23 A. (Doran) Ma'am, which projects are those?

24 Q. For wastewater, of whatever nature of the service

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[Witness panel: Gates|Doran|Henderson]

1 provided.

2 A. (Doran) In 33 plus years, it's been quite a few. I
3 don't have a number offhand.

4 Q. Are you aware that there are different regulations for
5 wastewater than water?

6 A. (Doran) Yes, I am.

7 Q. And, are there more regulations that apply to drinking
8 water than to wastewater?

9 A. (Doran) I know that they're probably characterize that,
10 there are regulations. I don't know the expanse, as
11 far as all the regulations. But, certainly, water has
12 its share of regulations.

13 Q. Mr. Henderson, you're the technical water expert that's
14 assisting Beck, correct?

15 A. (Henderson) That's correct.

16 Q. And, do you -- would you be able to give me a sense of,
17 roughly speaking, how many regulations govern
18 wastewater versus water, drinking water?

19 A. (Henderson) They're both highly regulated entities, so
20 -- and I couldn't begin to tell you which one has
21 actually more regulations than the other. They're both
22 highly regulated.

23 Q. So, it's possible that, even though wastewater doesn't
24 come into our bodies, that it's regulated at the same

[Witness panel: Gates|Doran|Henderson]

1 level as drinking water?

2 A. (Henderson) It's highly regulated, yes.

3 Q. Okay. Mr. Doran, do you, given that you have some
4 experience, significant experience in wastewater, do
5 you have experience in drinking water?

6 A. (Doran) Yes, I do.

7 Q. Okay. But you've never operated a drinking water
8 system directly?

9 A. (Doran) I'm an engineer, not an operator.

10 Q. Okay. Do you have any sense of whether there would be
11 different customer service issues that would affect
12 drinking water than wastewater?

13 A. (Doran) Oh, I'm sure, turn on and turn offs of systems
14 and things like that. Sure. There are customer
15 service -- on the customer service aspect, they would
16 be different.

17 Q. Can you list for me the differences that you consider
18 to be significant?

19 A. (Doran) Certainly, responding to main breaks is one.
20 The meter readings is another. Those are two that are
21 significant.

22 Q. What about discolored water?

23 A. (Doran) Certainly anything to do with perceived water
24 quality by a consumer would be receiving phone calls on

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[Witness panel: Gates|Doran|Henderson]

- 1 a customer service basis.
- 2 Q. It would be a heightened level of anxiety over that,
3 compared to wastewater?
- 4 A. (Doran) Potentially. I would acknowledge that.
- 5 Q. Okay. Let's go back to the contract. Mr. Gates, if
6 you would explain in a nutshell the services that Beck
7 is going to be providing to Nashua under that contract.
- 8 A. (Gates) Well, the scope is fairly explicit. And, in a
9 nutshell, it's to oversee the work of the contract
10 operator that the City contracts with.
- 11 Q. My understanding is that there's seven categories of
12 service under that contract. If we could pull up
13 Exhibit 1006, Page 80. If you could go to Page 89
14 please. Do you have that before you? It's up on the
15 screen as well, if you want to look at the screen.
- 16 A. (Gates) I have that in front of me, yes.
- 17 Q. There's some headings in larger font throughout this
18 document. The one that I see on here that says
19 "Owner's support for Public Utility Commission
20 Proceedings". Is that one of the seven categories of
21 service that Beck will be performing?
- 22 A. (Gates) We have agreed to --
- 23 Q. Either of you may answer.
- 24 A. (Doran) I'm sorry.

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[Witness panel: Gates|Doran|Henderson]

1 Q. Either of you may answer.

2 A. (Gates) We've agreed to support the PUC proceedings,
3 yes.

4 Q. Okay. So, can you just flip through the contract and
5 tell me what those seven categories of service are as
6 you understand them?

7 A. (Gates) When you say "seven categories of service", I
8 believe there were seven Initial Tasks.

9 Q. Well, I see these headings, "Owner's support for Public
10 Utility Commission proceedings", "Owner's support for
11 bonding requirements".

12 MR. UPTON: Maybe the witness could say
13 what the items are, and then we could count and see
14 whether they equal seven.

15 MS. KNOWLTON: That would be fine by me.

16 BY THE WITNESS:

17 A. (Gates) "O&M Service Agreement Negotiations Support",
18 "Consulting Support for PUC Proceedings, "Support for
19 the owner's bonding requirements" -- "Owner's Support
20 for Bonding Requirements", "Oversight of Owner's Water
21 Ordinance", Oversight of Local Permit Compliance" --
22 excuse me, "State, Federal and Local Permit
23 Compliance", "O&M" -- "Oversight of O&M Contractor
24 Service Agreement - Basic Services" and that's that

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[Witness panel: Gates|Doran|Henderson]

1 goes on for seven tasks.

2 BY MS. KNOWLTON:

3 Q. I think you got the seven. Maybe Supplemental Services
4 being the seventh?

5 A. (Gates) There are Recurring Tasks as an additional
6 subheading, and then we get to the Supplemental.

7 Q. Okay. Now, again, my most general understanding of
8 what you're going to be doing under those seven
9 headings is overseeing Veolia to make sure that they do
10 what they're supposed to do under the contract, is that
11 right?

12 A. (Gates) That's correct.

13 Q. Why is it necessary to have someone overseeing Veolia?

14 A. (Gates) Well, in my experience, when there's a
15 significant public contract, it's not unusual for an
16 owner to want oversight, to ensure that their interests
17 under the contract are satisfied.

18 Q. Will Veolia be reporting to Beck on a day-to-day basis?

19 A. (Gates) Well, we'll each have contracts with the owner.
20 There's no contract relationship between Beck and
21 Veolia.

22 Q. I actually had a "yes" or "no" question. But can we
23 start with a "yes" or "no" answer, and then you can
24 tell me more --

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[Witness panel: Gates|Doran|Henderson]

1 A. (Gates) Well, I guess maybe I need to understand what
2 you mean by "reporting". I would --

3 CHAIRMAN GETZ: Yes, I think, in this
4 case, Ms. Knowlton, that there is an issue about what the
5 question means, in terms of support. I found his answer
6 responsive.

7 MS. KNOWLTON: Okay.

8 WITNESS GATES: Does that mean it's your
9 turn for the next question?

10 MS. KNOWLTON: No, I want -- sure, I'll
11 ask you another one.

12 BY MS. KNOWLTON:

13 Q. My question was, is Veolia going to be reporting to you
14 on a day-to-day basis? Why don't you first tell me
15 what you understand the word "reporting" to mean?

16 A. (Gates) Well, in the legal sense, the utility has
17 reporting requirements to jurisdictions, permits,
18 etcetera. In terms of this oversight contract, again,
19 the contract relationship is with the City. And, we
20 would expect to be monitoring Veolia's work and helping
21 the owner assure that the contract terms are satisfied.

22 Q. Will you be communicating with Veolia on a day-to-day
23 basis?

24 A. (Gates) I would expect there would be a close working

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[Witness panel: Gates|Doran|Henderson]

1 relationship between Beck and Veolia.

2 Q. And, will you be talking to them every day?

3 A. (Gates) I can't guarantee that we'll talk every day. I
4 would expect we'd speak as regularly as we need to to
5 satisfy our requirements of our contract.

6 Q. If you had to estimate how many times a week you might
7 talk to them, how often would that be?

8 A. (Gates) I would think it would be very often at the
9 beginning, until we understand each other. Then, we
10 may find that the day-to-day, if you will, would not be
11 necessary. There are certain milestones in the
12 contract, in terms of deliverables. And, so, when
13 there are deliverables, we'll have an active dialogue,
14 and we'll use the deliverables. We won't be watching
15 their every move on a minute-by-minute basis.

16 Q. Your office is in Framingham, Massachusetts, correct?

17 A. (Gates) We have an office in Framingham, that's true.

18 Q. Will you be performing those services from Framingham?

19 A. (Gates) Well, I would expect that Paul, as Project
20 Manager, would be spending a great deal of time here in
21 Nashua -- excuse me, not "here in Nashua", there in
22 Nashua, relative to performing services of our
23 oversight contract.

24 Q. Mr. Doran, where will your office in Nashua be?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) I live in Hollis, New Hampshire, which is
2 within the District, and a customer of Pennichuck now.
3 And, I will be performing either from my home, as
4 needed, or in the City of Nashua, depending on if there
5 is office space. I know that the City is crowded for
6 space as it is.
- 7 Q. Are you aware, Mr. Doran, that Veolia will be
8 performing some of its services under its O&M contract
9 from multiple locations?
- 10 A. (Doran) I would imagine the expertise that would come
11 to bear, being a national and worldwide firm, they have
12 multiple locations of expertise. Where and when their
13 performance, I can't speak on behalf of Veolia.
- 14 Q. It's my understanding that Veolia is going to be
15 providing some of the services from its Houston office,
16 are you aware of that?
- 17 A. (Doran) I'm aware of no specifics on where additional
18 services or any particular service that Veolia is going
19 to perform, where it will be performed.
- 20 Q. Would you be capable of overseeing Veolia's services if
21 they were performed from Houston?
- 22 A. (Doran) If, in fact, the need arose and questioned, I
23 would expect that Veolia would bring the necessary
24 personnel up to Nashua for me to investigate and/or

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[Witness panel: Gates|Doran|Henderson]

1 question or find more detail, if needed.

2 Q. What about the Indianapolis office of Veolia?

3 A. (Doran) The same answer applies.

4 Q. Do you have the right to inspect Veolia's work as it is
5 being performed?

6 A. (Doran) Yes, I do.

7 Q. Do you have the right to prescribe to Veolia how they
8 carry out that work?

9 A. (Doran) I don't have any prescriptive rights. Veolia
10 is their own entity providing service.

11 Q. So, let's take a hypothetical. Would you anticipate
12 going out to a job site where Veolia was conducting
13 work?

14 A. (Doran) What kind of work?

15 Q. Let's say they're installing a main or repairing a main
16 break.

17 A. (Doran) If that is necessary, if it does not fall
18 within the realm of Veolia's right, on a Supplemental
19 Service basis and if we were selected and authorized by
20 the owner to do so, we would do so.

21 Q. Am I understanding you correctly then, on a routine
22 basis you would not be going out and looking to make
23 sure that the work that they're doing is correct?

24 A. (Doran) There's a certain amount in our contract, an

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[Witness panel: Gates|Doran|Henderson]

1 allowance for construction management, if you will, for
2 that type of work.

3 Q. Is it fair to say that, in some cases, you will go out
4 and look at what they're doing?

5 A. (Doran) On a case-by-case basis, it would have to be
6 determined. But, some, the characterization of "some",
7 yes, I could agree to "some".

8 Q. Okay. So, if you went out to one of the sites and you
9 were watching them repair a main, let's say, and you
10 got there and you saw a safety concern, what would
11 Beck's authority be relative to the work that Veolia
12 was conducting?

13 A. (Doran) Safety is Veolia's responsibility to handle
14 their own safety.

15 Q. So, if you got out to the site, and let's say it was a
16 situation that involved a trench box, and there was no
17 trench box, that's not Beck's responsibility?

18 A. (Doran) As part of their proposal and part of the
19 contract, they're required to have a safety plan, a
20 written safety plan. And, we would go to that document
21 to refer to, if in fact your example of a trench box,
22 if there was one in that safety plan and there wasn't
23 one, we would point out to say "Per your safety plan,
24 you need a trench box."

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[Witness panel: Gates|Doran|Henderson]

1 Q. So, you would prescribe to them how to do their work
2 then?

3 A. (Doran) Just per the -- No, I'm not prescribing. They
4 have prescribed their own safety. I would notice that
5 it's a deficiency in the document that they produced.

6 Q. Can you describe to me other instances in which you
7 would expect to be actually on site at any of the
8 Pennichuck Water Works' assets performing your duties
9 under this contract?

10 A. (Doran) Not at the present time. It's on an "as
11 needed" basis.

12 Q. So, is most of your time going to be spent in your
13 office, wherever that may be located, reviewing
14 documents?

15 A. (Doran) I would not characterize that as correct
16 either.

17 Q. Well, if you had to -- let's try to allocate your time.
18 I'm just trying to get a better sense of what you're
19 going to be doing. Are you going to be out there in
20 the field looking at the assets and making sure that
21 Veolia is doing what their supposed to be doing under
22 the contract?

23 A. (Doran) Again, if it, in fact, is that kind of
24 characterization, construction observation work is a

[Witness panel: Gates|Doran|Henderson]

1 Supplemental Service. And, if authorized by the City,
2 we have, through Tetra Tech, their expertise, that we
3 would provide that service. I cannot predict right now
4 what is going to be needed at any point in time during
5 this work. And, a hypothetical situation is just that,
6 a hypothetical situation. But we have the necessary
7 tools in place to react.

8 Q. Okay. Well, let's go to a specific situation that's
9 mentioned in the contract. You indicated that there's
10 Initial Tasks under the contract and there's Recurring
11 Tasks. And, under the Recurring Tasks, one of the
12 things that Beck is responsible is for auditing planned
13 maintenance, is that right?

14 A. (Doran) Yes, that's correct.

15 Q. How will you audit planned maintenance?

16 A. (Doran) We will make sure that Veolia is entering,
17 through work orders and other documents, the reporting
18 requirements through their Computer Maintenance
19 Management System. That all the records are being
20 entered, and that the work is getting done. And, we
21 have the issue, the responsibility and the right to go
22 on site at any point in time in the future unannounced,
23 whether it be 2:00 in the morning or 2:00 in the
24 afternoon, to see if, in fact, and check up to see if

[Witness panel: Gates|Doran|Henderson]

1 that maintenance work is done.

2 Q. How much of that check-up do you plan to do?

3 A. (Doran) On an "as needed" basis.

4 Q. So, over the course of the first year of the contract,
5 how often do you plan to go and check?

6 A. (Doran) I haven't got an answer to that Ms. Knowlton.
7 It's on an "as needed" basis.

8 Q. Can you describe to me how you will know it's needed?

9 A. (Doran) If there are work orders, and we take a look at
10 the work order system, depending on the volume of work,
11 what type work it is, we would -- part of our oversight
12 services is to check that work.

13 Q. So, you --

14 A. (Doran) There may not be any, for example, there may
15 not be any maintenance or planned maintenance, as you
16 referred to for the first four months. I don't know
17 what's going to happen.

18 Q. I'm just trying to get a sense of how much are you
19 going to be in an office looking at reports, versus how
20 much are you going to be in the field, seeing whether
21 the work was done as it should be?

22 A. (Doran) I'm not an office -- I'm not just an office
23 person. I will respond as needed per the Scope of
24 Services that we have.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. And, you're in charge of this project? You're the lead
2 person on the ground for Beck, right?
- 3 A. (Doran) That's correct.
- 4 Q. And, so, you're going to make those decisions about
5 when it's needed?
- 6 A. (Doran) That's correct. And, I will use the judgment
7 at the time when the facts are at hand.
- 8 Q. Okay. So, let's talk about your reporting and who
9 you're going to be talking to. Obviously, you're going
10 to be talking to Veolia, if you're on-site and looking
11 at what their doing. The contract sets up a different
12 practice, the City of Nashua sets up a dual reporting
13 scheme. On some issues, you're going to report to the
14 Mayor, is that right?
- 15 A. (Doran) That's correct.
- 16 Q. And, what is your understanding of when you report to
17 the Mayor?
- 18 A. (Doran) The things of an overall role of the management
19 time or as an executive level type response, what the
20 Mayor would need to know. Summaries, executive
21 summaries, give him a thumbnail report of how things
22 are going, etcetera.
- 23 Q. And, in fact, the contract refers to matters that --
24 the term is quote "General Administration"?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) I guess you could. As on Page 86 of Exhibit
2 1006, that's correct.
- 3 Q. Can you give me an example of what would be a matter of
4 general administration?
- 5 A. (Doran) He could ask at one point "how are they doing
6 meeting their RRRM responsibilities.
- 7 Q. And, can you think of a situation where you would
8 affirmatively report to him, not responding to a
9 request from him, but purporting to him?
- 10 A. (Doran) I'm sure that there are monthly visits set up
11 with the Mayor, to give him a summary report of
12 anything that's of a significant major and/or minor,
13 the significant nature that he should be aware of.
14 Those reports will be done.
- 15 Q. Are those reports in writing?
- 16 A. (Doran) Yes.
- 17 Q. The contract then specifies that you'll also report to
18 the Board of Aldermen, correct?
- 19 A. (Doran) That's correct.
- 20 Q. And, those -- that would be on policy matters?
- 21 A. That's correct.
- 22 Q. And, the contract is defined policy matters as rates,
23 terms of service, long-term capital improvements and,
24 other matter. Is that your understanding?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) That's correct.
- 2 Q. What kind of other matters would fall under this
3 category of policy?
- 4 A. (Doran) Budgets, for instance.
- 5 Q. Are you going to be reporting to the full Board of
6 Aldermen?
- 7 A. (Doran) I don't know that. I would anticipate that the
8 full Board of Aldermen, there would be a reporting
9 requirement. And, I don't know what the city has in
10 place, if, in fact, there will be other special
11 Committees, etcetera, created that do not exist at the
12 present time, that we'd have to report to.
- 13 Q. Is that going to be decided later?
- 14 A. (Doran) All I know is that it's not decided at the
15 present time.
- 16 Q. Would those reports be in writing as well?
- 17 A. (Doran) There would be, if asked, I'm sure that they
18 would be in writing, a summary, written summary report.
- 19 Q. Do you anticipate making recommendations to the board
20 of alderman on policy issues?
- 21 A. (Doran) Anything with our purview is an oversight
22 contractor, if it requires a recommendation, that will
23 be made.
- 24 Q. So, you're going to make your recommendation and then

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[Witness panel: Gates|Doran|Henderson]

1 wait to hear back?

2 A. (Doran) The Aldermen in Nashua is a very feisty group,
3 and they like hands-on experience. And, I'm sure that
4 will be discussed, and we will be gone through and
5 asked a number of questions and information so that the
6 Aldermen would either take our recommendation or go
7 back and ask us to make another recommendation, or out
8 and out reject it, which is there right to do so.

9 Q. And, then, who communicates, whatever that decision is,
10 who communicates that to Veolia?

11 A. (Doran) It may not be a policy -- a policy issue may
12 not involve Veolia.

13 Q. Let's assume it does involve Veolia. Is that your job,
14 and then report that back to Veolia?

15 A. (Doran) No. The two contractual arrangements, Veolia
16 has their contract with the City of course. Of course,
17 we would meet with Veolia and they would have a stake.
18 And, just backing up, I envision this whole thing to be
19 a team effort and a partnership. And, with a strong
20 relationship being built here, between Veolia, Beck and
21 the City. I believe it's going to be a strong
22 relationship, and that people would know and be in the
23 loop and be aware of what the issues were and any
24 policy decisions that would come down from the City

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[Witness panel: Gates|Doran|Henderson]

1 through the Aldermen, the Board of Aldermen. So, I
2 envision that it's a partnership. We're not going to
3 be acting independently. We're going to be grouped
4 together as a partnership, and, as such, serve the
5 City.

6 Q. But there's no current plan, is there, in terms of how
7 those -- those lines of communications are going to go?

8 A. (Doran) I can't answer that question.

9 Q. Mr. Gates, do you know the answer to that?

10 A. (Gates) Well, so far, the direction that we've been
11 receiving has been clear, with its lines of
12 communication with the Mayor's office and staff,
13 notably, and the Chief Financial Officer. And, I would
14 expect those lines of communication to remain.

15 Q. So, is it your understanding that Veolia has its own
16 lines of communication with the Mayor?

17 A. (Gates) They're contracted by the City, and I would
18 expect that to be the case, but I don't know that for
19 sure.

20 Q. Okay. Do you remember, actually, it was about two
21 years ago, literally, I think it was two years
22 yesterday, that you made a presentation to the
23 Pennichuck Water Special Committee on the proposal that
24 Beck was putting forward to the City?

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[Witness panel: Gates|Doran|Henderson]

1 A. (Gates) I do remember that.

2 Q. Okay. And, do you remember that, at that meeting, you
3 indicated, based on your 30 years of experience, that
4 "there needs to be careful alignment between roles,
5 responsibility -- responsibilities and accountability.
6 And, in the absence of clearly defined roles,
7 responsibilities" -- I'm sorry -- "and accountabilities
8 and good communication, there's a potential for failure
9 in any project." Do you recall saying that?

10 A. (Gates) I do.

11 Q. And, you said that in response to Alderman Toner, who
12 was asking you. But, you know, tell me in your --
13 you're the contract oversight, where did things go
14 wrong? And, that was what you pointed to, is
15 communications that lines of communications that
16 weren't clear. And, can you understand how, in this
17 situation, it's possible that their may not be clear
18 lines of communication. We have Veolia going to the
19 Mayor, you've got Beck going to the Mayor. And,
20 there's no one at the State --

21 MR. RICHARDSON: Mr. Chairman, again,
22 the question is becoming so compound that the witness
23 needs to have an opportunity to respond to some of the
24 characterizations, and either agree to them, whether or

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[Witness panel: Gates|Doran|Henderson]

1 not they're true.

2 MS. KNOWLTON: I haven't finished asking
3 the question.

4 MR. RICHARDSON: That's my problem. Is
5 that, you know, the question started a minute or two ago,
6 and the witness -- in order to be fair to the witness,
7 there has to be a question that can be identified, and not
8 just continuing characterization of what she believes, as
9 opposed to what the witness believes.

10 CHAIRMAN GETZ: Well, I certainly didn't
11 see it as a compound question. I thought she was laying
12 -- basically laying out a hypothetical, with some
13 development. And, I think that's a fair way to approach
14 it. But I think you need to be careful that we don't get
15 too much detail into what I'm perceiving as a
16 hypothetical. And, if we are at risk of the witness
17 losing track of it, but, if you could try to -- I presume
18 we're at a point now where you need to restate. So.

19 MS. KNOWLTON: Sorry to be so verbose.

20 CHAIRMAN GETZ: That's -- Please
21 proceed.

22 WITNESS GATES: I'm with you. You can
23 pick up where we left it.

24 MS. KNOWLTON: You're my man. You're

[Witness panel: Gates|Doran|Henderson]

1 going to run this water -- you're going to oversee this
2 water system, I have no doubt that you're following what
3 I'm saying.

4 WITNESS GATES: But I appreciate Justin
5 watching my back.

6 MS. KNOWLTON: I'll try to take it in
7 pieces.

8 BY MS. KNOWLTON:

9 Q. It was Veolia's testimony the other day that they are
10 going to report to the mayor. And, I know that you
11 weren't here for that, but if you could accept, you
12 know, my characterization of that. And, what you're
13 telling me today is that you're also going to report to
14 the Mayor, correct?

15 A. (Gates) That's the current line of communication
16 currently.

17 Q. Right. And, my question is a pretty simple one.
18 Veolia is reporting to the Mayor, Beck is reporting to
19 the Mayor, and there's really no one on the ground at
20 the City, there's no city employee who's designated to
21 deal with water utility issues, really, other than the
22 Mayor. Isn't it possible in that circumstance there
23 could be some confusion in communication?

24 A. (Gates) Well, first of all, I'm not sure whether I can

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[Witness panel: Gates|Doran|Henderson]

1 agree with "there's no one on the ground" to perfect
2 the communications. The Mayor has staff, we've been
3 working closely with Staff. And, it's my experience on
4 these complicated projects that, once the dust settles
5 and contracts are assigned and approved, budgets are
6 approved, etcetera, the project team gets down to the
7 details of execution. And, so, I would envision, if
8 you will, a kick-off type of meeting, where clarity is
9 brought to those types of questions that you're asking,
10 and they're very important types of questions that I'd
11 point out, such as clear lines of communication. But
12 it's certainly not an intractable question to answer,
13 "who's going to talk to who now?" And, really, I would
14 clearly expect staff to the Mayor can sort it out on
15 day one very easily.

16 Q. Is it your expectation that the City will designate a
17 particular individual to be that focal point?

18 A. (Gates) I have no knowledge to that effect at this
19 time.

20 Q. If the City were to do that, what qualifications do you
21 think that person should have?

22 A. (Gates) Well, that's probably a question that deserves
23 some thought.

24 Q. How much time do you think it would be, it would take

[Witness panel: Gates|Doran|Henderson]

- 1 for that City staff person to perform that job?
- 2 A. (Gates) Well, depending on how the job is defined, if
3 it was simply a matter of coordinating communications
4 and making sure that the Mayor had a good -- excuse me
5 -- line of communication with its two contractors, it
6 would be a fairly routine job, hours per week.
- 7 Q. A full-time job?
- 8 A. (Gates) Hours per week.
- 9 Q. Hours. Part-time?
- 10 A. (Gates) Less than half a day, not days per week, hours
11 per week.
- 12 Q. Let's go back to the contract and talk about costs
13 under the contract. As I understand the contract,
14 Mr. Gates, I see three buckets of costs. There's costs
15 chargeable for Initial Tasks, is that correct?
- 16 A. (Gates) Yes, ma'am.
- 17 Q. Costs charged to the City for Recurring Tasks, correct?
- 18 A. (Gates) That's right.
- 19 Q. And, then, there's Supplemental Services?
- 20 A. (Gates) There's Supplemental Services, by definition,
21 yes.
- 22 Q. And, under -- with regard to Initial Tasks, Beck is
23 going to be paid a fixed fee of \$230,000 for the
24 completion of those tasks, correct?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Gates) I believe that's the budgeted amount.
- 2 Q. And, Tetra Tech also has responsibility under its draft
3 contract with Beck to perform certain Initial Tasks,
4 correct?
- 5 A. (Gates) That's correct.
- 6 Q. And, Tetra Tech is going to get paid \$80,220 for those
7 tasks, correct?
- 8 A. (Gates) I don't recall the Tetra Tech budget.
- 9 Q. If we go to 3047, Page 12. It may be on your screen,
10 or if you want to look at a hard copy. There's a
11 section called "Fee for Services", which we'll pull up.
12 When you're ready, let me know.
- 13 A. (Gates) Okay.
- 14 Q. So, you see the \$80,220?
- 15 A. (Gates) Uh-huh.
- 16 Q. Those are for the Initial Tasks, correct?
- 17 A. (Gates) That's correct.
- 18 Q. That Tetra Tech will be performing?
- 19 A. (Gates) Yes, ma'am.
- 20 Q. That's subtracted from the \$230,000 that will be
21 payable to Beck, correct?
- 22 A. (Gates) That's included in the total --
- 23 Q. Okay.
- 24 A. (Gates) -- fixed fee for the Initial Tasks.

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[Witness panel: Gates|Doran|Henderson]

1 Q. So, for the Initial Tasks, under the contract, Beck
2 gets paid \$150,000?

3 A. (Gates) That is correct.

4 Q. And, in the Beck contract, the \$230,000 amount was only
5 good until December 31st, 2005, correct?

6 A. (Gates) That was the basis of the estimate at the time.

7 Q. Okay. How would you determine what the cost will be
8 today, in 2007?

9 A. (Gates) Well, if the scope is the same, it would be a
10 simple matter of escalation of the hourly rates.

11 Q. How would you escalate it?

12 A. (Gates) According to our actual salary increases over
13 that time period.

14 Q. The 4 percent increase in your billable rates you
15 referred to earlier?

16 A. (Gates) If I'm recalling the terms correctly.

17 Q. Just take your time, and your contract is Exhibit 1006,
18 I can pull that up, if you'd like? Eighty-one.

19 CHAIRMAN GETZ: Ms. Knowlton, we're
20 nearing time for a break for the reporter. How much more
21 cross do you anticipate?

22 MS. KNOWLTON: I think I'd be done in 40
23 minutes.

24 CHAIRMAN GETZ: Ms. Reinemann, will you

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[Witness panel: Gates|Doran|Henderson]

1 have questions?

2 MS. REINEMANN: No.

3 CHAIRMAN GETZ: Mr. Alexander?

4 MR. ALEXANDER: I don't expect to have
5 any.

6 CHAIRMAN GETZ: And, I expect,
7 Mr. Richardson, you will have redirect?

8 MR. RICHARDSON: It's very limited at
9 this point. Maybe two to three minutes.

10 MS. KNOWLTON: Mr. Camerino thinks I'm
11 being optimistic in my estimation. But, I do, I think 40,
12 45 minutes is accurate.

13 CHAIRMAN GETZ: Well, let's continue on
14 this topic for a short while.

15 MS. KNOWLTON: Let me know when it's
16 time to stop.

17 CHAIRMAN GETZ: Well, if there's a good
18 break between topics, let's take it.

19 MS. KNOWLTON: Sure. We can do that.

20 BY MS. KNOWLTON:

21 Q. Do you see a provision there governing escalation?

22 A. (Gates) Yes, I believe on the contract, paragraph 2
23 which is Exhibit Page 81, there's a Paragraph B that
24 has an escalation clause.

[Witness panel: Gates|Doran|Henderson]

- 1 Q. Can you explain how it would be escalated to 2007?
- 2 A. (Gates) It would be "in accordance with the Consumer
3 Price Index for the Boston-Brockton-Nashua area".
- 4 Q. Have you calculated what that amount would be in 2007
5 dollars?
- 6 A. (Gates) No, I haven't.
- 7 Q. The second bucket of costs that we talked about were
8 Recurring Tasks, correct?
- 9 A. (Gates) Uh-huh.
- 10 Q. And, for that, Beck would be paid \$315,000, correct?
- 11 A. (Gates) I believe that's the initial budget for the
12 scope proposed, yes.
- 13 Q. Am I correct in my understanding that you -- it's a
14 \$315,000 threshold, but that you're billing per hour
15 until you hit that \$315,000?
- 16 A. (Gates) That's the budget amount, that's correct.
- 17 Q. So, you don't know whether you're going to hit that
18 \$315,000 six months into the year, twelve months, do
19 you?
- 20 A. (Gates) Well, it's a maximum for the scope offered.
- 21 Q. And, does that maximum --
- 22 A. (Gates) So, it's a "not to exceed" price.
- 23 Q. Okay. Does that maximum of \$315,000 also include
24 amounts that Mr. Henderson's company would be billing

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[Witness panel: Gates|Doran|Henderson]

- 1 for Recurring Tasks that it was performing?
- 2 A. (Gates) That's correct.
- 3 Q. And, that's under the Tetra Tech contract, Tetra Tech
- 4 would get paid \$115,000 for those Recurring Tasks,
- 5 correct? We can go back to Exhibit 3047, if you'd
- 6 like. You can use that. Is that large enough for you
- 7 to read?
- 8 A. (Gates) If I lean over. And, your question again
- 9 please?
- 10 Q. So, the 100 -- you see the \$115,200 there?
- 11 A. (Gates) Yes, ma'am.
- 12 Q. That got subtracted out of the \$315,000 --
- 13 A. (Gates) It's included in this, yes.
- 14 Q. Okay. Have you estimated, again, at what point in the
- 15 year you expect between the Tetra Tech billing and the
- 16 Beck billing that you would hit that \$315,000 cap?
- 17 A. (Gates) That's the budget for the full scope of work
- 18 offered for Recurring services in any given year.
- 19 Q. So, if you get six months into the contract, and you've
- 20 hit \$315,000, but you haven't performed all the tasks
- 21 under the contract, are you still obligated to perform
- 22 the work?
- 23 A. (Gates) We are -- I believe we're obligated to perform
- 24 the scope of work offered, yes.

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[Witness panel: Gates|Doran|Henderson]

1 Q. So, you wouldn't be paid any money over the \$315,000
2 for those Recurring Tasks?

3 A. (Gates) If the scope of work had not changed.

4 Q. I think this -- In that instance that I just described,
5 that you got six months into the year and you had
6 already hit the \$315,000, would Beck have the right to
7 invoke the 30 days termination under the contract and
8 at that point say "30 days we're done, contract
9 terminated"?

10 A. (Gates) Well, that's too many "ifs" for me to follow
11 this time. When you say, in the first instance, it's
12 very unlikely that we get six months into the contract
13 and have spent 12 months worth of budget without some
14 circumstance that had been discussed, talked about, and
15 dealt with. We're certainly, in a project management
16 frame of mind, that the clients need to understand
17 exactly where you stand on a budget on a month-to-month
18 basis against the scope of work that's being performed.
19 So, under your hypothetical, something else must have
20 been going on, like, you know, an increase in scope or
21 -- that's really the only plausible explanation for
22 cash expenditures greater than initially intended.

23 Q. But the contract does provide that either party can
24 walk away with 30 days written notice to the other,

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[Witness panel: Gates|Doran|Henderson]

1 correct?

2 A. (Gates) I believe there's a termination convenience
3 clause, yes.

4 MS. KNOWLTON: Okay. Is this a good
5 place to stop?

6 CHAIRMAN GETZ: Yes. Let's take a 15
7 minute recess.

8 (Recess taken at 2:32 p.m. and the
9 hearing reconvened at 2:52 p.m.)

10 CHAIRMAN GETZ: Okay. We're back on the
11 record. Ms. Knowlton.

12 MS. KNOWLTON: Thank you.

13 BY MS. KNOWLTON:

14 Q. Mr. Doran?

15 A. (Doran) Yes.

16 Q. As part of the panel testimony that you submitted in
17 this case, you testified that "to ensure" -- that as
18 part of providing the oversight services, that you are
19 "to ensure that Nashua's operation of its water system
20 transition smoothly." Do you remember saying that in
21 your testimony?

22 A. (Doran) Could you quote the exhibit?

23 Q. Sure. Exhibit 1006, Page 5. It's under the first "A".

24 A. (Doran) Okay. I'm on Page 5, yes, ma'am.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. Okay. Right. If you look under the second paragraph,
2 first sentence, part of your job is "to ensure that
3 Nashua's operation of the water system transitions
4 smoothly upon issuance of the notice to proceed."
5 Correct?
- 6 A. (Doran) That's correct. That's what it says, yes,
7 ma'am.
- 8 Q. And, you've never participated in a condemnation of
9 utility assets before, have you?
- 10 A. (Doran) No, I have not, ma'am.
- 11 Q. Have you, Mr. Gates?
- 12 A. (Gates) No, ma'am.
- 13 Q. Have you, Mr. Henderson?
- 14 A. (Henderson) No, I have not.
- 15 Q. Mr. Doran, what obstacles do you see to such a smooth
16 transition in the context of an eminent domain taking?
- 17 A. (Doran) Is this at the phase of transition we are now
18 at, since that's what it is, as far as --
- 19 Q. Right. The taking of --
- 20 A. (Doran) -- the second paragraph, we're already on board
21 and it's transitioning?
- 22 Q. Correct. The Commission has approved the taking of the
23 assets. The City is now operating the water utility.
24 And, your job is to oversee it. What obstacles do you

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[Witness panel: Gates|Doran|Henderson]

1 see?

2 A. (Doran) Well, there's many. There's a whole list of
3 transition services listed in the contract with Veolia
4 that Veolia and Beck will oversee as part of that.
5 There's the transferring of the Computer Maintenance
6 Management System, transfer of employees, the transfer
7 of records and reports, the transfer of vehicles.
8 There's a whole listing of things, I mean, probably too
9 numerous to go into it here, that would have to change
10 hands when one entity assumes another utility from
11 another.

12 Q. Okay. And, in fact, under the Initial Tasks in the
13 contract, in the Beck/Nashua contract, Beck has already
14 anticipated that there are going to be more services
15 that are necessary during that transition period than
16 are accounted for in the fee for the Initial services
17 that we were discussing before the break, is that
18 right?

19 A. (Doran) The Initial oversight services are in response
20 to the City's RFP. And, we anticipated others as
21 Supplemental Services, that's correct.

22 Q. And, can you name some of those that you think the City
23 is going to need that's not included in that flat fee?

24 A. (Doran) Well, we provided for -- I will go on the

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[Witness panel: Gates|Doran|Henderson]

1 record saying that we provided for certain Supplemental
2 Services on an "as needed" basis.

3 Q. Okay. Well, let me --

4 A. (Doran) And, that is already in Exhibit 1006.

5 Q. Okay. Well, let's look at that. Page 100, I believe.
6 Up on the screen I can direct your attention, there's
7 "Supplemental Task 1 - Transition Services". Do you
8 see that paragraph?

9 A. (Doran) That's correct. I do.

10 Q. If you could just -- why don't you read that first
11 paragraph for me out loud into the record.

12 A. (Doran) It says: "The Consultant has included several
13 services in the Initial Tasks of this Agreement that
14 will be performed during the Transition Period. The
15 Consultant anticipates that there will be additional
16 services that the Owner will need during Transition
17 Period, such as needed Information Technology reviews,
18 engineering services, finance and accounting services,
19 forming a strategy for the transition of all
20 information from Pennichuck to the City and a strategy
21 for the controlling of the IT assets, licenses, and
22 accounting needs."

23 Q. And, then, there's a list of bullet items on that page.
24 And, then, let's go to the next page. That lists out

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[Witness panel: Gates|Doran|Henderson]

1 particular tasks that Beck thinks the City needs to
2 purchase, correct?

3 A. (Doran) Yes, ma'am.

4 Q. Will those be billed at the hourly rates that you've
5 testified to earlier this afternoon?

6 A. (Doran) Yes, ma'am.

7 Q. So, those are over and above the fee for Initial Tasks
8 that Beck and Tetra Tech would be charging?

9 A. (Doran) That's correct.

10 Q. Do you have any estimate for how much this is all going
11 to cost?

12 A. (Doran) No, I don't.

13 Q. Mr. Gates, do you have an estimate?

14 A. (Gates) Well, let me clarify one point, Ms. Knowlton.
15 The list of Supplemental Services may or may not all be
16 required. These are scope items that have been placed
17 in the contract so that, if the Owner finds that those
18 services are needed, that capability is identified as
19 available scope within the contract. For example, the
20 Water Conservation Program implementation. That may or
21 may not be something that the owner decides that needs
22 to be contracted for, either initially or in the short
23 term of the contract. They may or may not decide that
24 Veolia will do that. They may seek another way to have

[Witness panel: Gates|Doran|Henderson]

1 that done, if they want it to be done. So, this is not
2 an all-exclusive scope of what's expected to be done.
3 This is a list of services that the City can draw on,
4 if and when they decide that that's needed --

5 Q. But your --

6 A. (Gates) -- on a case-by-case basis.

7 Q. I'm sorry. But your company anticipated that these
8 would be needed, correct?

9 A. (Gates) Could be needed.

10 Q. Could be needed. And, it's fair to say that R.W. Beck
11 has a lot more experience than the City of Nashua
12 operating -- well, overseeing the operation of a water
13 utility, correct?

14 A. (Gates) In general terms. At the time that the
15 proposal was written and the contract was offered, I
16 think it's fair to say that R.W. Beck's understanding
17 of the totality of need with respect to starting and
18 operating the water system in Nashua was at the
19 beginning stage of understanding, given the way that we
20 came through the situation through the RFP process.

21 Q. What is your best estimate of what these services would
22 cost, should they be asked of you?

23 A. (Gates) That's an exercise that I don't believe we've
24 undertaken. And, that would be quite a bit of time to

[Witness panel: Gates|Doran|Henderson]

- 1 think through what a specific plan in each case would
2 be and what the value of that would be.
- 3 Q. \$100,000?
- 4 A. (Gates) I'm not going to make a guess.
- 5 Q. As part of the Initial Tasks under the contract, Veolia
6 will be submitting to Beck a final staffing plan, among
7 other documents, correct, Mr. Doran?
- 8 A. (Doran) That's correct.
- 9 Q. And, part of your job is going to be to review that
10 staffing plan?
- 11 A. (Doran) We are to review it, yes, that's correct.
- 12 Q. Have you actually ever operated a water utility
13 yourself?
- 14 A. (Doran) I believe I said that in prior testimony, no, I
15 am an engineer and not an operator.
- 16 Q. Never been licensed to operate a system?
- 17 A. (Doran) No, I have not.
- 18 Q. Never worked for a retail water utility?
- 19 A. (Doran) I have not worked for a retail water utility.
- 20 Q. Mr. Gates, have you ever worked for a retail water
21 utility?
- 22 A. (Gates) No. And, let me point out that the project
23 team that we have offered to the client, and you'll see
24 that in our proposal, includes Mr. Joe Dysard as Task

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[Witness panel: Gates|Doran|Henderson]

1 Manager, and Mr. Neil Callahan, who, between the two of
2 them, have over 50 years of experience in operating as
3 executives of major water utilities on the East Coast.

4 Q. Do you know what hourly rate Mr. Dysard is billed out
5 at?

6 A. (Gates) I don't know Mr. Dysard's billing rate off the
7 top of my head, no.

8 Q. Do you know what, if we to pull up that chart, which of
9 those categories he would fall into? And, that's
10 Exhibit 1006, Page 104. I'm assuming he's at near the
11 top of that chart, if he has all those years of
12 experience you just spoke about?

13 A. (Gates) Mr. Dysard is probably in the "Senior Project
14 Manager" category. But that is a -- I'm guessing on
15 that, because I don't have that information with me
16 now.

17 Q. What is your best estimate of the number of hours that
18 he'll work on this project?

19 A. (Gates) Again, that would be on an "as needed" basis.
20 If the question is, going back to your prior question,
21 "would he be available to review a staffing plan for
22 the initial start-up of the utility under Veolia's
23 operation?" He could probably do that in a number of
24 hours.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. Ten?
- 2 A. (Gates) Eight to ten perhaps.
- 3 Q. Okay. Do you anticipate that he would perform other
4 services for the City of Nashua under this contract?
- 5 A. (Gates) I would expect that he would be available for
6 advice on an ongoing basis.
- 7 Q. Any estimate of the number of hours per year that he
8 would spend?
- 9 A. (Gates) For the Initial services? Let me just think
10 about that for a minute. For the Initial services,
11 probably a couple of days.
- 12 Q. So?
- 13 A. (Gates) Sixteen hours.
- 14 Q. Sixteen hours? Okay. Back to you, Mr. Doran. So,
15 you're going to be in consultation with Mr. Dysard, and
16 possibly others, reviewing Veolia's staffing plan. Is
17 it possible that you might conclude that Veolia has not
18 allocated enough staff to operate the water utility?
- 19 A. (Doran) Without a document in front of me, I can't make
20 any conclusions. I can't really say that I would
21 conclude or not conclude. The document doesn't exist
22 yet. But all I know is that we will be reviewing that.
- 23 Q. Will you be making a recommendation to the City based
24 on that staffing plan?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) Based on the experts that are available to me
2 as the overall Project Manager, as part of that,
3 obviously, we would, as part of all of the documents
4 and deliverables that Veolia has been contracted to
5 deliver per their contract, we would be making that
6 type of recommendation on everything. If there's
7 anything that's significant, it should be noted, both
8 on a pro or a con.
- 9 Q. If R.W. Beck concluded, based on that review, that
10 Veolia had not included enough people to run the water
11 utility, would you recommend to the City of Nashua that
12 Veolia include more employees?
- 13 A. (Doran) I think that would be a discussion topic for
14 the policy -- Board of Aldermen that make policy.
- 15 Q. Do you know whether, under the Veolia contract, that
16 would constitute a material change, if they were
17 required to staff up at a higher level than they had
18 agreed to?
- 19 A. (Doran) I'm not sure I could really answer that
20 question.
- 21 Q. You helped negotiate that contract. Surely you're
22 familiar with it?
- 23 A. (Doran) The labor, and certainly the labor issues were
24 negotiated by others, I would assume that, if they had

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[Witness panel: Gates|Doran|Henderson]

1 a certain staffing level and required additional staff
2 that was not envisioned, due to probably a scope change
3 or the acquisition of additional properties, then
4 additional people would be, and that would necessitate
5 a higher cost by them.

6 Q. Okay. Let's move onto Recurring Oversight Services.
7 This is the second bucket of costs. And, my
8 understanding is is that there's a whole series,
9 Mr. Gates, of services that will be recurring, such as
10 auditing the performance of planned maintenance,
11 reviewing unplanned maintenance, reviewing operational
12 data, testing the security plan, coordinating
13 construction, among other things. Does that sound
14 right to you?

15 A. (Gates) I believe we have nine tasks. That's correct.

16 Q. Okay. Mr. Doran, are you familiar with the Pennichuck
17 system at this time?

18 A. (Doran) We had no opportunity to do the due diligence
19 on the system, as I've stated before in deposition and
20 other testimony.

21 Q. How much time is it going to take you to become
22 familiar enough with the assets to adequately oversee
23 them?

24 A. (Doran) I would suspect that during the Transition

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[Witness panel: Gates|Doran|Henderson]

1 Period, when data is exchanged, a lot of information
2 would be, and at the end probably of the first year of
3 operations, we'd be very familiar with them.

4 Q. So, about a year to learn them?

5 A. (Doran) Plus or minus. Again, at the end of
6 transition, we'd be familiar with a lot of the key
7 issues involved in the Pennichuck system, since we
8 would be there involved in the transition services,
9 part of our Initial Tasks. And, to get really
10 intimately familiar, where we're intimately familiar
11 with all the assets, I would estimate it would probably
12 be a good -- a year would be a good estimate.

13 Q. Will there be other people from R.W. Beck, other than
14 yourself, that will learn those assets, focus on
15 gaining that knowledge?

16 A. (Doran) Certainly, as needed, on "as needed" basis,
17 people would have specialties that I don't have and/or
18 Tetra Tech personnel, because it's a Beck/Tetra Tech
19 team, would be learning those assets to provide the
20 services throughout the contract. So, yes, people
21 would be learning -- other people than myself will be
22 learning the assets.

23 Q. Where are those other people located?

24 A. (Doran) They're within R.W. Beck, they're R.W. Beck

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[Witness panel: Gates|Doran|Henderson]

- 1 employees, by the corporation, and they're Tetra Tech
2 employees. I can't tell you what offices they are or
3 where they're located, but they are within the firms.
- 4 Q. So, you could be pulling from your national expertise
5 across the country to come to Nashua and learn about
6 these assets, correct?
- 7 A. (Doran) On an "as needed" basis and determination, yes.
- 8 Q. Will those folks, when they travel from, let's say,
9 Oklahoma, be billing for their time when they come?
- 10 A. (Doran) It would have to be under the services. If
11 it's part of our scope services, it would be in within
12 that budget. And, if it's part of the Supplemental
13 Services, that would be budgeted at the time of the
14 Supplemental Services cost preparation.
- 15 Q. So, those Supplemental Services are the extra ones that
16 get billed by the hour?
- 17 A. (Doran) I can't comment if it's going to be billed by
18 the hour or time and material, what their contract
19 terms would be. But it would be an extra billing, yes.
- 20 Q. And, if Mr. Henderson or any of his colleagues from
21 Tetra Tech come and spend time learning, they're going
22 to be billing by the hour, too, correct?
- 23 A. (Doran) If it's a Supplemental Service required, and
24 Tetra Tech is selected, Mr. Henderson and/or his

[Witness panel: Gates|Doran|Henderson]

1 colleagues, on their national firm, and the resources
2 available to them to the City of Nashua to provide
3 those resources? Yes, if it's a Supplemental, they
4 would be billed as an extra. If it's part of the
5 Initial Tasks, it's included in the contract.

6 Q. And, when it's supplemental, then you'll take
7 Mr. Henderson's bill and you'll mark that up by 10
8 percent, correct?

9 A. (Doran) The current contract, the draft contract is
10 part of the Exhibit 1006, that's what is in that
11 contract, that's correct.

12 Q. And, some of the Supplemental Services, that's the
13 third bucket under the contract. We've got Initial
14 Tasks, correct? That's the first bucket of costs?

15 A. (Doran) That's correct.

16 Q. And, the second bucket of costs are the Recurring
17 Tasks, correct?

18 A. (Doran) Yes, ma'am.

19 Q. And, the third is the Supplemental Services, right?

20 A. (Doran) Yes, ma'am.

21 Q. Okay. And, the Supplemental Services include things
22 like community outreach, is that right?

23 A. (Doran) Yes.

24 Q. And, in your proposal to the City, you indicated that

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[Witness panel: Gates|Doran|Henderson]

- 1 Beck would be assisting the City in establishing
2 positive community relations with regard to the water
3 operations, is that right?
- 4 A. (Doran) If those services are requested by the City,
5 that's correct.
- 6 Q. And, if you help with grant writing, that will be
7 extra, too, right?
- 8 A. (Doran) I believe that is a Supplement Service that's
9 listed in that, yes. That's correct.
- 10 Q. So, if the City of Nashua wanted to apply for a DWSRF
11 loan, that would be extra under the Beck contract?
- 12 A. (Doran) If we were selected to do that work, that would
13 be an extra under the Beck contract, yes.
- 14 Q. And, Mr. Henderson, my understanding is is that one of
15 the areas where Tetra Tech may provide Supplemental
16 Services is on the Watershed Management Plan, is that
17 right?
- 18 A. (Henderson) Yes, that's correct.
- 19 Q. How is that different from what Veolia will be doing on
20 watershed management planning?
- 21 A. (Henderson) I think that the, you know, watershed
22 management planning is a process, and there are various
23 tasks in it that could -- that would and could be
24 broken out between the various parties, to take

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[Witness panel: Gates|Doran|Henderson]

1 advantage of the specific expertise of the various
2 parties that are involved in it.

3 Q. Okay. But you anticipate working on the Watershed
4 Management Plan, correct?

5 A. (Henderson) We have those capabilities, and we've
6 offered them to the City. And, we'd be more than happy
7 to do that, yes.

8 Q. Okay. And, you're going to be -- you've indicated in
9 the discovery in this case that you're aware of the
10 work that Comprehensive Environmental has done for
11 Pennichuck on watershed management planning, correct?

12 A. (Henderson) Yes, I'm aware of it.

13 Q. And, in your opinion, CEI is reputable?

14 A. (Henderson) Yes.

15 Q. Okay. Now, Mr. Doran, Beck is also proposing to
16 provide financial consulting as a Supplemental Service,
17 is that right?

18 A. (Doran) We're not proposing, we're listing it as a
19 Supplemental Service.

20 Q. So, it's a possibility. What kinds of activities would
21 fall into that category?

22 A. (Doran) Cost of service studies, rate studies,
23 etcetera.

24 Q. Okay. And, also another potential service that would

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[Witness panel: Gates|Doran|Henderson]

1 be an extra under the Beck contract is serving as a
2 witness in litigation or administrative proceedings,
3 right?

4 A. (Doran) If, in fact, that's needed, that would be
5 correct.

6 Q. And, would that include participating in proceedings
7 here at the New Hampshire Public Utilities Commission?

8 A. (Doran) Are you talking about future proceedings in
9 front of the PUC?

10 Q. Correct. Not now, in the future, if there is --

11 A. (Doran) I'm not sure if that will be needed, yes or no.
12 I can't respond to that. If, in fact, it is needed and
13 it's requested that we represent the City, we will be
14 there.

15 Q. What about regulatory matters with the Department of
16 Environmental Services?

17 A. (Doran) Again, certain regulatory matters are included
18 in our oversight function, to make sure that the
19 contract operator is adhering to those standards. And,
20 beyond that, if there's additional that requires
21 special hearings or things like that, and if it falls
22 under the choice that the City would ask us to do those
23 services, that would be a Supplemental also.

24 Q. Is it your understanding that there is no one currently

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[Witness panel: Gates|Doran|Henderson]

1 on staff at the City that has water utility expertise?

2 A. (Doran) I'm not sure of all the expertise that all of
3 the staff members of the City and what their
4 backgrounds are 100 percent to comment on that.

5 Q. Are you aware of anyone in the Nashua Department of
6 Public Works that will be involved in this water
7 utility, should the taking go forward?

8 A. (Doran) As appropriately, in addition to the Aldermen,
9 we will be interacting and representing the ratepayers.
10 And, we will be interacting with department heads of
11 the various City departments as -- on an "as needed"
12 basis. I'm not aware of anybody's background has
13 particular experience to water and what the experience
14 of anybody that has any water -- direct water
15 experience.

16 Q. Let me show you a document that's been marked as
17 "Exhibit 3078" in this case. If you take a minute and
18 look at that please.

19 MR. UPTON: I just want to make sure I
20 remind the witness, this is not his response.

21 BY THE WITNESS:

22 A. (Doran) I'm familiar, I see the exhibit on the screen,
23 ma'am.

24 BY MS. KNOWLTON:

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. You see the exhibit? Okay. So, based on this, it's
2 Mr. McCarthy's -- it was Mr. McCarthy's position that
3 no one in the Department of Public Works for the City
4 of Nashua will play any role with regard to the
5 operations of these assets. Am I reading that
6 correctly?
- 7 A. (Doran) Yes, you are.
- 8 Q. Okay. So, it's probably fair to assume, isn't it, that
9 at least when he wrote this answer that no one at DPW
10 was going to get involved in the operation of the water
11 utility on a day-to-day basis?
- 12 A. (Doran) His perceptions are not our perceptions.
- 13 Q. Would he know more about that than you would?
- 14 A. (Doran) I don't think at this point in time, I know
15 that, as a department, and the way it's set up, that we
16 be as similar to a department and acting on behalf of
17 the City as a department, department heads get together
18 from time to time. From what our understanding of the
19 oversight role, the DPW will not operate the water
20 system or have anything to do with the operation, as
21 that exhibit that you're pointing out on the screen
22 right now states.
- 23 Q. And, to your knowledge, there's no one at the City,
24 other than the Mayor and the Board of Aldermen, that

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[Witness panel: Gates|Doran|Henderson]

1 are going to be involved in a regular basis with the
2 operation of these water assets?

3 A. (Doran) There may be someone to yet to be determined or
4 designated by the City. I have no knowledge of that.

5 Q. But not yet determined?

6 A. (Doran) But not yet determined, that's correct, to my
7 knowledge.

8 MS. KNOWLTON: I'm making good progress.

9 BY MS. KNOWLTON:

10 Q. Okay. Let's talk about the assumptions under the
11 Beck/Nashua contract. There's a section of the
12 contract that contain certain assumptions. That's at
13 Page 99 of Exhibit 1006. Mr. Doran, are you familiar
14 with these contract assumptions?

15 A. (Doran) Yes, I am.

16 Q. And, it looks like under these assumptions that you've
17 budgeted one meeting a month with the Mayor and the
18 Board of Aldermen each during the first year of the
19 contract, is that right?

20 A. (Doran) That's under Item 3, on Page 99. The actual
21 scope of the Assumptions begins on the previous page,
22 98.

23 Q. Okay. That's fair. Do you think one meeting enough is
24 enough -- one meeting a month is enough?

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[Witness panel: Gates|Doran|Henderson]

1 A. (Doran) If you notice the wording, Ms. Knowlton, it
2 says "one meeting with the Mayor and Board of Aldermen
3 each month over the first year of service." If you go
4 to the previous page, 98, under Bullet Number 2, there
5 will be 14 additional owner meetings over the Initial
6 Task period that's included in the scope. So, there
7 the contact with the Mayor and the Board of Aldermen
8 could be part of those 14 meetings, and, additionally,
9 there are two, under this next bullet down, there are
10 two additional meetings with the Mayor and Aldermen
11 over the Initial Task period. So, there's coverage
12 over the first year, you know, very large coverage.

13 Q. If you need to meet more, does it cost more?

14 A. (Doran) It depends on how the budget is spent and how
15 the City determines how the budget is spent. More
16 meetings could be done under the existing budget, at
17 the sacrifice of other oversight services.

18 Q. Tell me what services will be sacrificed?

19 A. (Doran) "Sacrifice" is probably not the
20 characterization, but up to the budget amount. That's
21 the correct assumption.

22 Q. If you had to choose what you wouldn't do under your
23 oversight services to spend more time meeting with the
24 City, what wouldn't you do?

[Witness panel: Gates|Doran|Henderson]

- 1 A. (Doran) I can't really comment on that at the present
2 time. That's a hypothetical situation. There would
3 have to be judgment at the time the specific occurrence
4 comes.
- 5 Q. If I could focus your attention back on Page 99. The
6 reference that I was speaking about with the "one
7 meeting a month with the Mayor and the Board of
8 Aldermen each" is for Recurring Tasks, right? You were
9 -- The 14 that you were talking about pertains to
10 Initial Tasks under the contract?
- 11 A. (Doran) Yes. But that, also, the language is there
12 "over the first year of service".
- 13 Q. Let's assume you're into the second year, same contract
14 applies, and you've got one month's -- monthly meeting
15 each with the Mayor and the Board of Aldermen. What
16 I'm just trying to understand is, if you need to meet
17 more, does it cost more money? Does it then become a
18 Supplemental Service?
- 19 A. (Doran) If it can be accommodated under the budget that
20 we have established in the Scope of Services, we would
21 use that and work with the City. If the City wanted
22 five meetings per month, and that's an extraordinary
23 amount, that that would have to be negotiated with the
24 City, because that was not originally anticipated by

[Witness panel: Gates|Doran|Henderson]

1 the Scope of Services.

2 Q. But when you talked about your dispute with the City in
3 the MOU earlier this afternoon, you did indicate that
4 that took way more meetings than you had planned for,
5 right?

6 A. (Doran) Right. And, I did a lot of those meetings on
7 my own time, and didn't bill the City for it.

8 Q. That's awfully charitable?

9 A. (Doran) It is, isn't it.

10 Q. Okay. What about Veolia? You're budgeted to meet with
11 them no more than three days a month for the first year
12 of service, right?

13 A. (Doran) According to the exhibit, on Page 99, that's
14 correct.

15 Q. How do you define what a "meeting" is?

16 A. (Doran) "Three full days of on-site meetings", I would
17 like to look at it as a time basis. And, if I only
18 needed to have, being in Hollis, New Hampshire, if I
19 needed to meet with them two hours, all right, then
20 that means I have 22 hours available to expend during
21 that same period. "On-site meetings" is just a
22 representation of a time element and a level of
23 service. And, there's a lot, being local, there's a
24 lot that could be accomplished in three full or a

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[Witness panel: Gates|Doran|Henderson]

1 24-hour period, which that "three full-day on-site
2 meetings" represents.

3 Q. Are you going to be keeping time cards to track those
4 days, where you spent two hours on the meeting, instead
5 of eight hours?

6 A. (Doran) In a consulting firm, as all businesses, we
7 have to account for our time.

8 Q. And, will the City have the right to come in and audit
9 those time cards, if they want to make sure that you
10 put in the full three days?

11 A. (Doran) The clients always have that right.

12 Q. Is it possible that you might not schedule a meeting,
13 because you've already hit your quota of the three
14 meetings?

15 A. (Doran) It's possible that a meeting might not be
16 needed, and then it wouldn't be scheduled. It has
17 nothing to do with "quota".

18 Q. And, is the converse true, too, or possible at least?

19 A. (Doran) Again, not knowing, and you're taking things
20 out of context, and without knowing what you're
21 referring to, conceding, since there's no context in a
22 well defined framework to answer that question, yes,
23 I'd have to agree to that, what you just said.

24 CHAIRMAN GETZ: And, I'm not sure what

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[Witness panel: Gates|Doran|Henderson]

1 the "converse" in that situation is.

2 MS. KNOWLTON: Well, I mean that it's
3 possible that, and maybe I used the wrong word, it's
4 possible that, if he has hit his quota of three meetings,
5 that he might not schedule the next meeting, you know,
6 because it's going to be over and above the three.

7 BY MS. KNOWLTON:

8 Q. That's my question. Is that possible?

9 A. (Doran) Again, if it's a City request of an
10 unreasonable amount of meetings external to what we had
11 originally planned, then it would be -- have to be
12 worked out an arrangement for billing.

13 Q. Okay. Mr. Henderson, you've gotten off the hook so
14 easy this afternoon.

15 A. (Henderson) I sure have.

16 Q. It's your turn, quickly. You're going to need to learn
17 about the Pennichuck system, too, right?

18 A. (Henderson) That's correct.

19 Q. How many hours do you think it's going to take you to
20 become familiar with the assets?

21 A. (Henderson) I don't know how to answer that, to be
22 honest with you. Every time we have been involved with
23 a client that we work with, and as we work with them
24 doing specific tasks, we gain familiarity with the --

[Witness panel: Gates|Doran|Henderson]

1 it's not a discrete set of time that we stop and say
2 "okay, we're now going to go and learn about the
3 system."

4 Q. So, knowledge is cumulative?

5 A. (Henderson) That's correct.

6 Q. And, it takes a while to ramp up --

7 A. (Henderson) That's right.

8 Q. -- and gain a detailed knowledge of the system. Would
9 you agree that the oversight of this system, you know,
10 that it's a very complex water system?

11 A. (Henderson) It's a water system with a lot of different
12 components, yes.

13 Q. Will there be others at Tetra Tech, other than
14 yourself, that will need to familiarize themselves and
15 learn about these assets?

16 A. (Henderson) There may be.

17 Q. And, where are they located?

18 A. (Henderson) They could be located anywhere in the
19 country. The model that we use would be that, as I
20 need specific expertise, I would identify that
21 expertise and make available to them the information
22 that they needed to -- by which to provide the
23 expertise that I'm looking for from them.

24 Q. So, they could come from Colorado?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Henderson) They could be in Colorado. They don't
2 necessarily need to come here to do what I would be
3 asking them to do.
- 4 Q. Or Oklahoma? I think, in your deposition, you said
5 "San Diego"?
- 6 A. (Henderson) That's correct.
- 7 Q. Orlando?
- 8 A. (Henderson) That's correct.
- 9 Q. Fairfax, Virginia?
- 10 A. (Henderson) Yes.
- 11 Q. Seattle?
- 12 A. (Henderson) Uh-huh.
- 13 Q. Michigan?
- 14 A. (Henderson) Yes. It's the advantage of being a large,
15 multidisciplinary engineering firm, is you have those
16 resources available to you.
- 17 Q. But won't they need to understand the assets that are
18 in Nashua, Epping, and Newmarket, and Plaistow and --
- 19 A. (Henderson) Can I give you an example?
- 20 Q. Sure.
- 21 A. (Henderson) The example was with respect to watershed
22 management and techniques. And, the firm -- Tetra Tech
23 is a national leader in that and has written some of
24 the manuals for EPA for watershed management. I had

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[Witness panel: Gates|Doran|Henderson]

1 questions specific about watershed management. I sent
2 an e-mail to the head of the Watershed Management Group
3 requesting information on the use of copper sulphates
4 and phosphates and phosphorous in water supplies, which
5 I'm generally familiar with, but I am not an expert. I
6 can explain to him what are the issues at hand, and he
7 can provide the information to me. And, I did that
8 this morning, at 6:00 this morning, and at 9:00 this
9 morning I had a document in my hand explaining exactly
10 the issues associated with that, that I can take and
11 apply to whatever the circumstances are for Nashua.

12 Q. So, you think those -- the expertise of your company
13 that you can draw from in all of these places across
14 the United States, that they're going to provide would
15 you say a better under -- or, let's just say the same
16 understanding as you would get from, say, the
17 Pennichuck people that are here on the ground in
18 Nashua?

19 A. (Henderson) Excuse me. Repeat the question.

20 Q. Well, I guess what I understand you to say is that
21 you're going to be drawing from the expertise of your
22 colleagues across the country, correct?

23 A. (Henderson) That's correct.

24 Q. And, they may not necessarily ever come here to see the

[Witness panel: Gates|Doran|Henderson]

1 water system, right?

2 A. (Henderson) That's correct.

3 Q. But that you feel confident, nonetheless, that they're
4 going to have a sufficient understanding of the
5 vagaries of this water system without ever having seen
6 it, correct?

7 A. (Henderson) That's correct.

8 Q. Okay. And, Mr. Doran, one last question for you and
9 then I think I'm done. You testified earlier that you
10 have never personally ever overseen the operation of a
11 water system, right?

12 A. (Doran) That's correct.

13 Q. And, Mr. Gates, I'll just ask you one quick one. You
14 haven't either, right?

15 A. (Gates) No, ma'am.

16 Q. Okay. And, neither of you, neither Mr. Gates nor
17 Mr. Henderson possess any kind of operator's license to
18 operate a water system, right?

19 A. (Gates) Let me explain the licensing situation.

20 Q. Well, can I just ask -- can I just ask first, do you
21 have a license in New Hampshire? And, then offer your
22 opinion.

23 A. (Gates) I have a Professional Engineering license.

24 And, I am Board certified by the American Academy of

[Witness panel: Gates|Doran|Henderson]

1 Environmental Engineers.

2 Q. But no license to operate a water system?

3 A. (Gates) And, those are hierarchy on top of operating
4 licenses. In some states, and I'm not familiar with
5 the licensing law here in New Hampshire, but, in some
6 states, in fact, Professional Engineering licensure is
7 adequate for operation of facilities. Generally, the
8 principles of engineering apply on top of the
9 principles of operations. They're science and
10 engineering principles. So, as a licensed Professional
11 Engineer, it's the same principles, taken to a higher
12 level of understanding.

13 Q. But, sitting here today, you don't know that, under New
14 Hampshire's regulatory licensing scheme, that you would
15 be actually authorized to and properly licensed to
16 operate this water system?

17 A. (Gates) No, I am not properly licensed to operate --

18 Q. Okay.

19 A. (Gates) -- in the State of New Hampshire, that's
20 correct.

21 Q. Okay. And, Mr. Doran, you know, you're going to be
22 overseeing these operations, though you've never
23 actually ever operated a system yourself, correct?

24 A. (Doran) And, that's not unusual. Because this is

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[Witness panel: Gates|Doran|Henderson]

1 contract is a management role. And, it's a management
2 role to administer a management of an operations
3 contract. Just as a CEO would rely on expertise or a
4 public works director, if he was to provide the same
5 service in another municipality, would rely on the
6 expertise outside of his own to bring into bear to
7 operate this system. I have all of those team, and
8 with the team that we've set up, I have those resources
9 available to me at any point in time, that are more
10 expert in areas specifically on the technical area of
11 operating a water system, but, for the management's
12 role, and that's where I provide my expertise, is
13 knowing enough, knowing and familiar with the right --
14 right relations to impart a management aspect to this
15 contract. And, that's what I bring, 33 plus years,
16 also as a registered Professional Engineer in New
17 Hampshire, being exposed to all kinds of environmental
18 regulations, maintenance requirements, budget,
19 construction contracts over my career.

20 Q. So, it's knowing who else to call would have the
21 answer, right?

22 A. As a CEO and a public works director that would be
23 providing these same services, that's correct.

24 MS. KNOWLTON: Okay. Thank you. I have

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[Witness panel: Gates|Doran|Henderson]

1 nothing further.

2 CHAIRMAN GETZ: Ms. Thunberg.

3 MS. THUNBERG: Mr. Chairman, I expect
4 I'll take 15 minutes. Good afternoon, gentlemen.

5 WITNESS HENDERSON: Hi.

6 WITNESS GATES: Hi.

7 WITNESS DORAN: Hi. How you doing.

8 BY MS. THUNBERG:

9 Q. And, I think I'll start out, Mr. Henderson, with you.

10 I think we've already gone through or you have
11 testified that you have no executed contract with
12 respect to the operations of Pennichuck Water Works, is
13 that correct?

14 A. (Henderson) That's correct.

15 Q. And, Misters Dorn and Gates, I believe you already
16 testified that your Professional Services Agreement is
17 in draft form, is that correct?

18 A. (Gates) That is correct.

19 A. (Doran) That's correct, ma'am.

20 Q. And, Mr. Gates, could you tell me, what is the term of
21 this Professional Services Agreement?

22 A. (Gates) I believe the current term is six years, with
23 an extension capability.

24 Q. Okay. And, Mr. Gates, does Beck expect to need to go

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[Witness panel: Gates|Doran|Henderson]

1 back and renegotiate this agreement, in the event that
2 the Commission approves Nashua taking the assets?

3 A. (Gates) That would be at the pleasure of the City.

4 Q. Okay.

5 A. (Gates) As I understand how things have come together
6 with the Veolia contract, the scope offered is adequate
7 at this time.

8 Q. I'm sorry, what was the last part that you said?

9 A. (Gates) The scope under our contract, as offered, would
10 be adequate.

11 Q. Okay. Then, is it fair to say that this draft
12 Professional Services Agreement, that Staff can give it
13 substantial weight as embodying what services Beck
14 expects to provide, once the asset or if the assets are
15 acquired by the City of Nashua?

16 A. (Gates) I think that's correct.

17 Q. And, this question goes to either Mr. Gates or Mr.
18 Doran. I presume both of you are generally familiar
19 with the terms of Veolia's OM&M contract, is that
20 correct?

21 A. (Gates) Yes, ma'am.

22 A. (Doran) Yes, ma'am.

23 Q. And, that you are also aware that this Veolia OM&M
24 agreement is presently a draft?

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[Witness panel: Gates|Doran|Henderson]

- 1 A. (Gates) That's correct.
- 2 A. (Doran) That's correct.
- 3 Q. Are you aware of whether the Veolia agreement will be
4 expanded?
- 5 A. (Gates) When you say "expanded", could you elaborate
6 for me please?
- 7 Q. Yes. I could give you a specific example. Is it your
8 understanding that the present Veolia agreement does
9 not specifically require Veolia to be a member of the
10 DigSafe or comply with DigSafe laws in this state?
- 11 A. (Doran) I believe that Veolia has said that they would
12 become a member. That was in subsequent testimony by
13 Veolia.
- 14 Q. Okay. If that membership is ultimately embodied in
15 their management -- their OM&M agreement, what is that
16 going to do with the Beck agreement? Is the Beck
17 agreement going to expand to cover that expansion?
- 18 A. (Doran) Without specific tasks that will require an
19 expansion, if you could elaborate what you are driving
20 at with the question a little bit more for me? Expand
21 on your question?
- 22 Q. Sure. In the Scope of Services that is attached as
23 Exhibit A to the Professional Services Agreement, does
24 that specifically require Beck to oversee Veolia's

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[Witness panel: Gates|Doran|Henderson]

1 compliance and membership -- compliance with DigSafe
2 laws and membership in the DigSafe Program?

3 A. (Doran) First of all, that the membership in DigSafe is
4 Veolia's, the membership is Veolia's. And, we would
5 have no interfacing of that membership ourselves. To
6 the extent that it involves operations and field work
7 or whatever, marking utilities, we would make sure that
8 it was done as part of our oversight services, but we
9 would not be responsible for the accuracy or anything
10 like that. But we would be, as far as DigSafe goes,
11 those type of services, we would make sure that they
12 have been accomplished.

13 Q. Can you tell me under what portion of the Scope of
14 Services that oversight of Veolia's compliance with
15 DigSafe laws would be in?

16 A. (Doran) Are you referring, ma'am, to our Scope of
17 Services or --

18 Q. Yes, I am. And, if it would be more helpful, if it's
19 easier for you to cite what fee it would be under,
20 perhaps that's a broader category?

21 A. (Doran) Usually, a DigSafe is required when the
22 construction takes place. So, on Exhibit 1006,
23 Page 99, on Item Number 3, second bullet from the
24 bottom, there's Construction Coordination, an allowance

[Witness panel: Gates|Doran|Henderson]

1 of \$40,000 is part of that language on our exhibit in
2 Scope. Anything that would do with construction would
3 be coming under that.

4 Q. So, are you saying that this \$40,000 in Recurring Tasks
5 would cover Beck's oversight of all of the DigSafe
6 markings and locating that --

7 A. (Doran) Again, our interest is that it's actually been
8 done, and not taking measurements. So, we could
9 actually see the markings, as everybody here in the
10 room I'm sure is familiar with the markings of DigSafe,
11 when you go around to different utilities, we can
12 actually see if, in fact, a construction service, and
13 that takes a drive-by going to Dunkin Donuts even.

14 Q. Are you familiar that marking and locating -- strike
15 that question. I guess I'll go back to my original
16 question of expansion. And, I used the DigSafe
17 additional work that Veolia has contemplated as an
18 example of the OM&M expansion, and whether the Beck
19 agreement would expand? And, is it fair to
20 characterize your response just now is that, "no, the
21 Beck agreement would not need to expand, because it is
22 listed on Page 99", in the paragraph that you just
23 cited?

24 A. (Doran) You asked me for an example within the contract

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[Witness panel: Gates|Doran|Henderson]

1 of where DigSafe would come under, and I gave you that
2 example in response to that question. Expansion of
3 services, Veolia is responsible for the DigSafe. The
4 time, the research, the effort to go in and mark it,
5 would be their responsibility. Checking to see if, in
6 fact, it's done is a very small responsibility. And,
7 in my estimation and characterization, would not
8 require an expansion of our Scope of Services.

9 Q. I'm going to move onto another example. Are you
10 familiar with Veolia having customer service process
11 charts?

12 A. (Doran) No, I am not.

13 Q. Are you aware, in general, that companies can have
14 standards depicting a process for, say, customer
15 service?

16 A. (Doran) I'm sure that they would have their own
17 internal standards.

18 Q. With respect to internal standards that are not
19 announced in the OM&M contract, would Beck's
20 oversight include overseeing whether Veolia is
21 complying with its own standards?

22 A. (Doran) If it has something to do with the Scope of
23 Services in the Veolia contract, and if it's directly
24 related to that Scope of Services in the Veolia

[Witness panel: Gates|Doran|Henderson]

1 contract, that's correct. It would be our purview for
2 the oversight services there. If it's something that's
3 not purview to me, and company proprietary and
4 confidential, we would have no reason or right to have
5 access to company proprietary information.

6 Q. Okay. If Veolia is to train employees within Nashua's
7 Billing Department, pursuant to these customer service
8 process charts or these internal standards that Veolia
9 has, will Beck be overseeing that training?

10 A. (Doran) I'd have to do a little bit more research on
11 that question. I can't answer that on the top of my
12 head. I understand that we do not interface with the
13 City's Customer Service, other than to make sure it's
14 done. But, again, defer to, a proper answer would take
15 a little bit of research on my part.

16 Q. Okay. And, I think this has come out in the earlier
17 testimony, but I'd just like to quickly recap in one
18 spot in this transcript. There are three major fee
19 structures, is that correct, in your -- in Beck's
20 Professional Services Agreement?

21 A. (Doran) Yes, I believe Mr. Gates testified to that.

22 Q. And, one is the Initial Tasks, for approximately
23 \$230,000?

24 A. (Doran) That's correct.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. And, what is the time period that the Initial Tasks
2 covers?
- 3 A. (Doran) I believe it's the first year. The Initial
4 Tasks would be occurring during that first year.
- 5 Q. Okay. And, the next category of fees, is it correct
6 that it is the Recurring Tasks for services that are at
7 an hourly rate, with a cap of \$315,000?
- 8 A. (Doran) I believe that that's correct.
- 9 Q. Okay. And, then, Supplemental Services is another
10 category of fees, but that's on an hourly rate, is that
11 correct?
- 12 A. (Doran) I don't -- Again, I believe, I'm not sure
13 exactly what I testified to, but it could be an hourly
14 rate or it could be a different form. I'm not sure of
15 how the terms would take. Usually, it's a time and
16 materials basis.
- 17 Q. And, Mr. Gates and Dorn, are you aware of any other fee
18 structures that I just -- that I haven't listed that
19 you are aware of in your Professional Services
20 Agreement?
- 21 A. (Gates) No, I think you've summarized it adequately.
- 22 Q. With respect to the Initial Tasks, \$230,000, is that
23 now outdated?
- 24 A. (Doran) Could you define "outdated" please?

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[Witness panel: Gates|Doran|Henderson]

1 Q. My understanding is this Professional Services
2 Agreement was drafted a couple of years ago. That it
3 is still unexecuted. Looking into the future, if Beck
4 signs a contract, what is the likelihood that Beck will
5 still use that \$230,000 for its Initial Tasks
6 component?

7 A. (Gates) May I answer that for you?

8 Q. Sure.

9 A. (Gates) Yes. The contract, as written, at Page 2,
10 describes the fee that you're talking about as being
11 valid until a date certain, and then an escalation
12 factor is applied after that date certain. So, yes,
13 indeed, the \$230,000 would be escalated according to
14 the terms.

15 Q. Okay. So, we can, with the date that's in that
16 Paragraph B on Page 2, which is Page 81 of Exhibit
17 1006, we would then take that "December 31st, 2005"
18 good through date, apply the Consumer Price Index to
19 bring it up to 2007 or 2008. Is that how we would
20 arrive at this Initial Tasks?

21 A. (Gates) That was the intent of the term, yes.

22 Q. Okay. And, would that same thought process apply to
23 updating the Recurring Tasks portion?

24 A. (Gates) Yes, you will find similar language in

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[Witness panel: Gates|Doran|Henderson]

1 Paragraph C.

2 Q. But with respect to the hourly rates that are set forth
3 in Exhibit B to this Professional Services Agreement,
4 there would be no updating pursuant to a Consumer Price
5 Index, is that right?

6 A. (Gates) I believe there's an escalation clause for the
7 rates also in the contract.

8 Q. With respect to the hourly rates?

9 A. (Gates) Correct.

10 Q. Okay. And, since you have the Professional Services
11 Agreement before you, I'd like to have you turn to
12 Page 89, 90, I guess there's just those two pages
13 please. And, with respect to the "Owner's Support for
14 Bonding Requirements", can you tell me whether that is
15 under the work that would be done as an Initial Task,
16 Recurring Task, or Supplemental, or is this something
17 else?

18 A. (Gates) This is a -- would be offered as a Supplemental
19 Service.

20 Q. And, turning to Page 90, I have the same question with
21 the paragraph entitled "Oversight of Owner's Water
22 Ordinance"?

23 A. (Gates) Likewise, that's offered as a Supplemental
24 Service.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. And, the next paragraph, "Oversight of State, Federal
2 and Local Permit Compliance", is that Initial,
3 Recurring or Supplemental?
- 4 A. (Gates) That would be offered as a Supplemental
5 Service.
- 6 Q. And, the same question with "Oversight of OM&M
7 Contractor Service Agreement"?
- 8 A. (Gates) This is the Initial Tasks.
- 9 Q. Now, was there any reason why, if we move onto Page 91,
10 at the top, it states "Oversight of OM&M Contractor
11 Services Agreement - Initial Tasks". Should some of
12 those paragraphs have, like this, the last one you just
13 mentioned, should that have been included in this
14 Initial Tasks section of Exhibit A?
- 15 A. (Gates) I'm sorry, I lost you.
- 16 Q. We talked about oversight of OM&M Contractor Service
17 Agreement, as in basic services, that's on page -- the
18 bottom of Page 90.
- 19 A. (Gates) Yes.
- 20 Q. And, you just told me that that's going to be under the
21 Initial Tasks fee. And, when I was trying to find out
22 what was in that Initial Tasks fee, I turned to
23 Page 91, saw the title at the top and thought "Oh, all
24 these pages with the tasks," I guess seven tasks,

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[Witness panel: Gates|Doran|Henderson]

1 following through Page 93, I thought that was the
2 universe of what was in the Initial Tasks. So, my
3 question was there is, was there a reason why one
4 paragraph was not included with the other Initial Tasks
5 listings?

6 A. (Gates) You're speaking about the paragraph at the
7 bottom of contract Page 11, which I believe is Exhibit
8 Page 90?

9 Q. Correct.

10 A. (Gates) And, should that be attached, now you're saying
11 it would be from a format standpoint, if it would
12 logically attach to both, the paragraph on the
13 following page?

14 Q. It's a formatting question, but more so, was there any
15 significance in leaving these out of the Initial Tasks
16 section, Recurring Tasks section, the Supplemental
17 Tasks section? That's all I'm -- the basic point I'm
18 trying to get from you.

19 A. (Gates) Well, if I understand your question, the "Basic
20 Services" heading is actually headed above the "Initial
21 Tasks" heading, which is a subheading, and the
22 Recurring Tasks, which is a subheading, of the "Basic
23 Services" heading, perhaps some awkward formating. In
24 our parlance, "basic services" are those services that

[Witness panel: Gates|Doran|Henderson]

1 you contract for as the basis of the contract, and
2 supplemental services are later.

3 When Nashua came along with the
4 construct of Initial services and Recurring services,
5 proposing that as basic services, I think perhaps
6 that's awkward in terms of formatting. And, I think we
7 were also faced with some pretty tight deadlines as
8 these documents were produced for recording.

9 Q. No, I appreciate your explanation. I at least followed
10 it, and I hope the rest of the folks in this room
11 followed that explanation. If I could have Exhibit
12 1006, Page 92 pulled up please. And, Mr. Gates and
13 Dorn, I'd like to draw your attention to "Initial Task
14 3 - Evaluate Initial Staffing". And, this task
15 obligates Beck to review Veolia's 40 some odd
16 employees, is that correct?

17 A. (Gates) It commits us to removing their staffing plan.

18 Q. Who's going to be covered in Veolia's staffing plan?

19 A. (Gates) I'll take a crack, and if you want to add.

20 A. (Doran) Sure.

21 A. (Gates) I think Veolia is going to write the plan, so
22 we'll see. But, typically, it would be comprehensive,
23 in terms of who they will deploy to satisfy the
24 requirements of the contract.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. Okay.
- 2 A. (Gates) Operations, construction labor, maintenance
3 specialists, customer service personnel, what have you.
4 We would expect all that to be included in their
5 staffing plan.
- 6 Q. Would your expectation be that Veolia would, in this
7 staffing plan, it would also include the City of Nashua
8 Billing Department folks?
- 9 A. (Gates) Well, if they're not -- if they're not Veolia
10 staff, I wouldn't expect them to be included in the
11 Veolia staffing plan.
- 12 Q. I'm sorry, you said "they would not" --
- 13 A. (Gates) If they are not Veolia staff, I would not
14 expect them to be in Veolia's staffing plan.
- 15 Q. Okay. My next question is about timing of this review.
16 My understanding is that this evaluation of the initial
17 staffing is going to -- is an Initial Task, and it's
18 going to occur within the first year of the
19 Professional Services Agreement, is that correct?
- 20 A. (Gates) I think the Veolia contract has an early
21 deadline for submittal of that plan. I don't recall
22 offhand if it's 30 or 60 days after notice to proceed.
23 But we would prioritize the review and approval, that
24 is a critical document.

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[Witness panel: Gates|Doran|Henderson]

- 1 Q. Okay.
- 2 A. (Gates) So, I would expect it to happen very early.
- 3 Q. Could I have Exhibit 1005B, Page 60, pulled up please.
- 4 And, gentlemen, I'm drawing your attention to Appendix
- 5 D of Veolia's OM&M agreement. And, Section 15
- 6 discusses staffing. And, the very last paragraph talks
- 7 about "from time to time Veolia shall notify the owner
- 8 of any proposed revisions to its staffing plan." And,
- 9 if this "time to time" occurs beyond the Initial Tasks
- 10 portion of Beck's agreement, my presumption is that
- 11 Beck would not be obligated to review these staffing
- 12 changes at a later date. Is that correct?
- 13 A. (Doran) I'm sorry, ma'am. I was busy reading here.
- 14 Could you repeat the question and I can try to attempt
- 15 an answer for you?
- 16 Q. Sure. I understand from your testimony that the
- 17 Initial Tasks include looking at Veolia's initial
- 18 staffing proposal. And, that there is a time in Beck's
- 19 agreement within which that's supposed to be done, your
- 20 Initial Tasks, it being one year, correct?
- 21 A. (Witness Dorn nodding affirmatively).
- 22 Q. I am positing to you that, under this Section 15 of
- 23 Veolia's agreement, that, when it says "from time to
- 24 time", couldn't that mean "beyond Beck's first year"?

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[Witness panel: Gates|Doran|Henderson]

1 And, if that occurs, who oversees the changes?

2 A. (Doran) Okay. I can agree with that "from time to
3 time" could be beyond the first year.

4 Q. Uh-huh.

5 A. (Doran) You know, I would so stipulate that. Regarding
6 the changes, I would suspect that, if it's a change and
7 it's a policy, that Veolia would have brought it under
8 their contract, in their separate contract with the
9 City. And, if asked by the Board of Aldermen, who have
10 policy decisions, we would take a look at, if it's
11 additional or a subtraction of staff, we'd take a look
12 at that. And, if we were asked an opinion, we would do
13 so. And, that would have to come under the Recurring
14 Tasks budget, you know, throughout our continued
15 Recurring Tasks.

16 Q. Okay. So, you believe that subsequent oversight would
17 be under Recurring, the Recurring portion of your
18 contract?

19 A. (Gates) Yes, if there was a substantive change, a
20 proposed change in the staffing plan from Veolia, it
21 would obviously be something that would be subject to a
22 review and approval by the owner. And, if our advice
23 was called upon, we would accommodate through Recurring
24 Task 1.

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[Witness panel: Gates|Doran|Henderson]

1 Q. Thank you. And, I just have a few more questions. I
2 don't know if this is -- if I can have Exhibit 1006,
3 Page 90, pulled up please. And, Mr. Gates and Dorn,
4 I'd like to draw your attention to the "Oversight of
5 Owner's Water Ordinance". It's the second full
6 paragraph in this, on this page. And, it states that
7 "The Consultant will oversee that the provisions of the
8 Owner's Water Ordinance is being adhered to". And, I
9 believe you may have testified earlier that you are
10 aware that the City's water ordinance is presently in
11 draft state, is that correct?

12 A. (Doran) I believe that that was produced after the
13 Scope of Services were developed in its entirety, the
14 Initial Tasks per the RFP and the Recurring Tasks and
15 the Supplemental Services. And, the way we understand
16 it, that the water ordinance is in draft form. It
17 hasn't been finalized. I know that it has been
18 presented to the Policy Board of Aldermen for opinions.
19 And, I know that they have had many meetings on it.

20 Q. Does Beck expect to be involved in the finalizing of
21 this water ordinance?

22 A. (Doran) At the present time, no.

23 MS. THUNBERG: Staff has no further
24 questions. Thank you.

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[Witness panel: Gates|Doran|Henderson]

- 1 CHAIRMAN GETZ: Thank you.
- 2 Ms. Reinemann?
- 3 MS. REINEMANN: We have no questions.
- 4 CHAIRMAN GETZ: Mr. Alexander?
- 5 MR. ALEXANDER: I do have just a couple.
- 6 Good afternoon.
- 7 WITNESS HENDERSON: Good afternoon.
- 8 WITNESS GATES: Good afternoon.
- 9 WITNESS DORAN: Good afternoon.
- 10 MR. ALEXANDER: I represent
- 11 Anheuser-Busch.
- 12 BY MR. ALEXANDER:
- 13 Q. If I understood some of your testimony earlier, it's
- 14 contemplated that R.W. Beck may play a role in advising
- 15 the City on rates. And, I direct my question to
- 16 whoever on the panel is best able to answer it. Was I
- 17 correct in that understanding?
- 18 A. (Gates) We have that capability, should the City choose
- 19 to rely on our experience.
- 20 Q. And, that would be a Supplemental Service?
- 21 A. (Gates) That's correct.
- 22 Q. You say you "have that capability". Is that in-house
- 23 there is experience and expertise?
- 24 A. (Gates) We're involved in quite a bit of that work

[Witness panel: Gates|Doran|Henderson]

1 across the country.

2 Q. Can you -- Do you have in mind a scenario under which
3 you would be involved in developing rates? Or is it
4 simply a question of, if the City asked you to, that
5 you would assist?

6 A. (Gates) Well, there hasn't been any serious discussion
7 to that effect to this point in time. I think other
8 matters have taken priority.

9 MR. ALEXANDER: Thank you.

10 CMSR. BELOW: Yes.

11 BY CMSR. BELOW:

12 Q. Does R.W. Beck, as a whole, have experience with
13 privatization of municipal utility services?

14 A. (Gates) When you say "privatization", you mean taking
15 public assets and putting them over to private
16 ownership?

17 Q. Or private operations.

18 A. (Gates) Private contract operations?

19 Q. Right.

20 A. (Gates) Yes. We have been involved in procurements of
21 that nature.

22 Q. And, does R.W. Beck have experience with, in general,
23 with municipalization of private investor-owned
24 utilities in eminent domain proceedings?

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[Witness panel: Gates|Doran|Henderson]

1 A. (Gates) Fairly well in the electric sector.

2 Q. And, for example? Can you give some examples?

3 A. (Gates) Well, now you've pushed me beyond my able
4 comfort zone. Being a water engineer, as you may know,
5 Mr. Beck started out in 1945 municipalizing electric
6 companies in Oklahoma, and moved across the country.
7 So, that's Mr. Beck's pedigree, Mr. Robert Beck.

8 Q. Mr. Doran, you're a registered Professional Engineer in
9 New Hampshire?

10 A. (Doran) That's correct.

11 Q. I think, on Page 6 of your resumé that's part of
12 Exhibit 1006, one of the things that you did is it
13 mentions "Project Manager/Chief Designer, Londonderry
14 New Hampshire Water Transmission System Improvements".
15 Could you just characterize that work and when was
16 that? Who was that for?

17 A. (Doran) Would you again, sir, the page number?

18 Q. Page 6, of the original numbering.

19 A. (Doran) Of the original numbering.

20 MR. RICHARDSON: Page 15 of Exhibit
21 1006.

22 WITNESS DORAN: Okay. And, where is
23 this specific reference, sir?

24 CMSR. BELOW: Bottom of the page.

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[Witness panel: Gates|Doran|Henderson]

1 WITNESS DORAN: Bottom?

2 BY THE WITNESS:

3 A. Londonderry? Okay. I was with a firm called Howland
4 Engineering that was in Nashua, New Hampshire. It was
5 opened by the construction company R.H. White. And, in
6 that capacity, I was involved in certain aspects of
7 hydraulic and water main design and construction and
8 construction inspection. And, I'm not sure, my memory
9 doesn't serve me, if we, under that capacity, I know
10 R.H. White has done a lot of work for Pennichuck. I
11 know, for the old Consumers Water, we did that work,
12 and that was back in the early '90s, as far as the time
13 frame.

14 CMSR. BELOW: Okay. That's all.

15 CHAIRMAN GETZ: Mr. Richardson, any
16 redirect or do you need a minute?

17 MR. RICHARDSON: I just -- I can start
18 right in. I only need a couple minutes.

19 REDIRECT EXAMINATION

20 BY MR. RICHARDSON:

21 Q. I'll address this to the panel, but I think Mr. Gates
22 or Mr. Doran, maybe you can answer this. You were
23 asked about Recurring Tasks, I believe, that are
24 budgeted at \$315,000 per year, and then the Initial

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[Witness panel: Gates|Doran|Henderson]

- 1 Tasks for \$230,000, and that's in the first year. Can
2 we bring up Exhibit 1017, I believe it's Page 20. If
3 you look at Line Item 3 of the year 2007, I'll
4 represent to you that that's the budget that Mr.
5 Sansoucy prepared for the operation of the -- their
6 oversight of the system. Do you think that there's
7 sufficient revenues available for the City to perform
8 those Initial and Recurring Tasks?
- 9 A. (Gates) Yes, it would appear to be so.
- 10 Q. Okay. And, so, the remainder would be available for
11 Supplemental Services, if the City selected?
- 12 A. (Gates) At the pleasure of the City.
- 13 Q. And, then, in the second year, the Initial Tasks more
14 or less go away, is that right?
- 15 A. (Gates) That's correct.
- 16 Q. And, I believe he's budgeted 736,000. And, now, I
17 can't remember how it works under the contract, but you
18 continue to have is it 315,000 or it's escalated by 4
19 percent?
- 20 A. (Gates) Escalated, yes.
- 21 Q. Okay. And, so, the amount available for Supplemental
22 Services is approximately 400,000 at that point?
- 23 A. (Gates) According to this proforma.
- 24 Q. And, do you believe that that's sufficient revenues for

[Witness panel: Gates|Doran|Henderson]

1 a number of the Supplemental Services that you might
2 expect would be requested by the City?

3 A. (Gates) Well, it takes a little bit of speculation,
4 again, not knowing exactly what we're going to find as
5 it relates to the need for capital improvement, for
6 example. But that certainly is the right level of
7 effort, given what we see at this time.

8 Q. Okay. Now, you spoke about Supplemental Services being
9 billed at on a time and materials basis or hourly
10 basis. Are there other ways to do it? And, what are
11 they?

12 A. (Gates) Well, what we would envision actually is a task
13 order sort of arrangement. Where, if a need has been
14 identified, a scope would be developed, a budget would
15 be offered, and a task order would be negotiated and
16 approved for a specific scope of work for a specific
17 price. It could be a time and materials price you're
18 not to exceed, it could be a lump sum, or it could be
19 an estimate, if, for some reason, there's just too many
20 variables to put a price on it.

21 Q. Okay. Now, you were also asked on cross-examination
22 about "well, what would happen if the budget ran out in
23 six months for the Recurring Tasks? And, you know,
24 would you simply terminate the contract under the 30

[Witness panel: Gates|Doran|Henderson]

1 day provision?" Is that type of approach consistent
2 with Beck's business model?

3 A. (Gates) Well, we're a customer-oriented firm. We've
4 been in business 65 years. I've had a minute to
5 reflect. One of our municipalization clients was
6 Lafayette Utility Service in Louisiana. It's been a
7 client since 1945. So, those are the sort of
8 relationships that we like to have. We're committed to
9 long-term partnerships with our customers. And, a
10 termination in a 30 day notice would be a highly
11 unusual situation for us.

12 The additional municipalization that we
13 are involved in here regionally, South Central
14 Connecticut Regional Water Authority, the former New
15 Haven Water Company was municipalized. And, well, it
16 was 25 years ago, 25 years plus. And, we're
17 continuously and still are on their consulting team.
18 So, those are the sorts of relationships that R.W. Beck
19 strives as a cultural imperative to create. And, we
20 would certainly hope that that's the sort of trusting,
21 long-term relationship that we would perpetuate with
22 Nashua.

23 Q. In fact, a 30 day termination provision requires that
24 Beck continue to add value for the dollar, otherwise

[Witness panel: Gates|Doran|Henderson]

1 the risk is really on R.W. Beck, isn't it?

2 A. (Gates) Well, absolutely.

3 Q. I would like to turn your attention to Exhibit -- the
4 there were questions about an audit being performed by
5 R.W. Beck. And, if we could take a look at Exhibit
6 1006, at Page 94. And, I believe there's a paragraph
7 there about "auditing performance of the contractor
8 planned maintenance". Excuse me, I've forgotten my
9 question. Well, this is -- these are the types of
10 audits that you'll be performing of Veolia's projects,
11 and they're specifically authorized under your
12 contract. Is it your understanding there's also a
13 corresponding provision of the Veolia contract that
14 allows you to perform this?

15 A. (Doran) Yes, that's correct.

16 MR. RICHARDSON: And, just for your
17 reference or for the Commission's reference, I'll point
18 the Commission to Exhibit 1005B, Page 4, Paragraph F.

19 BY MR. RICHARDSON:

20 Q. Mr. Gates, I believe, or Mr. Doran, you were asked a
21 question about "whether the City of Nashua intended to
22 allow other communities to have a vote in the operation
23 of the water system?" Are you aware of how many votes
24 they currently have? For example, how many members of

[Witness panel: Gates|Doran|Henderson]

1 the Board of Directors has the Town of Hollis
2 appointed?

3 MS. KNOWLTON: Mr. Chairman?

4 CHAIRMAN GETZ: Ms. Knowlton.

5 MS. KNOWLTON: It's not -- I want to
6 object to the extent that Mr. Richardson is referring to
7 the regional water district. That's not clear to me from
8 his question, what board he's referring to.

9 BY MR. RICHARDSON:

10 Q. I'm sorry. The Pennichuck Board of Directors I believe
11 the question was directed to.

12 A. (Gates) I'm not familiar with Pennichuck's governance.

13 Q. Okay. Do you have any reason to believe that any of
14 the surrounding communities today can appoint members
15 to the Pennichuck Board?

16 A. (Doran) I don't have any knowledge to answer that,
17 Mr. Richardson.

18 MR. RICHARDSON: Okay. Thank you.

19 CHAIRMAN GETZ: Okay. Then, I think
20 that completes the cross-examination and redirect for this
21 panel. So, you're excused, gentlemen. Thank you very
22 much.

23 WITNESS DORAN: Thank you, Mr. Chairman.

24 CHAIRMAN GETZ: Why don't we take a

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 couple of minutes.

2 MR. UPTON: And, then we'll start right
3 in with the Veolia people?

4 CHAIRMAN GETZ: Yes. Do you have any
5 predictions, Mr. Upton?

6 MR. UPTON: Mr. Richardson is going to
7 do it, so --

8 MR. RICHARDSON: I'm going try to, as
9 best as I conceivably can, I've estimated about an hour at
10 least, when I kind of did a test drive on my own. I
11 probably can speed it up.

12 CHAIRMAN GETZ: Okay. Well, let's take
13 ten minutes then.

14 (Recess taken at 4:08 p.m. and the
15 hearing reconvened at 4:22 p.m.)

16 CHAIRMAN GETZ: Mr. Richardson.

17 MR. RICHARDSON: Thank you,
18 Commissioner.

19 (Whereupon Philip G. Ashcroft, Paul F.
20 Noran, Alyson Willans & Stephen
21 Siegfried were recalled to the stand,
22 having been previously sworn in.)

23 CHAIRMAN GETZ: And, I'll remind the
24 panel that you're still under oath from the other day.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 WITNESS ASHCROFT: Yes.

2 PHILIP G. ASHCROFT, PREVIOUSLY SWORN

3 PAUL F. NORAN, PREVIOUSLY SWORN

4 ALYSON WILLANS, PREVIOUSLY SWORN

5 STEPHEN SIEGFRIED, PREVIOUSLY SWORN

6 REDIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q. Good afternoon.

9 A. (Ashcroft) Good afternoon.

10 A. (Noran) Good afternoon.

11 A. (Willans) Good afternoon.

12 A. (Siegfried) Good afternoon.

13 Q. On cross-examination, you were asked questions that
14 emphasize your company's experience in wastewater
15 systems and in water treatment plants, as opposed to
16 water systems that were focussed exclusively on the
17 three categories of a water plant that I characterize
18 as source of supply, treatment, and distribution. And,
19 I understand that the inference was that Veolia's
20 experience doing that entire operation was "limited".
21 Do you -- How do you respond to that characterization?

22 A. (Ashcroft) Well, it's just simply not true. We have a
23 lot of experience with water systems, water treatment.

24 Q. Make sure you speak louder, so everyone can hear you.

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 A. (Ashcroft) We have a lot of experience in water systems
2 and water treatment.

3 Q. In fact, you responded to data requests as a panel that
4 identified all the water systems in the United States
5 that Veolia operates, didn't you? And, why don't we
6 bring up Exhibit 1051, starting at Page 3. Is that
7 correct?

8 A. (Ashcroft) That is correct, yes.

9 Q. Okay. I'd like to have you identify some of those
10 documents for the Commission or some of those systems.

11 MR. CAMERINO: Objection, Mr. Chairman.
12 This is exactly the kind of thing that I thought the
13 Commission was trying to avoid. This is Veolia's
14 discovery material that they could have included in their
15 testimony if they chose to. It was not a surprise to them
16 that I asked them to explain the projects that they put in
17 their testimony. Now, Mr. Richardson is trying to
18 supplement the testimony by listing additional projects
19 that were provided in the discovery, but they chose not to
20 put in their testimony. All I asked these witnesses about
21 was what was in their testimony.

22 CHAIRMAN GETZ: Mr. Richardson, your
23 response?

24 MR. RICHARDSON: These were questions

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 that were -- we're responding directly to an issue that
2 was raised on cross. It's my understanding that the
3 Commission rules require that data responses be provided
4 under oath. And, I think we've worked under the
5 assumption that, when a witness supplements their
6 testimony through a data response, that's permissible.
7 This document has been marked since January. So, there
8 shouldn't be any surprise that this information was out
9 there and that Nashua intended to use it.

10 CHAIRMAN GETZ: Wait a second.

11 (Chairman and Commissioners conferring.)

12 CHAIRMAN GETZ: Well, Mr. Camerino, you
13 were going to say?

14 MR. CAMERINO: Very briefly. First of
15 all, there is no practice of supplementing your prefiled
16 testimony with responses to data requests. If a proponent
17 wants to put in their responses to data requests, they
18 just put it in their testimony. They don't do it through
19 their redirect examination. And, secondly, my direct
20 examination was limited to what was in the testimony.
21 And, now that testimony is being supplemented with
22 listings of additional projects.

23 CHAIRMAN GETZ: But your
24 cross-examination raised the issue of making the

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 distinction between their experience with wastewater
2 versus water distribution systems.

3 MR. CAMERINO: On the very projects that
4 they chose to identify. If I have now got to go through
5 this list of projects and look at what they are and where
6 they are and what their size is, in fact, because of
7 concerns about cumulative nature of examination, I
8 specifically avoided going through all of the 400 projects
9 that these witnesses had identified, and limited it to the
10 25 or so that they put in their testimony. And, I don't
11 think it's appropriate for the Commission to allow these
12 witnesses to supplement their testimony, which
13 Mr. Richardson has referred to several times, supplement
14 their own testimony with responses that they had,
15 information they had available all along.

16 CHAIRMAN GETZ: Well, I guess I don't
17 characterize this as "supplementing their testimony".
18 And, in the absence of any cross-examination, then they
19 certainly wouldn't be allowed into the record. I think
20 you raised the issue, opened the door on the response, and
21 that this is a fair area to bring up in redirect, to
22 address the issue that you've raised on cross-examination.
23 So, we're going to allow this line of redirect.

24 MR. CAMERINO: Could I just ask one

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 clarification? And, this may be for Mr. Richardson,
2 rather than the Bench, I'm not sure. Nashua, in marking
3 these, their own responses to data requests, has marked,
4 in many cases, 10, 20, 30, 40 responses as a package. So,
5 when we see Exhibit 1051, there may be dozens of responses
6 in this exhibit. I understand this, the exhibit here that
7 is being discussed, to be potentially just a portion of
8 Exhibit 1051, and that the Commission is not suddenly
9 opening the door to the rest of this stack of documents
10 that may be in there?

11 CHAIRMAN GETZ: Well, yes, we're not
12 bringing in whatever Exhibit 1051 may be en masse. If
13 you're going to use a specific document to support your
14 redirect, then, or a specific answer, then we're going to
15 make sure that we're doing it by the particular document
16 or piece evidence, and not whatever may be in this, in a
17 larger document.

18 MR. RICHARDSON: I believe my use of
19 this exhibit is limited to the response to this particular
20 data request.

21 CHAIRMAN GETZ: Well, let's just, if
22 there's more of this, let's just be specific.

23 MR. RICHARDSON: Okay.

24 BY MR. RICHARDSON:

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

- 1 Q. Mr. Ashcroft or members of the panel, is it true that
2 Veolia has a system that's shown on Page 4 of
3 Exhibit 1051 that shows a system in Blackwell, in which
4 Veolia operates the three components to the water
5 system?
- 6 A. (Ashcroft) Yes, that's correct.
- 7 A. (Siegfried) Yes.
- 8 Q. And, how many customers in Blackwell, Oklahoma?
- 9 A. (Ashcroft) Eight thousand.
- 10 Q. And, what about Boonville, Indiana?
- 11 A. (Ashcroft) Yes, that's at 10,000.
- 12 Q. Crystal River, Florida?
- 13 A. (Ashcroft) Perhaps it would speed things up if Steve
14 could read, he's closer than me, without blowing it up.
- 15 Q. Crystal River, Florida?
- 16 A. (Siegfried) I believe it's on the next page.
- 17 Q. Oh. I'm sorry. Page 5, yes.
- 18 A. (Siegfried) That's a full service contract with 3,449
19 population.
- 20 Q. Demopolis, also on Page 5, Demopolis, Alabama?
- 21 A. (Siegfried) 8,800.
- 22 Q. Gladewater, Texas, on Page 6?
- 23 A. (Siegfried) 9,765.
- 24 Q. And, again, the three components, on Page 7, in

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 Hardinsburg, Kentucky?

2 A. (Siegfried) Again, a full service contract, with 10,000
3 customers.

4 Q. Page 7, on Hindman, Kentucky?

5 A. (Siegfried) Hindman is 1,625, the population.

6 Q. Again, on Page 7, we see the Indianapolis system is
7 among those listed, and how many customers -- excuse
8 me, not "how many customers", --

9 A. (Siegfried) Population.

10 Q. I believe it's "population served" on all these.

11 A. (Siegfried) 1.1 million.

12 Q. Okay. In Albertville, Minnesota, on Page 8?

13 A. (Siegfried) 17,000.

14 Q. Jupiter Island, Florida, Page 8 again?

15 A. (Siegfried) 7,992.

16 Q. Kansas City -- or, Kames City, Texas?

17 A. (Siegfried) 3,000.

18 Q. Kenedy, Texas, on Page 9?

19 A. (Siegfried) 3,487.

20 Q. Okay. Maple Shade, New Jersey?

21 CHAIRMAN GETZ: Mr. Richardson, are you
22 going to go through the whole list? Now, we're I think in
23 the neighborhood of cumulative.

24 MR. RICHARDSON: I'll summarize this

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 line of questioning.

2 BY MR. RICHARDSON:

3 Q. Could I ask the panel, is it your understanding that
4 Veolia serves a population of about 1.4 million with
5 systems that provide -- in which you provide treatment,
6 source of supply, and distribution?

7 A. (Ashcroft) Yes.

8 A. (Willans) Yes.

9 Q. And, the company's total population served in which you
10 provide only one or two elements of that is
11 approximately 2.4 million, I believe -- 2.2 million?

12 A. (Ashcroft) That is correct.

13 Q. Okay. So, are you -- what population does Pennichuck
14 serve?

15 A. (Ashcroft) I think it's about 100,000.

16 Q. Okay. So, this would be approximately, in terms of
17 number of population, either 22 times or 12 times,
18 based on whether you looked at all three components or
19 just, excuse me, or just part of a system?

20 A. (Ashcroft) Yes, that is correct.

21 Q. Now, are these systems -- obviously, they're not
22 hydraulically connected to each other?

23 A. (Ashcroft) No. They can't be, no.

24 Q. Okay. So, in effect, are they like satellites? How

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 would you characterize them?

2 A. (Ashcroft) They're not connected hydraulically, and you
3 could, yes, could characterize them as "satellites".

4 Q. So, do you see particular challenges and what
5 challenges do you see with respect to operating the
6 Pennichuck Water Works system, given that you already
7 operate satellite systems throughout the United States?

8 A. (Ashcroft) De minimus. Could I talk about experience
9 I've had outside the United States, in terms of --

10 MR. CAMERINO: Mr. Chairman, could we at
11 least have the witnesses have a question pending when they
12 offer up testimony?

13 BY MR. RICHARDSON:

14 Q. Mr. Ashcroft, could you talk about experience you've
15 had outside of the United States?

16 CHAIRMAN GETZ: Well, with respect to?

17 MR. RICHARDSON: Water systems --

18 CHAIRMAN GETZ: Could you narrow that
19 down to a subject matter?

20 MR. CAMERINO: Mr. Chairman, first of
21 all, we were not allowed to conduct discovery about Veolia
22 outside the United States. And, second of all, I didn't
23 ask any questions about Veolia outside the United States.

24 MR. RICHARDSON: I'll withdraw the

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 question.

2 CHAIRMAN GETZ: To the extent there was
3 one.

4 MR. RICHARDSON: Okay.

5 BY MR. RICHARDSON:

6 Q. So, how many years collectively do you have experience
7 operating these types of systems? Why don't we start
8 with you, Steve.

9 A. (Siegfried) I've operated water systems for 22 years,
10 satellite systems, systems, large systems.

11 Q. Mr. Ashcroft?

12 A. (Ashcroft) Nine years.

13 Q. (Noran) Thirty-five years.

14 A. (Willans) Twenty-five years.

15 Q. Mr. Noran, I believe some of the systems you've
16 operated actually relate to those we're looking at in
17 this case?

18 A. (Noran) Yes. Consumers New Hampshire Water Company
19 owned a core system, plus numerous satellite systems,
20 and ended up being part of those systems that were
21 acquired by Pennichuck.

22 Q. Now, there are, obviously, on cross-examination, an
23 issue was raised with respect to the fact that a lot of
24 these systems were contained in different operating

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 LLCs, such as Indianapolis, Veolia Water - West. Does
2 that present a challenge to you or how does that relate
3 to the systems that you operate? Can you focus only on
4 one LLC? Or, what resources does Veolia bring?

5 A. (Ashcroft) We are divided into four LLCs, which we
6 incorporate throughout the whole U.S. We have various
7 work groups who will deal with specific issues, and I
8 can call on resources from other parts of the U.S.
9 Indeed, Mr. Willans is from another LLC, she's from
10 Indianapolis.

11 Q. And, so, presumably, you'd be able to draw upon those
12 same resources in the operation of the Nashua
13 satellites?

14 A. (Ashcroft) Oh, absolutely, yes.

15 Q. And, what benefits does that bring to customers, either
16 in the core system or in some of the surrounding
17 community water systems?

18 A. (Ashcroft) Flexibility and expert knowledge.

19 A. (Noran) I guess, as a specific example, three of the
20 panel members here were involved in the transition of
21 the Indianapolis project, Alyson, myself, and Philip.
22 And, the three of us worked extensively for many months
23 transitioning that project. And, it was a very
24 successful transition.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 A. (Siegfried) Other significant resources Veolia brings
2 is training. I recently spent three weeks over in
3 England on underground infrastructure training, looking
4 at old pipes and testing old renovation of pipeline
5 systems. Technology that's not used in the U.S. And,
6 evaluation technology, which is very unusual on a U.S.
7 basis, but in Europe and the U.K. is very common, far
8 advanced to what we do.

9 Q. So, it's my understanding then that, while it may be
10 suggested that the system would be run from afar by
11 people in other places, say, for example, in France, in
12 fact, there are benefits to bringing Pennichuck Water
13 Works' customers [employees?], assuming you assume some
14 of those, to other places for additional training?

15 A. (Siegfried) Big advantage to that, and I will be the
16 project manager, and I will be located in southern New
17 Hampshire, in one of the surrounding communities or in
18 Nashua itself. So, it's not going to be managed from
19 afar. It's going to be managed from right here.

20 Q. Now, Mr. Ashcroft, you were asked about a scenario in
21 which no Pennichuck Water Works employees would be
22 willing or were instructed not to come aboard the
23 Veolia team. Do you see that scenario as likely to
24 occur?

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 A. (Ashcroft) I see it as unlikely, given the number of
2 employees in Pennichuck and the jobs available in New
3 Hampshire.

4 Q. And, why is that?

5 A. (Ashcroft) I'm sorry. Could you clarify that question?

6 Q. Why do you see that scenario as unlikely to play out?
7 I mean, what does working for Veolia offer a Pennichuck
8 Water Works employee?

9 A. (Ashcroft) Oh. We have wider scope, we have more
10 opportunities to advance. We have wider training, as
11 Steve has said. We expose people to technologies and
12 processes internationally. And, of course, employment
13 opportunities internationally.

14 Q. Now, let's assume for a second that that scenario takes
15 place. I'd like to have you look at a section of your
16 testimony that's in Exhibit 1005, on Page 2. When that
17 comes up, it will be the paragraph starting underneath
18 "What is VWNA?" And, just for the purposes of moving
19 things quickly, I'll represent to you that this
20 response says that you have 55,000 employees
21 internationally, 3,000 --

22 MR. CAMERINO: Mr. Chairman, again, this
23 is Nashua's attempt to simply restate their direct case or
24 add to it. If there's something very specific in the

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 cross-examination that was new or different, that's one
2 thing. But, if they just felt that Pennichuck responded
3 to things they had already said, I don't think they get to
4 restate their direct case on redirect, or we'll be here
5 for days.

6 MR. RICHARDSON: Well, a scenario was
7 raised by Mr. Camerino on cross-examination, in which he
8 indicated that, "if there were no Pennichuck Water Works
9 employees that went to Veolia, Veolia would be unable to
10 seamlessly operate the system." And, what I'd like to
11 show the Commission is that Veolia has the resources to,
12 even in that highly unlikely scenario, adequately operate
13 the system without a single -- single hiccup.

14 MR. CAMERINO: First of all, that was
15 not the scenario that I painted. And, second of all, I
16 remember, to my dismay, that when I tried to get
17 Mr. Ashcroft to respond to some of my questions, he went
18 on at great length about how Veolia would handle that
19 situation. That he wouldn't expect it to occur. Why he
20 couldn't expect it to -- wouldn't expect it to occur. I
21 don't think he now has to give that answer again.

22 CHAIRMAN GETZ: Well, my recollection is
23 that you did raise two pieces at issue. One was, "is
24 there a likelihood of a loss of all of the employees?"

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 Which I think it's fair for him to -- for Mr. Richardson
2 to inquire why he thinks that would not be the case, if
3 that is indeed what he thinks. Or, in the event, we have
4 the other side of that coin, is that, "if indeed that
5 event occurred, that all of the employees -- a good number
6 or all the employees left, how would they respond?"

7 MR. CAMERINO: Okay.

8 CHAIRMAN GETZ: I think that's, you
9 know, a fair inquiry for redirect. So, proceed,
10 Mr. Richardson.

11 BY MR. RICHARDSON:

12 Q. Well, in light of the response that's highlighted here,
13 Mr. Ashcroft, let me ask a follow-up question. What's
14 your understanding of how many Pennichuck Water Works
15 employees there are?

16 A. (Ashcroft) I think, associated with this system, about
17 40.

18 Q. Do any of --

19 A. (Ashcroft) In the whole corporation, there's about 100.

20 A. (Noran) If I might? I think that Mr. Ware's testimony
21 indicated that there were 67 FTEs related to PWW.

22 Q. And, how many of Pennichuck's overall employees are
23 administrative? In say, for example, accounting or
24 payroll or those types of functions?

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 A. (Siegfried) Approximately 65 are non-union -- or, 55
2 are non-union.

3 Q. Okay. So, in light of those numbers, do you have any
4 reason to believe that Veolia Water could not, from day
5 one, operate the system in full compliance with
6 regulations?

7 A. (Ashcroft) I'm absolutely confident we could discharge
8 that responsibility.

9 Q. What about the contractual commitments that you've
10 made, in the contract with Nashua and Veolia?

11 A. (Ashcroft) We've made those commitments, and we will
12 deliver on them.

13 Q. Okay. And, customer service, would that suffer?

14 A. (Ashcroft) No.

15 Q. There was a scenario involving strikes that were --
16 that were threatened, I believe, in one document. I've
17 forgotten the number of it. But you described, Mr.
18 Chairman, a ritual dance that you performed -- that
19 the, excuse me, the labor unions performed. Are you
20 aware, during your tenure with Veolia Water, there's
21 ever been a strike in a water or wastewater system?

22 A. (Ashcroft) No, I am not.

23 Q. Okay.

24 A. (Ashcroft) I've never heard of one.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 Q. And, has any system that Veolia operates, to your
2 knowledge, or any other members of the panel, failed to
3 meet its contractual, legal, or other requirements
4 based upon a labor stoppage?

5 A. (Ashcroft) No.

6 Q. What would happen if Veolia were to simply concede to
7 labor demands every time there was a press release
8 threatening a labor stoppage, a strike?

9 A. (Ashcroft) Well, our costs would go up very
10 considerably.

11 Q. And, if you were a regulated utility, what would happen
12 to those costs?

13 A. (Ashcroft) I believe, in the regulated model, it would
14 be passed onto the customers.

15 Q. Now, I'm going to change gears, and let's talk about
16 the Veolia contract for a little bit. You were asked
17 if the contract was binding or not, and there was a
18 Pennichuck Exhibit Number 3054, looking at Page 2,
19 Paragraph 1. And, you were asked whether the contract
20 was a draft. And, I'd like to ask you, in light of
21 that provision, Paragraph Number 1 please, could you
22 read that paragraph for me?

23 A. (Ashcroft) "Definitive agreements: The parties agree
24 to use good faith efforts to enter into definitive

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 agreements ("Definitive Agreements") containing terms
2 and conditions mutually agreeable to the Parties and
3 substantially similar to the terms and conditions set
4 forth in the Service Agreement within twelve weeks of a
5 final order (including all appeals) in the PUC
6 proceedings authorizing the taking by eminent domain of
7 the Managed Assets."

8 Q. Okay. So, in light of the memorandum of understanding
9 that you've just read in that particular provision,
10 what's your understanding of Veolia's obligation to
11 enter into a contract, similar to that that we've
12 proposed to the PUC?

13 A. (Ashcroft) Well, I think that's what this says here,
14 that we will -- we will do that.

15 Q. Now, another contractual issue, this is involving
16 Exhibit 1000B, on Page 55, subparagraph (b), there were
17 questions about whether Veolia would provide
18 reliability centered maintenance. Could a member of
19 the panel address what's referenced in that first
20 paragraph underneath the subparagraph (b)?

21 A. (Noran) As part of our base proposal, Veolia will
22 provide reliability centered maintenance.

23 Q. Well, could you explain, could you read for me that
24 paragraph that's contained there?

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

- 1 A. (Noran) "The objective of the maintenance portion of
2 the OM&M plan is to maintain the Managed Assets
3 operability, durability, and reliability throughout its
4 projected functional life. Consequently, the
5 maintenance plan shall describe how VVNA shall:"
- 6 Q. And, then, now, so is it -- my understanding correct
7 that certain elements of reliability centered
8 maintenance are essentially contained in these
9 commitments here?
- 10 A. (Noran) Yes, I just said that Veolia will provide
11 reliability centered maintenance as part of its base
12 fee in this contract.
- 13 Q. And, let me ask you about a particular -- well, how do
14 you achieve that? What are some of the tools that you
15 use?
- 16 A. (Noran) One of the major tools we use is a
17 comprehensive maintenance management system, commonly
18 called "CMMS". And, in this case, our intent is to
19 build on what Pennichuck is using. And, Pennichuck is
20 using Synergen to a limited extent. And, our intent
21 would be to utilize that software program, but
22 extensively expand the applications and take advantage
23 of the capabilities of that program.
- 24 Q. I think you've anticipated my next question a little

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 bit, which is, --

2 MR. RICHARDSON: Could we -- There's a
3 document I'd like the Commission to take administrative
4 notice of. And, that's the testimony of Jayson LaFlamme,
5 in DW 06-073. And, that's the PUC Staff audits of
6 Pennichuck Water Works. It's dated February 23rd, 2007.

7 BY MR. RICHARDSON:

8 Q. Is it possible to bring up Page 42 of that document?

9 So, Page 42, not as it's written, but 42 of the actual
10 electronic file.

11 CHAIRMAN GETZ: Mr. Richardson,
12 Mr. Camerino hasn't made an objection on this point, but
13 tell me why this is an appropriate area for redirect?

14 MR. RICHARDSON: There were questions
15 about reliability centered maintenance. And, so, I'm
16 basically trying to explain how Veolia will be providing
17 reliability centered maintenance, and basically using a
18 system that Pennichuck currently has, but effectively
19 doesn't implement.

20 MR. CAMERINO: I have to tell you, Mr.
21 Chairman, again, in terms of scope of redirect, they were
22 well aware of this RCM issue when they filed their
23 testimony. In fact, on direct, one of the members of the
24 panel, who is no longer here, testified that "reliability

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 centered maintenance was not part of the contract." If
2 that needed to be corrected, Mr. Ashcroft could have
3 corrected it right then and there. And, we're going to be
4 here a long time on recross with things that these
5 witnesses are saying that are inconsistent with the prior
6 testimony. So, I really am concerned about expanding into
7 things that could been dealt with in their filed
8 testimony.

9 CHAIRMAN GETZ: Well, there's --

10 MR. UPTON: I'm not aware that there is
11 recross in this procedure.

12 MR. CAMERINO: There certainly is when
13 counsel goes into new matters, and this is inconsistent
14 with the witness's prior testimony.

15 MR. UPTON: It's not inconsistent. It's
16 completely within the scope.

17 CHAIRMAN GETZ: Well, you both have
18 opinions on whether there will be recross or not. But
19 we'll decide whether there's recross. Mr. Richardson, --

20 MR. RICHARDSON: I only have one or two
21 questions related to this document. I'll be very brief.

22 CHAIRMAN GETZ: With respect to the --

23 MR. RICHARDSON: With respect to the
24 Staff audit by Mr. LaFlamme.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 CHAIRMAN GETZ: Okay. Well, let's hear
2 the question.

3 MR. RICHARDSON: Okay.

4 BY MR. RICHARDSON:

5 Q. Could you -- Mr. Noran, you explained a little bit your
6 understanding about Pennichuck's use of Synergen.
7 Could you read to me the paragraph, second paragraph
8 under the "issue" section, describing Pennichuck's use
9 of that system currently?

10 A. (Noran) The work order summarizes" -- "summaries are
11 part of the Synergen system. But, as in the prior
12 audit, do not reflect the information in a manner that
13 is useful. For example, the Synergen work order
14 summaries "quantity" column is not used for actual
15 quantity of the listed description for any line, except
16 labor hours. The column "unit cost" reflects one
17 dollar for all items, except labor hours, which reflect
18 zero dollars. The transaction date does not appear to
19 be used."

20 Q. Now. It's my understanding, in fact, it's referenced
21 further down on this page, that Pennichuck has spent
22 \$600,000 on this system. And, it states here that "the
23 system does not appear to be used and useful to the
24 extent reported or anticipated." Could you tell me how

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 Veolia uses this system to provide reliability centered
2 maintenance? And, how it will do that under the Nashua
3 contract?

4 A. (Noran) We will use the Synergen as a tool to develop
5 our maintenance plan. We will utilize Synergen to
6 execute our maintenance plan. And, we'll use Synergen
7 to help us analyze the maintenance that has been
8 performed, as well as the cost associated with that
9 maintenance.

10 Q. Now, obviously, Pennichuck's doing the best that it can
11 with the limited resources that it has. But, if this
12 were a Veolia operation, and the system was, after
13 spending \$600,000, the system wasn't used and useful,
14 what would happen within the Company?

15 A. (Ashcroft) There would be a major inquiry into why the
16 money had been spent and not utilized.

17 Q. Now, would you consider this type of situation
18 consistent with your commitment to provide maintenance
19 that we saw earlier in the contract under that
20 subparagraph (b)?

21 A. (Ashcroft) Could you rephrase it? I don't understand
22 what you mean by the question.

23 Q. Well, we all know that commitments can be made in a
24 contract. If this scenario were to play itself out

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 under the Nashua contract, would you consider yourself
2 in compliance?

3 A. (Ashcroft) Oh, obviously not. And, I'm sure R.W. Beck
4 RFP would be all over that, the oversight contractor.

5 Q. Now, what impact can failure to implement CMMS have on
6 maintenance? There was testimony that a lot of your
7 maintenance that you performed will be -- I believe the
8 phrase was "all extra" that Mr. Camerino used.

9 MR. CAMERINO: Mr. Chairman, first of
10 all, he's characterizing incorrectly again what the
11 question and the response were. But he's also just --
12 this is just expansive redirect on anything that he feels
13 like talking about. Obviously, I asked these witnesses
14 many things about OM&M, about RRRM, about the different
15 elements in the contract. But I think the question should
16 be limited to very specific points, not to the fact that I
17 was inquiring about the contract or the services
18 generally. Once you start down that road, everything is
19 fair game.

20 MR. RICHARDSON: Well, Mr. Chairman,
21 I'll withdraw the question and rephrase it, in terms of
22 this exhibit that the witnesses were asked about. It's
23 really my intent to walk through the fundamental issue of
24 those items have been described as "extras" that Nashua

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 would have to pay for. And, I'd like to ask the witness
2 about how they intend to use Synergen to manage costs and
3 keep those "extras", as they were, within a reasonable
4 amount, and in a way that Pennichuck is unable to.

5 MR. CAMERINO: And, frankly, I didn't
6 even know what Synergen was until we started down this
7 line. I never asked any questions about it. And, the
8 extras come right out of the contract. So, --

9 MR. RICHARDSON: And, apparently, no one
10 at Pennichuck knows what Synergen is --

11 MR. CAMERINO: That is -- There has been
12 no testimony on that point, and that is not a fair
13 statement.

14 CHAIRMAN GETZ: Well, I think what -- of
15 course, the issue here is that the redirect shouldn't be
16 an opportunity to rehabilitate a witness with respect to
17 any issue that had been raised in cross-examination. So,
18 it should be certainly a more focussed or more directed
19 examination. And, it should be limited to areas
20 specifically addressed. And, I think you've done that
21 with the wastewater versus the drinking water issue and
22 the issue about, you know, the likelihood of loss of
23 employees or how Veolia would deal with that. But I think
24 we need to be more focussed on what a particular issue is,

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 rather than to, just in general, notions of "how would
2 you, you know, manage a maintenance process?"

3 MR. RICHARDSON: Okay. I'll move on.

4 CHAIRMAN GETZ: And, let me point this
5 out as well, and get back to the practice and the rule
6 that we apply. And, the general rule of a party that
7 opens a segment of a proceeding gets to close it, there
8 will be the same opportunities on the normal practice
9 that, for anyone who's putting on a witness, the
10 expectation is that there will be direct, cross, and
11 redirect. Anything past redirect is going to be up to the
12 discretion of the Bench. But, once, if there are areas
13 where we decide that you're into recross, well, then we're
14 going to -- there's going to be another opportunity, for
15 whoever put that witness on, to have the last shot at it.
16 And, that's going to apply to every witness that comes
17 forward in this case and to every lawyer who's sponsoring
18 that witness.

19 MR. CAMERINO: I understand that, Mr.
20 Chairman. But, just in terms of how much I object to
21 Mr. Richardson's questioning, I need to be clear. There
22 are already some areas, I could be specific right now,
23 that he has gone into that are new or where there is
24 inconsistent testimony. And, if there is not going to be

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 a right to question witnesses about those things, then I
2 need to cut the questions off. I'll give you an example,
3 and I don't mind tipping my hand. Mr. Noran has now
4 talked about his experience managing satellite systems.
5 There are some significant stories behind those satellite
6 systems, and I think the Commission should hear what
7 happened with those satellite systems under Consumers'
8 ownership. That was not discussed on direct or
9 cross-examination. That is extremely important
10 information. So, and there are other topics like that
11 that I think the Commission needs to know about. If
12 Mr. Richardson wants to remake his case here or do it over
13 again, I think there needs to be a right to address some
14 those. And, I don't mind identifying all those issues
15 before our people ask the questions.

16 MR. RICHARDSON: Well, Mr. Chairman,
17 these were issues that were opened up because of specific
18 questions about reliability centered maintenance, about
19 how Pennichuck -- excuse me, about how Veolia performs its
20 maintenance. And, probably the greatest single allegation
21 in this case is that, you know, these extra costs on the
22 right side are extras. And, I believe that, once the door
23 is open there, I'm entitled to ask how Veolia will manage
24 those. So that the issue that Mr. Camerino has raised,

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1 the Commission will have a sense of how that scenario will
2 play itself out.

3 CHAIRMAN GETZ: Well, let me tell you,
4 this is how we're going to proceed. Is we're going to
5 have to deal with this, I guess, on issue by issue,
6 whether we allow the redirect in the first instance. With
7 respect to recross, that's not going to happen today. So,
8 what we will have to do at some later date, and I guess
9 I'm going to have to consider whether that will be orally
10 or in writing, is entertain arguments on why you should
11 have an opportunity for recross and as to what subjects.

12 MR. CAMERINO: Very good. And, I
13 understand that, Mr. Chairman. I just want to note, I
14 want to refer you to an order you've issued in this case.

15 CHAIRMAN GETZ: Uh-huh.

16 MR. CAMERINO: And, I'm going to start
17 by saying, this referred to rebuttal, and it's not clear
18 to me whether you meant "rebuttal" or "redirect" when you
19 wrote this. But I think the concept is the same. In
20 Order Number 24,667 you said "At hearing, parties can
21 expect us to require Nashua to take advantage of its role
22 defined by PUC 203.06 and 203.26 to make its case in chief
23 via direct testimony. Confining rebuttal testimony to
24 issues raised by opposing parties, including Commission

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 staff as appropriate, that Nashua could not reasonably
2 have been expected to anticipate. The Commission will not
3 countenance a party's intent to present its entire case
4 via rebuttal."

5 And, I think the refrain you've heard
6 from before the first filing of testimony by Nashua, in
7 the very first prehearing conference in this case was the
8 Company's concern that Nashua was continually expanding,
9 changing, updating its case. And, that continues to
10 happen here. And, the issues that we raised on
11 cross-examination were all anticipable. There was nothing
12 new. And, for Nashua to come back on redirect and just
13 try to restate its position, I think is not appropriate.

14 MR. UPTON: What Mr. Camerino is
15 attempting to do right now is to open the door on his
16 cross-examination to whatever areas he chooses to open the
17 door to, and then prevent us from going back and having
18 the witnesses explain what their answers are and explain
19 our side of those answers. That's inappropriate. That's
20 what the purpose of redirect is.

21 CHAIRMAN GETZ: Well, I'm not sure about
22 that issue. But I do think, Mr. Camerino, is the
23 difference between rebuttal testimony and redirect
24 examination. What we're doing here is with redirect, and

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 I believe what's the proper scope of redirect. And, I
2 certainly don't look at this as rebuttal testimony. But
3 --

4 MR. RICHARDSON: I think I've agreed to
5 move on to the last question. And, just for the
6 Commission's benefit, I'm on Page 8 of 9 and a half. So,
7 I don't have much further to go.

8 BY MR. RICHARDSON:

9 Q. I'd like to ask the panel, you were asked questions the
10 day before yesterday about the costs for RR -- RRRM,
11 maintenance and capital projects. And, I believe the
12 transcript reflects that those were referred to as "all
13 extras", those items that are shown on the right side
14 of the board.

15 Now, in a regulated utility environment,
16 what happens to those extras? Mr. Noran, do you have
17 any experience in that area?

18 A. (Noran) Yes. Our RRRM projects were either all within
19 the OM&M or within capital. And, whether it's O&M or
20 capital, those costs are ultimately borne by the
21 ratepayers.

22 Q. And, those, if those projects are capital, that would
23 include a profit as well, I believe that was an issue
24 that was asked with respect to Veolia?

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

- 1 A. (Noran) Yes. Any costs associated with a capital
2 project would be incorporated into capital project
3 costs, including engineering costs. And, that would be
4 -- that total project cost would be supported by the
5 ratepayers.
- 6 Q. Now, how will Veolia, as a company, prevent those extra
7 costs on the right side, the supplemental, and, in
8 particular, the capital projects, I guess, from
9 becoming out of control from exceeding budget
10 expectations and that sort of thing?
- 11 A. (Noran) Our plan is to develop a detailed RRRM plan and
12 a capital plan by projects and scope. And, if those
13 projects are approved, for a certain estimated cost,
14 our intent is to deliver those projects within that
15 budget.
- 16 Q. And, with respect to capital budgets, do you structure
17 your capital projects as open-ended, as fixed price?
18 How does Veolia manage that as a company?
- 19 A. (Ashcroft) We quote a price and we deliver on that
20 price.
- 21 Q. I'd like to turn your attention to a document that was
22 also in the 06-073 rate case, and that involves --
23 well, you're familiar with the treatment plant from
24 reviewing that document? This was Don Ware's

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1 testimony.

2 A. (Noran) Yes.

3 Q. And, it's my understanding that Mr. Ware has testified
4 that the project was --

5 MR. CAMERINO: Objection again. There's
6 nothing about the water treatment plant in the
7 cross-examination. There was nothing about anything that
8 Mr. Ware said.

9 MR. RICHARDSON: I'm not asking really
10 about the water treatment plant as a treatment plant, just
11 as a capital project, and to compare Veolia's management
12 of the extra costs to how a regulated utility might treat
13 those costs, and the impact that that has on ratepayers.

14 MR. CAMERINO: No, he's trying to get an
15 exhibit in that he didn't put in on direct examination.
16 He's about to ask about something from another case.

17 MR. RICHARDSON: Well, Mr. Camerino has
18 already asked the Commission to take administrative notice
19 of documents from other proceedings in the Commission.

20 MR. UPTON: We don't care about having
21 this exhibit marked. We just want to show it to the
22 witness.

23 MR. CAMERINO: He's trying to add
24 information that he could have put in on direct.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 MR. RICHARDSON: When Mr. Camerino
2 decided to walk down the road of claiming that Veolia was
3 going to charge Nashua customers and the customers of this
4 system, whether they're in Nashua or other communities,
5 for capital projects and RRRM RFP projects, that merely
6 opens up the door to whether those -- whether customers
7 are currently paying for those projects. And, I believe
8 that they are. And, I believe that we're entitled to show
9 that, you know, that Veolia has a system for managing
10 capital costs that will ensure those costs are reasonable
11 that customers currently don't have.

12 CHAIRMAN GETZ: So, this is how I
13 understand it, is that these -- well, let's get back to
14 you, Mr. Camerino. Your issue with respect to these extra
15 costs is that Mr. Richardson cannot further inquire with
16 respect to the way Veolia would manage those costs, is
17 that --

18 MR. CAMERINO: It is the expansive
19 nature of the questions that he's asking. All right? So,
20 let me just give a very sort of simple example. The
21 contract was in evidence. The contract talks about the
22 capital projects will be extra. They had an opportunity
23 on direct to discuss how those would be handled. It's not
24 surprising that, on cross-examination, I would say "the

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1 contract has capital projects in it as a separate item.
2 These are extra, aren't they? And, you will charge a
3 profit on that, won't you?" "Yes". To have him now come
4 back and take the whole subject over again, even though it
5 was obvious that that needed explanation, number one, I
6 think is wrong because it's just opening the door to a lot
7 more testimony on the subject. But, second of all, he
8 wants to take a very specific Pennichuck project now and
9 start asking about that, which, frankly, I'm sure we have
10 a response to. I'd like to get Mr. Ware on the stand and
11 have him talk about his response to what Mr. Richardson is
12 about to say. I think that's creating a whole case within
13 a case. That's why we prefile stuff.

14 CHAIRMAN GETZ: I think we're getting a
15 little far afield with the introduction of these documents
16 from Mr. Ware in this other case, Mr. Richardson.

17 MR. RICHARDSON: Can I respond to one
18 thing that Mr. Camerino said? And, that is that it's not
19 just that the costs are extras. I believe Mr. -- the
20 point of Mr. Camerino's cross-examination is that they're
21 essentially unknown. Well, I'd like to show the
22 Commission that, when Pennichuck Water Works enters into a
23 project, the costs aren't known as well. I mean,
24 certainly, they're estimated. But, at the end of the day,

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 they might be 53 percent higher within a two year period
2 than they were originally projected to be. And, that
3 Veolia does it through its approach to project management,
4 maintains the cost of how it basically gives customers
5 known amounts for capital projects.

6 CHAIRMAN GETZ: And, now having made
7 that argument, do you need further inquiry of the
8 witnesses?

9 MR. RICHARDSON: Well, I'd like the
10 Commission -- I'll make an offer of proof that, on Page 11
11 of Mr. Ware's testimony, he states that "the capital
12 projects is going up \$14 million in two years." And, I'd
13 like --

14 CHAIRMAN GETZ: Well, I think you're
15 going to have a chance to cross Mr. Ware on those issues.

16 MR. CAMERINO: Thank you.

17 CHAIRMAN GETZ: So, let's move on to
18 your next topic of redirect.

19 MR. RICHARDSON: Could I ask a follow-up
20 question, not with respect to this particular -- on this
21 subject, but without reference to any exhibits from the
22 other proceeding?

23 CHAIRMAN GETZ: Well, let's hear what it
24 is.

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 MR. RICHARDSON: Okay. I'll be brief.

2 BY MR. RICHARDSON:

3 Q. Mr. Ashcroft, if Veolia came in with a capital project,
4 and it was 53 percent higher than it had been proposed
5 to the client before construction started, would you
6 consider that a successful project and would you pass
7 that cost onto the customer?

8 A. (Ashcroft) Certainly, it's not acceptable. When we bid
9 for some design/build/operate contracts, which is our
10 general modus operandi, we bid a price and we deliver
11 on that price. If the costs go up, we have to absorb
12 it. And, as for coming in at 53 percent over budget,
13 we just wouldn't accept that. And, clearly, there
14 would be some redirection of someone's career.

15 Q. Just a couple of clean-up issues on services that were
16 included in the annual fee. I'll run through these
17 quickly in the interest of time. Is it true that, on
18 Page 11 of Exhibit 1005B, Section 6.3, states that
19 "RRRM services", the budgeting process, is "included in
20 the annual fee"?

21 A. (Noran) Yes.

22 Q. And, on capital projects, on Pages 15 to 16, Section A,
23 the capital planning process and the preparation of a
24 five year capital plan is included in the capital -- in

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 the annual fee?

2 A. (Noran) Yes.

3 Q. And, there was a question raised as to "whether
4 computers were extra?" And, I believe on Page 95,
5 towards the bottom, it discusses that five computers
6 per year are provided as part of the annual fee?

7 A. (Noran) Yes.

8 Q. And, the contract, I believe on Page 58, requires that
9 Veolia perform reports to regulatory agencies as part
10 of the annual fee?

11 A. (Noran) Yes.

12 A. (Willans) Yes.

13 A. (Ashcroft) Yes.

14 Q. And, finally, with respect to prior approval required
15 for maintenance projects over \$10,000, I believe
16 approval is required?

17 A. (Noran) Yes.

18 Q. And, also, this was not touched on, but it was clearly
19 germane to the question about prior authorization,
20 authorizations required if you exceed the RRRM RFP
21 budgets that's prepared and agreed upon by the City of
22 Nashua, is that right?

23 A. (Noran) Yes.

24 Q. Finally, my last line of questioning relates to project

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[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 -- excuse me, the questions that Mr. Camerino indicated
2 he wanted to ask you about, the testimony of Donald
3 Ware, and there were references to documents, such as
4 -- well, there were allegations, I believe, in
5 Bridgeport, Connecticut. Could you respond to those
6 allegations?

7 A. (Ashcroft) Well, I think I touched on this earlier in
8 the week. But Mr. Ware's testimony alluding to some
9 wrongdoing by Veolia employees associated with, in
10 fact, the mayor of Bridgeport, who I think was
11 subsequently sent to jail. There was no involvement
12 directly, there was no accusations ever made against
13 Veolia employees. And, they were, in fact, commended
14 for their cooperation with both the FBI and the
15 District Attorney, who took the unusual step of writing
16 a letter of commendation for cooperation from Veolia
17 employees above and beyond that he had ever seen
18 before.

19 Q. And, --

20 CHAIRMAN GETZ: Mr. Richardson, --

21 MR. RICHARDSON: I have about two more
22 questions.

23 CHAIRMAN GETZ: Yes, but if this is -- I
24 thought this was covered very broadly, and we have

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1 documents in this regard. Do you have a specific question
2 about this Bridgeport issue? Is that where you --

3 MR. RICHARDSON: No. No, my intent is
4 to have the witness explain the basis for his disagreement
5 with the characterization and the accusations that are
6 made in the newspaper articles. You see a lot of
7 complaints where only the complaint is included, not
8 Veolia's answer, nor the final judgment. And, to simply
9 -- I mean, this is a very important issue to this company.
10 And, so, I feel it's important that they have the
11 opportunity to tell the Commission that they disagree with
12 the documents that Mr. Camerino indicated that he was
13 going to not ask questions, but just make reference to
14 them, so he can presumably talk about them in his brief.
15 Well, if they're going to go in as exhibits, these
16 witnesses are entitled to tell their side of the story.
17 And, I'm not going to touch on more than one or two more
18 of them.

19 CHAIRMAN GETZ: It really seems like
20 we've covered this issue. He's had a chance to respond.
21 And, if there are other documents that aren't --

22 MR. RICHARDSON: Okay.

23 CHAIRMAN GETZ: -- I assume there's
24 plenty of court documents about this issue and plenty of

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 answers by the Company, that -- and that certainly you can
2 put those in your brief as well.

3 MR. RICHARDSON: Okay.

4 CHAIRMAN GETZ: I mean, if there is some
5 particular statement hanging out there that is, you know,
6 that is putting the Company -- that's false or misleading
7 and needs to be corrected, then I'll give you that
8 opportunity.

9 MR. RICHARDSON: And, we've done quite a
10 bit of that in our testimony, so I'll move on and ask a
11 final question.

12 BY MR. RICHARDSON:

13 Q. Mr. Ashcroft, is there something that you believe is a
14 better reflection of your company's performance record
15 than these allegations? Is there a better measure to
16 evaluate your Company's performance by?

17 A. (Ashcroft) Yes. Certainly, by the number of awards
18 we've received across North America on various
19 projects, from environmental agencies and OSHA, for
20 example.

21 Q. And, in preparing to testify, did you look at some of
22 those awards? Can you give some examples?

23 A. (Ashcroft) Yes, I can. Atlanta-Fulton County, Georgia,
24 an Award of Excellence from the Georgia Department

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 Labor. And, also, Atlanta-Fulton County OSHA, Georgia
2 Water, from Pollution Control Association. There are
3 many others. Indianapolis Water, U.S. Conference of
4 Mayors, Mayors Celebration of Diversity Award. It goes
5 on for four, five or six awards there, I think.
6 Wilmington, Delaware, which is actually part of the
7 Northeast, U.S. Environmental Protection Agency Region
8 3 Award. And, Atlanta-Fulton County again. Cranston,
9 Rhode Island, an award for Narragansett Water from
10 Pollution Control Association.

11 Q. Thank you. Mr. Ashcroft, if I can just interrupt you,
12 because it's not my intention to walk you through all
13 of them. But how many awards do you think are on your
14 list? How long is the list?

15 A. (Ashcroft) The list I've got is 28 pages. So, there's
16 a lot of it.

17 MR. RICHARDSON: Thank you.

18 CHAIRMAN GETZ: Okay. Mr. Camerino, I
19 expect you would like some opportunity to argue for
20 recross?

21 MR. CAMERINO: Well, here's where we
22 stand. I conferred with Mr. Upton, this is to prove that
23 I may be slow, but not stupid, we would like to reserve
24 the right to do recross, but we agree that that, needless

[Witness panel: Ashcroft|Noran|Willans|Siegfried]

1 to say, would not be today. And, we'll confer later to
2 see how the parties feel about that, if we could do that
3 and just leave that as an open issue for today, and we'd
4 get back to the Commission with our respective positions
5 on it, and whether it's necessary. If that's acceptable?

6 CHAIRMAN GETZ: Well, that's acceptable.
7 There's a slight characterization I wouldn't agree with,
8 on whether you can "reserve your right to recross".

9 MR. CAMERINO: No, no. I didn't mean it
10 that way. To make our argument to the Commission as to
11 why that should occur. I apologize.

12 CHAIRMAN GETZ: Okay. That's fine.

13 MR. UPTON: If Mr. Camerino wants to
14 make an argument why he's entitled to recross, we'll be
15 happy to respond. But we agree it shouldn't happen today.

16 CHAIRMAN GETZ: All right. Then, is
17 there anything else this afternoon?

18 (No verbal response)

19 CHAIRMAN GETZ: It's been a long week.
20 I thank you for your attention. And, we will excuse the
21 panel, pending the possibility that they may be recalled
22 for recross-examination by the Company.

23 So, we will recess until Monday morning,
24 at 9:00, is that correct?

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CMSR. MORRISON: Yes.

CHAIRMAN GETZ: Thank you.

(Whereupon the hearing was adjourned at
5:18 p.m. and the hearing to reconvene
on September 10, 2007, commencing at
9:00 a.m.)

