

BEFORE THE STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

ORIGINAL	
N.H.P.U.C. Case No.	<i>DW 10-091</i>
Exhibit No.	<i>#10</i>
Witness	<i>Panel 2</i>
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In the matter of:
Pennichuck Water Works, Inc.
DW 10-091
Notice of Intent to File Rate Schedules

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Direct Prefiled Testimony

Of

Stephen R. Eckberg
Utility Analyst

On behalf of
the Office of the Consumer Advocate

Dated: March 31, 2011

INTRODUCTION

1 **Q. Please state your name, business address and position.**

2 A. My name is Stephen R. Eckberg. I am employed by the Office of the Consumer
3 Advocate (OCA) as a Utility Analyst. I include as Attachment SRE-1 to my testimony a
4 statement of my education and experience.

5

6 **Q. Have you previously testified before the Commission?**

7 A. Yes, I have testified on behalf of the OCA in a number of dockets. A listing of those
8 dockets and testimonies is included in Attachment SRE-1.

9

10

SUMMARY

11 **Q. Please describe the purpose of your testimony.**

12 A. The purpose of my testimony is to provide the OCA's position on the Company's proposed
13 Revenue Requirement, the Company's calculation of its Cash Working Capital requirement, and
14 its proposal for a Water Infrastructure and Conservation Adjustment (WICA).

15

16 **Q. Please summarize the OCA's positions on the Company's proposed Revenue Requirement,
17 its calculation of Cash Working Capital and the proposed WICA.**

18 A. The OCA recommends that the Revenue Requirement include an amortized portion of 100% of
19 the proceeds realized from the sale of certain cell tower leases, which proceeds would not have
20 been realized but for the existence and support of the ratepayers of certain property in rate base.
21 The OCA supports the Company's methodology used in calculating its Cash Working Capital and
22 recommends that the Company's use of a CWC rate of 12.33% representing CWC corresponding
23 to the Company's monthly billing practice be accepted. The OCA does not support the
24 Company's request for a WICA rate mechanism.

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REVENUE REQUIREMENT

Q. Please provide a summary of the OCA’s concerns regarding the Company’s proposed Revenue Requirement.

A. The OCA’s concerns regarding the Company’s proposed revenue requirement include: the Company’s exclusion of revenue derived from the sale of cell tower leases; and, the Company’s inclusion of: commuting and personal use of company vehicles; annual rent increases for the Company’s headquarters in Merrimack; and expenses for activities such as Company picnics and holiday events

REVENUE REQUIREMENT – CELL TOWER LEASE SALE PROCEEDS

Q. Please discuss the first issue concerning the Company’s proposed Revenue Requirement, that it does not include any revenue from the Company’s sale of cell tower leases.

A. On June 15, 2007, the Company sold seven cell tower leases related to cell towers that were located on Company property to Wireless Capital Partners, LLC¹ (WCP). *See* OCA 1-30 and Attachment OCA 1-30 (purchase and sale agreements) included as Attachment SRE-2 (Attachment OCA 1-30 provided in electronic form only due to its voluminous nature). WCP paid \$1,108,080 to purchase the leases, which include the right to receive annual compensation from the lessees through the initial termination of the leases as well as through any subsequent lease expirations following automatic renewal of the leases. *See, e.g.,* Attachment OCA 1-30, p. 11, paragraphs 4 and 5. Of this amount, the Company paid 8%, or approximately \$89,000, in “commission” to an unregulated affiliate, the Southwood Corporation, and also deducted from the gross proceeds approximately \$404,000 in “Income Taxes.” Attachment Staff 3-6 included as Attachment SRE-3; *see also* Direct Testimony of Bonalyn J. Hartley, p. 13, lines 12-17. None of

¹ See <http://wirelesscapital.com/>

1 the lease sale proceeds were included in the calculation of the Company's proposed revenue
2 requirement. See Direct Testimony of Bonalyn J. Hartley, p. 13, lines 1-3.

3

4 **Q. When and where did the Company lease property for these cell tower leases?**

5 A. The cell tower leases originated on various dates between May 31, 1966 and May 25,
6 2005. Attachment OCA 1-14 (a) (lease date) included as Attachment SRE-4. The cell
7 towers are located on the Company's Bon Terrain water tank, the Company's Columbia
8 Avenue land, and the Company's Orchard Avenue land. Attachment SRE-4.

9

10 **Q. Before the sale, did the Company receive any financial compensation as a result of**
11 **the cell tower leases?**

12 Yes. Prior to the sale of the leases, the Company received annual revenues from the leases.
13 Between 1966 through 2007, the Company received approximately \$835,000. Attachment OCA
14 1-33 included as Attachment SRE-5. For example, in 2006, the last full year of the leases, the
15 Company collected \$135,379 from these leases. Id. From the annual revenues related to the Bon
16 Terrain water tank leases, the Company deducted and paid to TANA Properties, LLC (TANA),
17 the owner of the land upon which the Company's water tank is located via an easement, between
18 25% and 50%. OCA 1-16 included as Attachment SRE-6; Attachment SRE-5; and OCA 3-7
19 included as Attachment SRE-7.

20

21 In discovery, the Company stated that it "began recording the shared cell tower lease revenues in
22 2002...[and that] shared cell tower lease revenues were first reflected in customer rates as a result
23 of a settlement agreement approved by Order 24,265 in DW 04-056." OCA 5-1 included as
24 Attachment SRE-8. The Company refers as a basis for the revenue sharing with customers "a
25 global settlement in a prior rate proceeding." Direct Testimony of Bonalyn J. Hartley, p. 14, line
26 19. Testimony in the Company's 2001 and 2004 rate cases, DW 01-081 and DW 04-046,
27 discussed the issue of cell tower lease revenues. The lease revenues shared with the customers

1 were approximately 50% of the net annual revenues, *see* Direct Testimony of Bonalyn J. Hartley,
2 p. 14, line 16, after deducting the Company's payments to TANA. Attachment SRE-5.

3

4 **Q. During the time that the Company leased its property and plant for cell towers, did the**
5 **Company's customers pay the costs associated with these locations?**

6 A. Yes. There is no dispute that, during this time, the land and plant upon which the cell towers are
7 located, as well as the expenses associated with this rate base and a return on this rate base, have
8 been included for the purpose of setting rates. OCA 1-20, OCA 1-21, OCA 1-22, OCA 1-26,
9 included as Attachments SRE-9 through SRE-12, respectively.

10

11 **Q. Are the costs associated with these cell tower locations included within the Company's**
12 **proposed revenue requirement in this proceeding?**

13 A. Yes. The Company's original filing included the costs associated with the cell tower property in
14 the calculation of its rate base, including a return, and expenses. OCA 1-18, OCA 1-19, and OCA
15 1-23, included as Attachments SRE-13 through SRE-15, respectively; and Attachment SRE-5. In
16 discovery, however, the Company now contends that the Columbia Avenue property should be
17 removed from rate base because the land has not been used for utility service since 2005. *See*
18 OCA 1-15 (g) included as Attachment SRE-16.

19

20 **Q. What do you conclude from the fact that the Company consistently treated the property**
21 **and plant upon which the cell towers are located as utility property supported by**
22 **customers' rates?**

23 A. I conclude that the revenues received from the sale of the leases of utility property should benefit
24 the Company's customers. This conclusion is consistent with the Commission's order in PWW's
25 last rate case. *See* Re Pennichuck Water Works, Inc., Order 25,006 (August 13, 2009), slip op.,
26 p. 10 ("The benefit that flows from the cell tower leases derives from utility property used and
27 useful in the provision of service to PWW's ratepayers.").

1

2 **Q. Please explain your conclusion further.**

3 A. Fundamentally, but for the customers' need for and financial support of this land and plant (*i.e.*,
4 utility rate base) the Company's opportunities to install cell towers, to lease utility property, and
5 to eventually sell the leases and realize approximately \$1.1 million in revenues, would not have
6 existed. These financial opportunities and their value exist solely because of the provision of
7 service to the Company's customers. Having consistently treated the land and plant supporting
8 the leases as utility property (even in this proceeding), having recovered the costs associated with
9 this utility property through rates, the Company should now be required to treat the lease sales
10 revenues that have been realized from this utility property as utility revenue.

11

12 The Company would like the Commission to consider in determining how much of the lease sales
13 revenues to allocate to customers the actual value or depreciation status of the land or the water
14 tank, or the level of expenses (or lack thereof) associated with the utility land and plant that
15 enabled the leases to exist. The leases, however, represent a type of asset distinct from these
16 tangible, capital assets included in rate base. And, it is the value of the leases that should be
17 considered and upon which the allocation of benefits should be based. This value is reflected in
18 the \$1.1 million paid by WCP to Pennichuck, a negotiated and presumably market-based value.

19

20 **Q. Please summarize your recommendation to the Commission on the issue of the cell tower
21 lease revenues.**

22 A. I recommend that 100% of the revenue from the sale of the cell tower leases should be allocated
23 to the benefit of the Company's ratepayers rather than what the Company has done –allocating
24 100% of revenues to the benefit of its shareholders. Of note, this recommendation is consistent
25 with the recommendations of Staff witnesses in PWW's 2001 and 2004 rate cases. See Direct
26 Testimony of Steven E. Mullen, in DW 01-081, p. 14, line 15, through p. 15, line 2 (opposing the
27 Company's proposal to remove from the test year 50% of cell tower lease revenues and

1 recommending recognition of 100% as “above-the-line revenue”); and Direct Testimony of
2 Jayson P. Laflamme, in DW 04-056, p. 10, line 23, through p. 11, line 16 (similar).

3

4 **Q. Did the OCA consider other relief options to recommend to the Commission?**

5 A. Yes. The OCA also considered whether to advocate, in the alternative, that the Commission
6 require the Company to continue to impute the revenue sharing in rates, in an amount equal to
7 what PWW *would have received* if the leases were not sold before the dates of their natural
8 termination. The leases, however, each generally contain terms which can be summarized, for
9 example, as “current term expires May 30, 2010 with four (4) options to extend at five (5) years
10 each with a final expiration date of May 30, 2030.” Under such terms, and given the current
11 circumstances, it is difficult to predict what the natural term of any lease would be and thus, also
12 difficult to calculate the total revenue stream from all leases in any future year or period of years.
13 Therefore, the OCA does not support this alternative recommendation.

14

15 **Q. In the last PWW rate case, the OCA took the position that the Company should be required**
16 **to share “no less than 50%” of the lease sale revenues with customers. Direct Testimony of**
17 **Stephen R. Eckberg in DW 08-073, p. 17, line 23, through page 18, line 13. Why does the**
18 **OCA now recommend that 100% of the sale revenues be allocated to customers?**

19 A. Following the Commission’s Order in DW 08-073 and the Company’s filing in DW 10-091, the
20 OCA had the opportunity to further investigate the circumstances surrounding the cell tower
21 leases and the sale of those leases. This investigation caused the OCA to conclude that taking the
22 position that ratepayers receive the benefit of 100% of the lease sale revenues was appropriate.

23

24 Further, the OCA understands from the Company that the 50% revenue sharing with customers
25 was the result of a “global settlement” in a prior rate case, which should not be afforded
26 precedential treatment. *See* Direct Testimony of Bonalyn J. Hartley, p. 15, lines 1-2. Also, none
27 of the settlement agreements or orders approving those agreements in the Company’s prior rate

1 cases (*i.e.*, DW 01-083, DW 04-056, DW 06-073 and DW 08-073) expressly mentions or
2 otherwise limits the cell tower lease revenue sharing to 50%.

3

4 **Q. Before turning to the next Revenue Requirement issue, do you have any additional**
5 **comments about the cell tower lease sale?**

6 A. Yes. I would like to mention several other issues that struck the OCA in its investigation of the
7 cell tower lease sale. The OCA believes that the Commission may want to explore these issues at
8 the hearing on permanent rates to the extent that it considers the “propriety of the sale of the cell
9 tower leases and the appropriate allocation of benefits between ratepayers and shareholders.” Re
10 Pennichuck Water Works, Inc., Order 25,006 (August 13, 2009), slip op., pp. 10-11.

11

12 First, despite their direct relation to and dependence upon utility plant and property, neither the
13 cell tower leases nor the sale of the cell tower leases were approved by the Commission. See
14 OCA 1-14d included as Attachment SRE -17; and OCA 1-27 and OCA 1-28 included as
15 Attachments SRE -18 and SRE -19, respectively. Because the leases never came before the
16 Commission for approval, the Commission never reviewed or approved the revenue sharing with
17 TANA, which resulted in payment to TANA of approximately \$182,000, *see* Attachment SRE-5,
18 as well as some sharing by the Company of amounts received from the sale of the Bon Terrain
19 water tank cell tower leases. OCA 3-16 (entries to Lease Income “represent final settlement with
20 TANA related to 2007 sale of cell tower leases”) included as Attachment SRE-20. RSA 374:30
21 titled “Other Public Utility Leases, Etc.” relates to leases of public utility property.

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23 Second, the “commission” paid by the Company to its unregulated affiliate, Southwood
24 Corporation, approximately \$89,000, was not based upon a written contract and was not approved
25 by the Commission. See Direct Testimony of Bonalyn J. Hartley, p. 13, lines 12-14, and OCA 1-
26 31 included as Attachment SRE -21. RSA 366 relates to contracts between utilities and affiliates.

27

1 Third, the Commission's Order No. 24,751 in DW 06-073 was issued on May 25, 2007. This
2 Order approved a settlement and permanent rates which did not exclude from revenues the
3 Company's 50% allocation to customers of annual cell tower lease revenues. The date of this
4 Order is approximately 25 days before the sale of the cell tower leases on June 15, 2007. While
5 the OCA has no specific information about the timeline of the lease sale negotiation process, the
6 timing of these events causes us to wonder if the Company was negotiating the Settlement in DW
7 06-073 at the same time that it was engaged in negotiations to sell the cell tower leases.

8
9 Fourth, the OCA is concerned that there may be other cell tower lease revenues that have not
10 been covered even by the extensive discovery and discussion in this docket. We have this
11 concern because the Company, on its website², has a press release dated May 8, 2007 titled
12 "Pennichuck Corporation Announces First Quarter 2007 Earnings." The release states "Other
13 income for the first quarter of 2007 includes a \$132,000 gain from the sale of a cell tower lease."
14 Attachment SRE-22. Clearly, the date of the Company's announcement is earlier than the June
15 15, 2007 date of the sale of the seven leases under discussion here so we believe this gain may
16 refer to another cell tower lease sale that has not been disclosed by the Company. Further, the
17 OCA has reviewed and verified the amount the Company stated it received for the sale of the
18 seven leases, \$1,108,080, and this amount of \$132,000 is not included in that total. See
19 Attachment SRE-23. The OCA requests that the Commission direct the Company to provide all
20 additional information necessary to fully understand the scope of this lease sale revenue issue.

21
22 Fifth, the Company has deducted from the sale amount "income taxes of \$403,798." This is
23 36.44% of the total sale price of \$1,108,080. The Company has not provided any support to
24 demonstrate that it actually paid income taxes at this rate during the applicable tax year. The
25 OCA is aware of at least one water company in New Hampshire that has paid no federal income

²See http://www.pennichuck.com/investor/07_q1_earn.php

1 tax for several years and which is currently before the Commission in a rate proceeding. In that
2 company's rate case, the OCA expressed support for the Settlement Agreement's use of a 0%
3 gross up for taxes factor in the calculation of temporary rates. See Testimony of Stephen R.
4 Eckberg in DW 10-141, p. 2 lines 3-7. The permanent rate phase of that docket is ongoing.
5 Therefore, the OCA recommends that the Commission direct the Company to provide necessary
6 supporting documentation to demonstrate and ensure that any federal income tax rate used in
7 calculations relating to the cell tower lease sale income represents a tax rate actually paid by the
8 Company.

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REVENUE REQUIREMENT – OTHER ADJUSTMENTS

11

Q. You referred earlier in your testimony to other recommendations related to the Company's proposed Revenue Requirement. Would you please address those now?

12

13

A. There are three adjustments that I recommend related to: 1) commuting and personal use of
14 company vehicles; 2) annual rent increases for the Company's headquarters in Merrimack; and 3)
15 expenses for activities such as Company picnics and holiday events. These expenses, in the
16 amounts requested by the Company, should not be borne by the ratepayers.

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18

Q. Please address the first of your three recommended adjustments.

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A. Staff's Audit of the Company's test year books and records identified costs relating to employee
20 use of for "personal reasons." See Staff Audit p. 7 included as Attachment SRE-24. In
21 discovery, the Company quantified a test year amount of \$77,799 for costs attributed to
22 commuting and personal use of Company vehicles. See OCA 3-11 included as Attachment SRE-
23 25.

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25

Q. Did the Company explain what these "personal uses" were?

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A. To a degree they did. Their explanation stated that due to "the nature of its business... certain

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key operational personnel keep a Company vehicle on hand for off-hour emergencies and travel

1 during regular business hours.” Attachment SRE-25. Further, the Company’s response indicates
2 that “certain senior company executives are provided company vehicles to be utilized for
3 Company business and for personal use which included commuting.” Id. The Company did not
4 distinguish, however, the portion of the \$77,799 that relates to personal use by either Company
5 executives or the “key operational personnel.” Id. By “personal use” the OCA means the use of
6 company vehicles for non-business reasons.

7

8 **Q. What is the OCA’s response to the Company’s explanation of personal vehicle use?**

9 A. The OCA understands that certain Company personnel may be required to respond to off-hour
10 emergencies and that reasonable costs related to being prepared to respond to emergencies and
11 “travel during normal business hours” may be included in rates. The OCA does not consider
12 these types of uses as “personal use.”

13

14 The OCA, however, does not agree with the recovery through rates of costs for “personal use” of
15 company vehicles for “senior company executives” and “key operational personnel” and the
16 Company, in its filing and responses to discovery as well as the Staff’s Audit, has not adequately
17 demonstrated that this personal use of Company vehicles is necessary to provide service to
18 customers.

19

20 **Q. Does the OCA have a specific recommendation for the Commission regarding this \$77,799**
21 **expense?**

22 A. Yes. The OCA recommends that Commission reduce the revenue requirement by the amount
23 included within the \$77,799, which equates to the costs associated with the “company
24 executives” and “key operational personnel” personal use of Company vehicles. Also, the OCA
25 recommends that the Commission direct the Company to quantify this amount.

26

1 **Q. Please address your next issue regarding the annual rent increases for the Company's**
2 **headquarters in Merrimack.**

3 A. In discovery, the Company provided additional detail about rent expenses related to its offices at
4 25 Manchester Street, Merrimack, NH. See OCA 3-21 included as Attachment SRE-26. The
5 lease on the 19,465 square feet of office space runs on a twelve month cycle from May 1 through
6 April 30 of the following year. During the 2009 test year, rent was \$15.50 per square foot, or
7 \$25,142 per month, through April 2009. In May 2009, the rent increased to \$17.00 per square
8 foot or \$27,575 per month. This rate ran through April 2010 when the rent increased to \$17.50
9 per square foot or \$28,386 per month. These increases together represent a 12.9% increase in
10 rent from April 2009 to May 2010. The OCA believes that this level of rent increase is excessive
11 given the economic climate during the 2009 test year, and since. It is not unreasonable to think
12 that the Company could address this matter with its landlord and effectively gain some
13 concessions in the rent amount. It is also in the landlord's interest to keep its building rented and
14 as fully occupied as reasonably possible with good tenants such as Pennichuck during difficult
15 economic times.

16
17 **Q. What does the OCA recommend with respect to the lease expense included in the**
18 **Company's Revenue Requirement?**

19 A. The OCA recommends that the Commission disallow a portion of the Company's proposed
20 increase in rent expense.

21

22 **Q. Does the OCA have a specific recommendation on what level of rent increase should be paid**
23 **for by ratepayers?**

24 A. Yes. The OCA recommends that the Commission allow no more than a 2.3% annual increase in
25 rent. This represents the same level of increase that the Consumer Price Index (CPI) experienced
26 over the period April 2009 to May 2010. Of note, many of the Company's cell tower leases
27 which were sold provided for annual increases tied to the CPI.

1

2 **Q. Please address the OCA's next revenue requirement related issue – expenses for parties,**
3 **picnics and other discretionary expenses not related to service to customers.**

4 A. The Company's filing and responses to discovery have identified certain expenses which the
5 OCA asserts are more appropriately paid for by the Company's shareholders than by its
6 ratepayers. These discretionary costs include: \$223.93 in February 2009 for the 2008 WTP
7 Holiday Luncheon; \$202.79 in April 2009 for the 2008 Accounting Department Year-end
8 Luncheon; \$313.55 in December for the 2009 WTP Holiday Luncheon; \$634.49 in December for
9 the 2009 Holiday Luncheon at 25 Manchester St.; \$571.92 for flowers and other items to
10 employees as a result of death or major illness; \$700.00 for a retirement party; and \$950.00 for a
11 summer cookout for the Manchester Street employees. These items total \$3,596.68. See OCA 2-
12 10, OCA 2-11, OCA 3-26 included as Attachments SRE-27, SRE-28, SRE-29, respectively.

13
14 **Q. What is the OCA's recommendation regarding these expenses?**

15 A. The OCA recommends that the Commission exclude these expenses totaling \$3,596.68 from the
16 Company's revenue requirement.

17
18 **Q. Are there other expenses included in the Company's Revenue Requirement which relate to**
19 **the Company's employees but which the OCA does not recommend be excluded from rates?**

20 A. Yes. For example, included in Attachment SRE-29 there are Bonus Payments to 47 union
21 employees totaling \$11,916.72 and Longevity Awards for 17 employees with a total cost of
22 \$6,753.01. The OCA does not recommend disallowance of these costs. In the case of the union
23 employee bonus payments, these payments may be included in the union contract and may not be
24 discretionary for the Company. If this is not the case, I encourage the Company to correct me.
25 Further, the Longevity Awards for certain employees appear to be similar in amount to payments
26 which are received by long-serving State of New Hampshire employees. Thus, the OCA does not
27 recommend disallowance of these amounts.

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REVENUE REQUIREMENT –CASH WORKING CAPITAL

Q. Please summarize the Company’s request for its Cash Working Capital amount.

A. Schedule 3A of the Company’s filing, shows the Company’s Computation of Cash Working Capital (CWC) Allowance. The calculation shows that the Company uses a thirteen month average of O&M expenses and applies to that, a factor of 12.33% to calculate the CWC. It is this percentage factor that I would like to comment on.

Q. Please proceed.

A. In my testimony in the Company’s last rate case DW 08-073, I stated that as the Company had completed its transition to monthly billing for all its customers in November 2008 that the appropriate CWC calculation would use exactly this percentage of 12.33%. In the 2008 docket, I did not recommend that the Company use the 12.33% factor, but a larger value which reflected the fact that the Company had transitioned to monthly billing for all customers during the twelve month period following the 2007 test year.

Q. What value do you recommend that the Company use in its CWC calculation in the current docket?

A. I believe that the Company is using the appropriate value of 12.33% in its calculation of CWC as all of its customers were billed monthly during the test year. To be clear, it is only the use of the 12.33% and the Company’s use of the thirteen (12) month average in its calculation that I support. I am not recommending the \$1,300,304 value for CWC as shown on Schedule 3A. In fact, this amount was modified in response to discovery and to the OCA’s knowledge, the Company’s request for CWC is now \$1,287,168. See Attachment OCA 3-1, p. 5 of 8, included as Attachment SRE-30. Also, the final exact dollar amount of CWC may be further impacted by any adjustments recommended by Staff and approved by the Commission.

1 **Q. What is your reason for presenting testimony on an aspect of the Company's filing that you**
2 **agree with?**

3 A. I felt it was important in that as I had previously offered testimony critical of the Company's
4 approach on this issue in its last rate case, for me to express my support for the Company's
5 approach to this calculation in the current rate case. *See* Direct Testimony of Stephen R. Eckberg
6 in DW 08-073, p. 8, line 12, through page 11, line 9.

7

8 **PROPOSED WICA PROGRAM AND SURCHARGE**

9 **Q. Please address your next issue regarding the Company's WICA proposal.**

10 A. The Company's witness Mr. Ware describes the Company's WICA proposal. *See* Direct
11 Testimony of Donald Ware, p. 15, line 21 through p. 21. Mr. Ware states that the
12 Company seeks authorization for a WICA "charge (similar to the pilot WICA recently
13 granted to Aquarion Water Company in DW 08-098) to allow for an ongoing
14 replacement/rehabilitation program for its water systems aging infrastructure." *Direct*
15 *Testimony of Donald Ware, p. 16, lines 2-5. According to Mr. Ware, "A WICA would*
16 *allow the Company to carry out a modest water main replacement/rehabilitation program*
17 *and reduce the frequency of filing rate cases thereby reducing the costs passed through to*
18 *its customers." Direct Testimony of Donald Ware, p. 16, lines 5-7.*

19

20 Further, Mr. Ware's Schedules DW-1 and DW-2 relate to the WICA proposal. His
21 Schedule DW-1 shows a WICA calculation which purports to demonstrate that within the
22 parameters of the Company's proposal, it could spend an estimated \$2,717,385 in a given
23 year on WICA approved projects and this would have the impact on rates of increasing
24 them 1.56% based on certain assumptions. Mr. Ware's Schedule DW-2 provides an
25 inventory of the Company's unlined cast iron main which would be the primary focus of
26 WICA approved projects. He states, "The Company has developed a plan to replace or

1 rehabilitate this water main over the next twenty to twenty five years or approximately
2 12,000 to 15,000 LF per year.” Direct Testimony of Donald Ware, p. 16, lines 19-21.

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4 **Q. Is the Company’s WICA proposal exactly the same as the WICA approved for**
5 **Aquarion Water of NH in the Commission’s Order No. 25,019?**

6 A. I’m not completely certain. As mentioned above, Mr. Ware described the Company’s
7 proposal as “similar” to the Aquarion WICA and in discovery, the Company stated that it
8 “would follow the schedule and process described in Aquarion’s settlement in DW 08-
9 098 with regard to the WICA.” See Staff 4-2 included as Attachment SRE-31. However,
10 I did not find that the Company has stated clearly whether it is seeking approval of only a
11 pilot program – as currently implemented for Aquarion - or approval of a permanent
12 WICA rate mechanism “over the next twenty to twenty five years.” Direct Testimony of
13 Donald Ware, p. 16, lines 20-21.

14

15 **Q. From the OCA’s perspective is duration of the Company’s proposed WICA a**
16 **critical factor? For example, would the OCA support a pilot WICA for the**
17 **Company and not a permanent WICA?**

18 A. No. Given the circumstances, the OCA does not support either a pilot WICA or a
19 permanent WICA for the Company at this time.

20

21 **Q. Why?**

22 A. First, the WICA program that the Commission approved for Aquarion was based upon a
23 unique set of circumstances, was the product of a global settlement in the Aquarion rate
24 case, and was supported by a broad range of constituents including the OCA. The
25 Aquarion pilot WICA is not a rate mechanism of general applicability to all water
26 utilities.

27

1 Second, at this time, the City of Nashua is currently seeking to indirectly acquire PWW
2 (as well as its subsidiaries) and the City’s proposal includes certain long-term (i.e., 30
3 year) rate making mechanisms (which do not include a WICA of any duration). The City
4 also predicts that under its ownership the expenses to serve PWW customers and the
5 return on its capital investment will be lower than under current private ownership.
6 Because the Commission’s traditional ratemaking process involves a matching – at a
7 point in time - of revenues, expenses, investment, return, customers and consumption, the
8 proposed WICA, which includes adjustments only related to certain investments, will not
9 capture any changes to the other ratemaking variables like lower expenses or a lower
10 return. As a result, a mismatching of the ratemaking variables is likely to occur. Given
11 these circumstances, the OCA cannot support the proposed WICA.

12

13 **Q. What action does the OCA recommend that the Commission take with regard to the**
14 **Company’s proposed WICA?**

15 A. The OCA recommends that the Commission deny the Company’s request for a WICA.

16

17 **Q. If the Commission disagrees with the OCA’s recommendation and approves a**
18 **WICA for the Company, are there elements that the OCA believes should be**
19 **included in any WICA approved by the Commission?**

20 A. Yes. At a minimum, the OCA believes that any WICA approved by the Commission
21 should:

- 22 1. Be a pilot program, meaning that it be of specified limited duration, with automatic
23 termination and with explicit opportunity and process for an evaluation of program
24 successes and/or shortcomings in the Company’s next base rate case;
- 25 2. Include a formal process for an advance review, as well as Commission approval, of
26 proposed WICA projects, which spans a reasonable time period and includes the OCA

1 and other stakeholders such as representatives of the cities and towns which are within
2 PWV's franchise;

3 3. Include a formal process for the review, and Commission approval of, the actual costs
4 that the Company seeks to recovery through the WICA charge, which spans a reasonable
5 time period, includes the OCA and other stakeholders, and includes an audit by the
6 Commission;

7 4. Include an equi-proportional allocation – between and within customer classes - of
8 approved WICA recovery;

9 5. Include explicit annual and cumulative spending limits;

10 6. Include only certain types of replacement or rehabilitation projects associated with water
11 mains and which are part of a long-term capital asset management plan;

12 7. Include only repair or rehabilitation projects that are truly non-revenue producing; and

13 8. Require customer education and outreach as well as clear and simple presentation and
14 explanation of the WICA charge on customer bills.

15

16 **Q. Before concluding your testimony, do you have any final comments?**

17 A. Yes. I have two points to make before concluding my testimony.

18

19 First, my testimony focuses on certain aspects of the Company's overall rate proposal.

20 This focus, however, should not be interpreted as agreement with all other aspects of the
21 Company's rate filing. For reasons not related to the substance of the Company's filing, I
22 chose to focus and make recommendations based upon my analysis of certain pro forma
23 adjustments and not others.

24

25 Second, my testimony is based upon filings and responses to discovery received to date.

26 To the extent that the Company makes additional filings, revises prior filings, or

27 supplements previous data responses, or that the testimony filed by other parties raises

1 issues other than those I discuss in my testimony, I reserve my right to comment at a later
2 time.

3

4 **Q. Does that conclude your testimony?**

5 **A. Yes.**