

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DW 13-0171

IN RE: EASTMAN SEWER COMPANY, INC.

Sale of Assets and Liabilities to Village District of Eastman

Response to Staff Letter of November 6, 2013

Affirm the Procedural Schedule noticed August 5, 2013

Addition of a third set of Intervenor Discovery Requests to the Aug. 5, 2013 Agenda

Request that Future Meetings be Recorded

Request Participation of the Office of the Consumer Advocate

Staff's Letter of Nov. 6, 2013 stated, "ESUC and Mr. and Mrs. Logan misunderstood the procedural schedule particularly as regards discovery." The published schedule of Aug. 5, 2013 was not clear, failing to note what was to be done at each step and by whom. The Intervenors have stated that had the session been recorded, all participants and the public could have referred to the recording or transcript for clarification. Neither of these shortcomings was the responsibility of the Intervenors. Staff needed to create a schedule that was clear to the everyone, including the Public. In its latest version of the agenda Staff had made entries much clearer.

Staff has included a third round of Intervenor Discovery in the proposed new agenda, which is appreciated by Intervenors. When Intervenors expressed confusion about the number of rounds of Intervenor Discovery, Staff acknowledged that addition of a third round might be required. We think that Staff ought to have resolved the misunderstanding and remained silent or withdrawn their stated position. The Intervenors are now in the unenviable position of trying to convince Staff to reverse its prematurely formed opinion. Since Staff has shared its opinion, it is quite understandable that a reasonable person would conclude that Staff is no longer open to altering its opinion or to be influenced by additional discovery.

Staff's opinion has also been shown by an item on the October 31, 2013 proposed agenda: "Staff and Joint Petitioners to File Settlement Agreement." One can conclude that there will be a single agreement, which means Staff is aligned with the Joint Petitioners and is no longer an independent arbiter. Had the Office of Consumer Advocate participated, perhaps we would not now be in the position of trying to unring the bell. Therefore we request participation by the Office of Consumer Affairs.

Staff has conflated the two possible paths (1. and 2. below) included in the Aug. 5, 2013 procedural schedule and the revised one of October 31, 2013 (3. below).

Path 1. (Aug 5, 2013 agenda) is activate **only** if there is a settlement.

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| 1. If Applicable: Settlement Filed | 11/22/13 |
| Hearing on the Merits | 12/5/13 |

Path 2. (Aug 5, 2013) is active if there is no settlement.

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| 2. Testimony | 12/5/13 |
| Data Requests, Set #3 | 12/19/13 |
| Data Responses, Set #3 | 1/9/14 |
| Technical Session | 1/23/14 |
| Rebuttal Testimony | 2/20/14 |
| Hearing on the Merits | 3/5/14 |

The following is the modified agenda initiated by staff at the October 31, 2013 Technical Session.

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| 3. Discovery Request 3 by Interveners | 11/19/13 |
| Response by Joint Petitioners to Discovery Request 3 | 12/3/13 |
| Staff and Joint Petitioners to File Settlement Agreement | 12/12/13 |

Testimony by Interveners	12/19/13
Staff and Joint Petitioners' Discovery Requests on Intervener Testimony	1/2/2014
Intervenors' Response to Discovery Requests	1/9/2014
Hearing on Proposed Settlement Agreement	1/21/14@ 9:00a.m.

Staff refers to a settlement hearing on December 5 (Hearing on the Merits). Referring to Path 1. above, it is clear that such a hearing is only if there has been a mutually agreed settlement. No settlement was even due until Nov. 22 according to Path 1. It is therefore premature to change the agenda and abbreviate the time available for settlement.

On the other hand, if there is no settlement, and if the Staff's proposed agenda is affirmed, then process will be concluded on 1/21/14, which, as Interveners correctly stated, is greatly accelerated compared to the original agenda of Aug. 5, 2013 which would conclude on 3/5/14 (see 2. above). Obviously, the parties are now debating the meaning of "greatly accelerated." The Interveners maintain that not only will changing the agenda substantially accelerate the process, but it has also eliminated the possibility of an even quicker resolution by deleting the items in path 1. which include the possibility of settlement, unfortunately eliminated in the proposed agenda of October 31, 2013. The accelerated agenda is basically what Joint Petitioners requested on August 23, 2013, "Expedited Motion to Reconsider the Procedural Schedule...", which was denied by Commissioners in Order No. 25,583 on October 18, 2013. There have been no changes between October 18 and October 31 that are sufficient to overturn the Commission's action of October 18, 2013.

Staff claims that Interveners did not object to the revised procedural schedule. The absence of a recording of the meeting comes into play because ESUC definitely objected. Without an

objection by ESUC, insertion of a third Intervenor Discovery would not have happened. The differences in recollections of the Oct. 31 meeting are reason enough to support recording of future meetings.

Therefore, Intervenor request that the Aug. 5, 2013 Agenda be Affirmed.

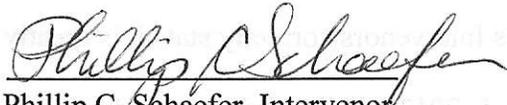
Furthermore, Intervenor request addition of a third set of Intervenor Discovery Requests to the Aug. 5, 2013 Agenda

Furthermore, Intervenor request recording of all future meetings.

Finally, Intervenor request participation by the Office of Consumer Advocates.

Date: November 8, 2013

Respectfully Submitted

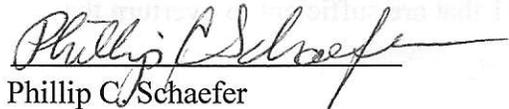


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CERTIFICATION OF SERVICE

We hereby certify that on the above date a copy of this Authorization to Represent was mailed first class, postage prepaid to the Office of the Consumer Advocate.

We further certify that both printed and electronic copies have been served on the Executive Director of the PUC and electronic copies have been sent to the other persons listed on the *Service List - Email Addresses - Docket Related* found on the PUC website for Docket # 13-171.



Phillip C. Schaefer

Attachment