

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

EASTMAN SEWER USERS COALITION'S PETITION TO INTERVENE

NOW COMES the Eastman Sewer Users Coalition, through its attorney, to Petition the New Hampshire Public Utilities Commission to grant it intervenor status in the above captioned proceeding, stating as grounds in support thereof:

1. Petitioners are a coalition of 50 customers of the Eastman Sewer Company, Inc. (hereinafter "ESC"). Petitioners are also property taxpayers in the Village District of Eastman (hereinafter "VDE"). They are among 535 customers of the ESC. See Pre-Filed Testimony of Phillip C. Schaefer, filed concurrently herewith.

2. The mailing address of the Coalition is:

Eastman Sewer Users Coalition
c/o Phillip C. Schaefer
PO Box 1278
Graham, NH 03753

3. Petitioners' rights, duties, privileges, immunities and substantial interests will be directly affected by the outcome of the above captioned proceeding, as set forth herein.

4. Petitioners and other customers of the ESC at present enjoy the protection of the Public Utilities Commission (hereinafter "PUC") governance over ESC sewer rates and capital expenditures. Upon sale of the assets of ESC to VDE that protection will no longer exist.

5. Instead, the operating and capital budgets of the Eastman sewerage and resulting sewer user charges will be controlled by the 1530 resident voters of the VDE, of whom only 280 (18.3%) are sewer users.

6. Petitioners are entitled to a fair and equitable assessment of sewer user and capital recovery charges for the sewerage services provided to them.

7. The intent of the VDE is to allocate all costs associated with the Eastman sewerage against the sewer users, even though some costs could be allocated against all properties in the VDE via the village district property tax and even though VDE officials assert that the sewer system benefits the entire Village District of Eastman.

8. The proposition put forth by advocates of the sale to VDE is that the benefit to the entire Village District of Eastman derives from the protection the sewerage provides to Eastman Lake, which benefits the entire district, not just sewer users. That is specious because the Eastman Council voted not to promulgate stringent septic system rules to protect the lake and because Eastman Community Association and ESC officials have stated that there will be no expansions of the sewer system in the foreseeable future, even though dozens of properties along the lake are not connected to sewers and rely on old septic systems.

9. Once the Eastman sewerage is controlled by the voters of the VDE, petitioners and other sewer users will have their operating and maintenance and capital recovery rates controlled by a majority of voters who have no direct interest in the Eastman sewerage.

10. The VDE voters may unnecessarily increase sewer user charges by investing in unnecessary sewage treatment facilities. For example, there is a pending proposal to increase treatment capacity by 30%, when the existing treatment system is operating at only 60% capacity.

11. The method of fairly prorating legal, administrative and overhead costs among sewer users, district water users and district taxpayers is also of concern to the Coalition.

12. The leadership of the Eastman Community Association and the Village District of Eastman are entwined. The prospect that VDE will contract for services with the Eastman Community Association is self-dealing about which the Coalition is concerned.

13. As the Petition to Approve Sale of Assets notes, eleven of the members of the Coalition recently petitioned the Grantham Board of Selectmen to establish a new village district co-terminus with the boundaries of the ESC franchise granted by the PUC in 1989. The purposes of the new district are limited to providing sewerage.

14. On June 12, 2013, the Grantham Board of Selectmen granted the petition. Per RSA 52:2, a meeting of the resident voters of the proposed district has been called for August 17, 2013 to vote on the establishment of the new district.

15. If the voters vote to establish the new district, it will have the authority to organize under RSA Chapter 149-I; to issue debt; and to purchase the assets of the ESC.

16. The Petition to Approve Sale of Assets to VDE admits the privileges and substantial interests which petitioning Coalition members have in the PUC proceeding. Paragraphs Nos. 9, 10 and 11 of said petition address the efforts of the Coalition to establish a new village district and argue why the VDE, rather than a new village district, should own, operate and control the rates for the Eastman sewerage.

17. The VDE June 27, 2013 filing by Attorney Waugh is a further admission of the privileges and substantial interests which petitioning Coalition members have in the PUC proceeding. Attorney Waugh's Statement of Support is devoted entirely to arguing why

the VDE is a more appropriate entity to operate the Eastman sewerage than the new district which might be created by sewer users on August 17, 2013.

18. The Eastman Sewer Users Coalition will respond to those assertions of Attorney Waugh's Statement of Support which are relevant in its Prehearing Statement to be filed on August 1, 2013.

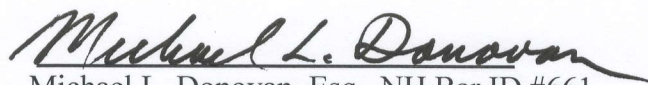
19. Approval of this Petition to Intervene will further the interests of justice by providing a unified voice for existing sewer customers who oppose the sale.

20. Approval of this petition will not impair the orderly and prompt conduct of the PUC proceedings. Having those opposed to the sale speak with one unified vote will be more orderly than the appearance of a multitude of opposed users before the commission.

WHEREFORE, the Eastman Sewer Users Coalition respectfully requests that the PUC grant it intervenor status in the above captioned proceeding so that it may offer evidence and legal argument on whether or not the proposed sale of assets is in the public good.

Respectfully Submitted
Eastman Sewer Users Coalition
By Their Attorney

Date: July 26, 2013


Michael L. Donovan, Esq., NH Bar ID #661
72 N. Main Street, P.O. Box 2169
Concord, NH 03302-2169
Tel. (603) 224-4230
Email: mdonovanlaw@aol.com

Attached: Pre-Filed Testimony of Phillip C. Schaefer

CERTIFICATION OF SERVICE

I hereby certify that on the above date copies of this Petition to Intervene were mailed, first class, postage prepaid to the Office of the Consumer Advocate; Bernard Waugh, Esq.; and Albert Cirone.

I further certify that electronic copies have been served on the Executive Director of the PUC and the other nine (9) persons listed on the *Service List – Email Addresses – Docket Related* found on the PUC website for Docket # 13-171.


Michael L. Donovan, Esq.