

STATE OF NEW HAMPSHIRE
Before the
PUBLIC UTILITIES COMMISSION

ORIGINAL	
N.H.P.U.C. Case No.	DW 11-026
Exhibit No.	#14
Witness	Panel 2
DO NOT REMOVE FROM FILE	

Re: City of Nashua Acquisition of Pennichuck Corporation and Taking of Pennichuck Water Works, Inc.

Docket Nos. DW 11-026 & 04-048

DIRECT TESTIMONY OF RICK SAWYER

Q: What is your name and position?

A: My name is Rick Sawyer and I am the Planning Director for the Town of Bedford.

Q: Mr. Sawyer, can you describe your role with the Merrimack Valley Water District?

A: I have been the Treasurer for its Board of Directors since 2007.

Q: Can you tell us about the actions of the Water District since 2004?

A: The Water District is a consortium of communities served by Pennichuck that worked together to develop a charter that was approved by the PUC and the New Hampshire Attorney General. Our lawyers, Wadleigh, Starr & Peters, P.L.L.C., helped draft the District's charter, represented the District at public hearings regarding the charter, and arranged for approval from the PUC and the New Hampshire attorney general. After the District had been legally formed, it voted to support the City of Nashua in its eminent domain proceedings, and voted to pay the bills of its lawyers, Wadleigh, Starr & Peters, P.L.L.C., for creating the District as a legal entity, and representing it at the PUC, in support of Nashua's eminent domain proceedings.

Q: You know all of this even though you've only been the District's Treasurer since 2007 based on what?

A: As to events since 2007, based on my own personal knowledge. As to the finances of the

District before 2007, based on my review of District records. As to the non-financial information we are discussing, based on conversations I have had with District representatives, both during meetings and otherwise.

Q: Why did the Water District find it so important to support Nashua in that eminent domain case?

A: As contemplated by the District charter, the Water District was created to take ownership of the utility following the eminent domain proceedings, so that all of the municipalities that were served by Pennichuck utilities and that elected to become members of the water district could retain some measure of local control over the important regional assets and resources currently controlled by Pennichuck, a corporation that the members of the District feel is required to put its own best interests ahead of local concerns.

Q: What assets were planned to be under control of the District?

A: It is my understanding that all of the watershed land, the pipes, the sanitation facilities, the equipment, receivables, and other assets of Pennichuck would have been subject to Water District control under the plan created by the District's Charter.

Q: Why was this so important to the citizens of the District's member municipalities?

A: The representatives of the District's member municipalities felt very strongly that they

needed to have a local voice in the control and management of their natural resources, and particularly the water used and relied upon to sustain their lives and livelihoods in their regions of New Hampshire.

Q: What is your understanding of how the current Joint Petition of Pennichuck and the City of Nashua relates to the eminent domain proceeding we were just discussing?

A: My understanding is that Nashua is only in a position to purchase the utility, and Pennichuck is only in a position to sell it to Nashua at a workable price, because of the success of the eminent domain proceeding.

Q: Tell us a little about what the eminent domain proceeding entailed for the Water District?

A: Well, first we voted to intervene in the PUC proceeding filed by the City of Nashua, Docket No. DW-04-048, and we authorized our attorneys to support the City of Nashua in its eminent domain undertakings, with the understanding that the utility would, if seized by eminent domain, be transferred to the control of the Water District. We had to vote to pay our attorneys for the work they put into helping us create and structure the Water District, had to vote regularly on matters connected to the eminent domain proceeding, and had to vote to pay the fees of our attorneys in connection with that proceeding, from the time that we were formed through the Supreme Court appeal in 2009-10. Our attorneys filed a Motion to Intervene in the eminent domain proceeding, cross-examined witnesses and filed pleadings in support of Nashua. They also filed a

brief with the Supreme Court and argued in favor of Nashua's position. As a District, we have incurred legal fees in the amount of \$ 318,967.62 to support Nashua in that litigation through the Supreme Court appeal, inclusive of the current proceeding. The District has paid out a total of \$209,630.53 for legal fees and other administrative expenses incurred to create itself and conduct its business in order to support the City of Nashua in these proceedings. These expenses have been paid by each member municipality according to the chart I have attached as EXHIBIT A.¹ As an example, the Town of Bedford paid \$40,000.00 of that amount, which it appropriated from the General fund as a legal expense line item, meaning, essentially, that Bedford's taxpayers footed its portion of the bill for the Water District's efforts, even though only approximately 12 % of Bedford's taxpayers are also Pennichuck customers. Based on my conversations with Water District representatives, it is my understanding that the member municipalities who have contributed to the District's activities have done so even though only some of their taxpayers will ever receive a direct benefit from those activities.

Q: Fair to say that you believe that your town, and the other towns in the Water District, have all paid a price that is out of proportion to the benefit their taxpayers can expect to enjoy as a result of the current proceedings?

¹Exhibit A shows contributions from the towns of Hollis, Hudson and Merrimack. Although funds were contributed by each of these towns, none of them joined the Water District. Hollis contributed \$5,000 and Hudson \$10,000. The town of Merrimack contributed \$5,000. The District recognizes that the town of Merrimack opposed the eminent domain petition, even to the point of filing a brief in opposition to the Supreme Court. Nonetheless, the District seeks reimbursement of all contributions of all towns to the Water District, as well as all of the costs reasonably incurred by the District throughout.

A: Yes, absolutely. We did this because we felt that it would return important New Hampshire resources to the control of a local entity, even if the Water District did not end up being that entity—we thought it was important for the entire state that the Pennichuck utilities ended up in local control.

Q: What benefits are you hoping will accrue to citizens in your town and the other towns represented in the Water District as a result of the Joint Petition that is currently being considered at the Public Utilities Commission?

A: First and foremost, we are all hoping that the City of Nashua is able to purchase the Pennichuck Corporation. We have held discussions with the City of Nashua, and we are confident that they will act in good faith to ensure that the Water District gets a voice in the management and oversight of the utilities, going forward. As of right now, we have been asked to submit candidates to fill one position on the Board of Directors of the corporation that will oversee all of the Pennichuck utilities following the transaction proposed in the Joint Petition. We will continue to discuss opportunities for the Water District to help preserve our local resources through oversight of and participation in the operations of the utilities, post-sale.

Q: Are you also hoping to be reimbursed for your efforts in supporting both the eminent domain proceedings and the current PUC proceedings regarding the purchase of Pennichuck by Nashua?

A: Yes. The Water District has incurred \$328,817.90 in costs and legal fees to support this transaction to date, and did so with the expectation that it would have an opportunity to recover its costs if the utility was seized in the eminent domain action. Because the transaction that is now under consideration in the PUC is so integrally related to the eminent domain proceedings, and because the District taxpayers have taken on a disproportionate share of expense and effort to confer a benefit on the rate-payers of Pennichuck, and on the citizens of the State, we believe we should be reimbursed for our efforts.

Q: How do you propose that should happen?

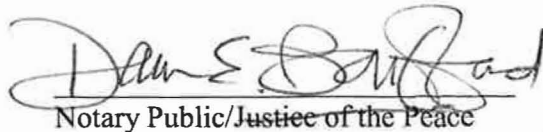
A: We believe that the PUC can approve the reimbursement of all Water District expenses as part of an agreement with Nashua, but are willing to accept reimbursement in whatever manner the PUC sees fit to award it.



Rick Sawyer

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

Before me appeared the above-named RICK SAWYER and made oath that the above statements are true to the best of his knowledge and belief.



Notary Public/Justice of the Peace

My Commission Expires **DAWN E. BOUFFORD**
Notary Public - New Hampshire
My Commission Expires November 17, 2015