

STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

RE: PENNICHUCK WATER WORKS, INC.  
DOCKET NO. DW 10-091

**ASSENTED TO MOTION TO STAY CONSIDERATION OF RECOVERY OF PWW'S  
EMINENT DOMAIN DEFENSE COSTS**

The New Hampshire Office of the Consumer Advocate (“OCA”), with the assent of the Staff of the New Hampshire Public Utilities Commission (“Commission”), Anheuser-Busch (“A-B”) and Pennichuck Water Works, Inc. (“PWW” or the “Company”), hereby moves the Commission to stay the consideration of PWW’s request for recovery of its eminent domain defense costs associated with DW 04-048 (the “Eminent Domain Defense Costs”) until the conclusion of the docket involving the acquisition of Pennichuck Corporation by the City of Nashua, docketed as DW 11-026. In support of this Motion, OCA states as follows:

1. On October 5, 2010, the OCA filed a Motion to Limit Scope of Proceedings in which it requested that the Commission defer consideration of recovery of the Eminent Domain Defense Costs in this docket. By Secretarial letter dated October 28, 2010, the Commission ruled that the OCA’s Motion was not ripe for determination and stated that the Commission would reconsider OCA’s request if the circumstances changed in DW 04-048.

2. Since the Secretarial Letter was issued, the Staff has audited the Eminent Domain Defense Costs, and there has been discovery on them as part of PWW’s rate request in this docket. However, neither the Staff nor any of the parties have filed testimony on PWW’s proposed recovery of eminent domain costs. Such testimony would be due on March 31, 2011 based on the existing procedural schedule in this docket.

3. On February 24, 2011 the Commission convened a prehearing conference in DW 11-026, a new docket opened by the Commission to consider the proposed Merger Agreement between the City of Nashua and Pennichuck Corporation (“Pennichuck”) involving Nashua’s proposed acquisition of the stock of Pennichuck, thereby giving Nashua indirect control of PWW, Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company, Inc.

4. The OCA now moves the Commission to stay consideration of PWW’s request to recover its Eminent Domain Defense Costs until the conclusion of DW 11-026, given that PWW has publicly stated that it will not seek recovery of those costs if the City closes on the proposed transaction and acquires the stock of Pennichuck. Specifically, OCA proposes that consideration of PWW’s requested recovery of its Eminent Domain Defense Costs be stayed until the termination of the Merger Agreement between the City of Nashua and Pennichuck pursuant to Section 8.02 of that Agreement. In the event that the Merger Agreement is terminated, the Commission would issue a new procedural schedule providing for testimony and a hearing on the Eminent Domain Defense Costs that have been already been presented in this docket.

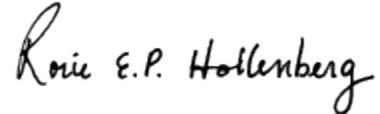
5. The relief requested is consistent with the Commission’s Order in DW 04-056, in which the Commission authorized PWW to create a deferred account to track the costs of its eminent domain defense. *See Re Pennichuck Water Works, Inc.*, 90 NH PUC 188 (2005).

6. The Staff, A-B and PWW assent to this Motion.

WHEREFORE, OCA respectfully requests that the Commission:

- A. Grant this Motion to Stay Consideration of Recovery of PWW's Eminent Domain Defense Costs; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

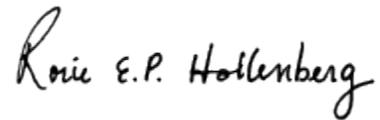


---

Rorie E.P. Hollenberg  
Staff Attorney  
Office of Consumer Advocate  
21 S. Fruit St., Ste. 18  
Concord, N.H. 03301  
(603) 271-1172  
rorie.e.p.hollenberg@oca.nh.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was forwarded this 17th day of March 2011 to the service list by electronic mail.



---

Rorie E.P. Hollenberg