

ORIGINAL

N.H.P.U.C. Case No. DW 13-171

Exhibit No. 18

Witness Panel 1

Exhibit #18

Eastman Sewer Company, Inc.

DO NOT REMOVE FROM FILE

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-1

Witness: Brian Harding

REQUEST: My request of 2a-1 was Could you please provide me with the following information as of the date of the ECA acquisition (2000-2001) of the Eastman Sewer company?

a. Book cost at purchase by ECA 2000/2001

Your response did not answer the question you addressed the information as of 12/13/12 12 years or so after ECA acquired the Sewer Company.

f. Current replacement cost

Your answer to question f You have stated that Current replacement cost is not maintained for all company owned assets etc

The major line entry in the Book Asset Detail report (which is insufficient detail) is Group Sewer Plant entry #54 Distribution Reservoirs AM 3/31/79 with a book cost of \$2,332,261.00. It is my understanding that that entry covers the initial sewer system infrastructure installed in 1972-1973. Component details that make up this line item need to be itemized at the major component level. For example, M. Bernaiche's valuation analysis on p. 18 under sewer piping shows 20,000 feet of 8" sewer pipe and 12,000 feet of 6" sewer pipe. His estimate of the replacement cost is \$1,440,000. I assume this book cost is embedded in item #54? Is it embedded at \$200K, \$400K, \$800K or more? Or is it not embedded at all?

RESPONSE: (a): The information requested in 2a-1 was provided in my response to that question. The book cost of the assets that existed at the time ECA purchased ESC has not changed. Therefore, the book costs shown on the 12/31/12 Book Asset Detail report are the same costs that would have been shown on this report at the time of ESC's purchase in 2000. (f): Your assumption is correct □the components you cite from Mr. Bernaiche's report are included in Asset #54 in the Book Asset Detail report. Since these components were not itemized when they were booked (prior to ECA's purchase), then the individual values within the \$2,332,261 aggregate cost of Asset #54 cannot be determined.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-1b

Witness: Brian Harding

REQUEST: Why is the Spray Irrigation System listed in ESC Asset Value since this asset will continue to belong to ECA?

RESPONSE: The spray irrigation system shown in ESC's Book Asset Detail report is the old system that existed at the time ECA purchased ESC. This system was completely replaced by ECA in 2001. ECA owns the current irrigation system on the golf course and it paid for the new installation and continues to pay the cost to operate and maintain it. The net book value of \$828 for the old system should be removed from the Book Asset Detail report, and we will make that recommendation to the auditor as part of the 2013 financial audit and report.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-1c

Witness: Brian Harding

REQUEST: The CLD report (dated March 2008) proposed slip-lining pipes to address the 40 year vulnerability of the sewer pipes to root infiltration. Have you evaluated installing this in the pipes along the West side of the lake and if not, why not?

RESPONSE: The slip-lining of pipes, as referenced in the CLD report of March 2008, was proposed for pipes that are found to be damaged during the video inspection process. Since there is nothing to indicate the force main that runs on the west side of the lake is damaged in any way, an evaluation of slip-lining this pipe has not been done. The Village District of Eastman plans to continue the cleaning and video inspection of the mains if the transfer to the VDE is approved. We expect the District will consider slip-lining as a viable option if a section of pipe is shown through the inspection process to be damaged or leaking.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-(2-5)

Witness: Brian Harding

REQUEST:

RESPONSE: In the original submission by Geraldine Logan, there are no Requests 3a-(2-5).

Therefore, no responses can be provided.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-6

Witness: Brian Harding

REQUEST: PUC order # 24.368 of September 2, 2004 required ESC to begin a program of locating, inspecting and cleaning its sewer mains. \$150,000 was to be set aside over 10 years. You have spent about \$65,000 on this project □ how has the remaining \$85,000 been spent?

RESPONSE: Following the 2004 PUC order ESC began a program to clean and inspect the sewer mains, and did this work for four consecutive years. In 2008 a rate case was initiated with the PUC and, as stated in Note H of the 2008 ESC audit report, over \$10,000 was spent for the documentation required for that filing. The rate case expenditures continued into 2009 and these expenses, combined with a significant increase in the operator's contract due to the requirement for daily system checks, limited ESC's ability to spend funds on tasks outside necessary system operation and maintenance. Cleaning and inspection of the mains resumed in 2010 and 2011, but was not done in 2012 □ again, due to limited funds. The VDE intends to continue the cleaning and inspection of the mains if the Joint Petition is approved by the PUC. As to our annual operating expenditures, we refer you to the □Schedule of Operating Expenses□page that can be found in every ESC annual audit report, available in the Sewer Company section of the Eastman Community Association website.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3a-6b

Witness: Brian Harding

REQUEST: A major component of the sale presentation of ESC to VDE has been a fear campaign of the sewer system being a danger to the lake. What specific information do you have that would substantiate this claim that there is a high probable risk to the lake?

RESPONSE: We do not agree with the characterization that the process to educate Eastman owners in this matter was a "fear campaign". The point we were making to the community was the Village District has the managerial and technical expertise to safely and effectively operate the sewer system. From March until August 2013, the Eastman Sewer Users Coalition led by Phil Schaefer and James Van Dolah - was asking owners to support their effort to assume control of the community's sewer system, with no evidence that anyone in that organization had any experience with operating a waste water system. We believed at the time, and still do, that the issue of competency and experience is critically important. That is why the VDE is unquestionably the best organization to operate the sewer system going forward, and their role as owner and operator will ensure the system continues to be operated effectively, and the lake and owner property values continue to be protected. We have no information that there is a "high probable risk to the lake" nor have we ever claimed there was such a risk. However, any sewer

lines built near or around a lake could present a problem if a leak developed due to a severe storm or other natural disaster.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3a

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3b-(1-7)

Witness: Brian Harding

REQUEST:

RESPONSE: In the original submission by Geraldine Logan, there are no Requests 3b-(1-7).

Therefore, no responses can be provided.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3b

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3b-8

Witness: Brian Harding

REQUEST: The specific references of misleading and possibly erroneous information I am referring to in 2b-8 are your following statements from your presentation at the Eastman Sewer Company Forum 11/17/2012:

Slide #16 You said The following groups have given us preliminary support to continue the process of this proposal -without defining what preliminary support is:

PUC

Please provide the written document to validate this statement.

NHDRA

Please provide the written document to validate this statement

VDE Commissioners

Is it not true that only 2 of 3 commissioners supported your proposal ?

Slide #15--3. Any funds that may need to be appropriated for sewer system capital projects would be the responsibility of sewer users and collected through increased rates or by the town of Grantham

Since the Town of Grantham can only collect taxes and sewer users can only pay user fees, is this not a specious statement or can you explain how the town of Grantham can collect capital monies for the Sewer Company when it is part of the VDE by tax?

Slide #18--Village District of Eastman (VDE) initial involvement in the future of ESC

Opinion of the VDE legal counsel sought and obtained

Do you have a letter from VDE counsel pre-dating when the statement was made to validate this claim?

Slide #19--Concerns regarding how to fund capital costs for needed ESC improvements

In October 2012, ESC provided VDE with a letter summarizing a meeting with DRA which outlines the process for a precinct tax that could be assigned to properties served by the sewer

Please provide the letter of October 2012.

Slide #24--The limit for spray irrigation was <30m⁹/L until 2011. It was then changed to <10m⁹/1.

Do you have information supporting your statement?

According to PUC it was changed from <5m to <10. It was actually increased.

Nowhere did the presentation say that the ESC had not met the TSS limit for years and the ESC hadn't specifically addressed that problem.

RESPONSE: Slide #16 Preliminary support to continue the process means just what is says .if you successfully complete the process (reaching an agreement with the VDE) your reading of the policy, regulation or conclusion could lead to support of the ECA proposal.

- PUC letter (See Attachment 1)

- NHDRA □letter (See Attachment 2)
- VDE □It was public knowledge that only 2 of 3 Commissioners supported the proposal. In fact, the dissenting Commissioner made numerous public statements to that effect, including at the November forum to which you refer.

Slide #15 □Your question as worded is nonsensical. However, at that time we were uncertain about how collections would be handled and whether a tax or fee or both might be involved.

Slide #18 □Yes, we do.

Slide #19 □this is the same letter provided in response to your request in Slide #16 (NHDRA).

Slide #24 □This inadvertent error (a carat going in the wrong direction) was acknowledged a number of times in subsequent communications, and a correcting memo was read at the April 16, 2013 ESC Board meeting and included with the minutes for that meeting. ESC has stated many times that they had rarely, if ever, met the TSS limits, and the community was well aware of the July 2010 Letter of Non-Compliance from the NH Department of Environmental Services.

However, it is incorrect to say ESC had never addressed the problem. In fact, they worked with NHDES for some years to find a way to manage this issue, and the proposed solution is now part of the ESC capital plan. It should also be noted that our new 5-year permit to operate the system was given without any restrictions. This is an acknowledgment that we have been working to meet the standards.

Exhibit #18

CHAIRMAN
Amy L. Ignalius

COMMISSIONERS
Michael D. Harrington
Robert R. Scott

EXECUTIVE DIRECTOR
Debra A. Howland

THE STATE OF NEW HAMPSHIRE



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July 10, 2012

Brian Harding, General Manager
Eastman Sewer Company
P.O. Box 470
Grantham, NH 03753

RE: Eastman Sewer Company, Inc. and the Village District of Eastman

Dear Mr. Harding:

In response to your letter of June 20, 2012, to Debra Howland, the Commission's Executive Director, I can confirm that RSA 362:2 exempts municipal utilities from the definition of public utility and therefore from Commission regulation. A village district is a municipal corporation and thus, if it provides sewer services only within its corporate boundaries, it is not regulated by the Commission. See, RSA 362:4, III, and *North Conway Water Precinct*, Order No. 24,361, 89 NH PUC 496 (2004). Assuming that the Village District of Eastman is a duly formed village district pursuant to RSA 52, and that it only serves customers within its district boundaries, it will not be subject to Commission regulation.

Because the Eastman Sewer Company is currently a regulated utility offering sewer services, it must request Commission approval for the transfer of its assets and the termination of its franchise. See RSA 374:22, 374:28 and 374:30. Such a request for a transfer of assets and termination of franchise can be done by petition to the Commission together with an explanation of why the transfer and termination is in the public interest. For a similar petition you might review Docket number DW 10-061, which can be found on the Commission website at <http://www.puc.nh.gov> I have also attached a copy of an earlier petition involving a similar transfer.

I trust this letter is responsive to your inquiry. If you have additional questions or concerns, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'F. Anne Ross'.

F. Anne Ross
General Counsel

JAY C. BOYNTON

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September 27, 2012

Brian Harding, Assistant General Manager TRANSMITTED ELECTRONICALLY
Eastman Community Association
PO Box 53
Grantham, NH 03753-0053

Re: Eastman Community Association –
Eastman Sewer Company

Dear Brian:

The purpose of this letter is to summarize my meeting with Barbara Robinson, Director of Municipal Services at the New Hampshire Department of Revenue Administration. We met, as I requested in letter of August 17, 2012, to discuss her letter of July 5, 2012 to William S. Weber, District Manager of the Village District of Eastman. Kevin A. Clougherty, Commissioner, Department of Revenue Administration; Stephan W. Hamilton, Director of the Property Appraisal Division; Kate Skouteris, Attorney, Counsel to the Department of Revenue Administration and Shelley Gerlarneau, the Department's auditor for Eastman also participated in the meeting.

While it was clear that DRA representatives did not provide legal advice, we had a comprehensive discussion about processes and procedures concerning the possible acquisition of all of the stock of the Eastman Sewer Company, or its assets, by the Village District of Eastman.

At the outset, it was noted that RSA 362:4 III exempts municipal corporations from Public Utilities Commission oversight so long as the municipal corporation is operating within its corporate boundaries. RSA 374:22, 374:28 and 374:30 appear to require PUC approval for such a transfer and the termination of a franchise. F. Anne Ross, General Counsel to the Public Utilities Commission noted in her letter of July 10, 2012 that there is a specific PUC process to be followed and a precedent in PUC Docket number DW 10-061. She stated, "Assuming that the Village District of Eastman is a duly formed Village District pursuant to RSA 52 and that it only serves customers within its boundaries, it will not be subject to Commission regulation.

In short, it appears undisputed that the Village District of Eastman could, following proper channels, acquire the stock or assets of the Eastman Sewer Company in a manner that would not be objectionable to the Department of Revenue Administration. Such a transfer would not necessarily create a "Village District within a Village District".

Our discussion then turned to the form of taxation and procedures where a municipality owns a utility, either by virtue of owning the stock of the company, or the assets. There is precedent in other municipalities for special assessments for capital improvements applicable only to the customers of the utility. There is also precedent and practice for the collection of user fees from the customers. One example of that situation is the Tilton Northfield Water District, which is funded entirely by user fees.

My conclusion following the meeting with DRA representatives is that it is legally possible for the Village District of Eastman to acquire the stock or assets of the Eastman Sewer Company, to finance capital expenditures through special assessments taxed to customers and to bill customers for operational expenses.

The Department of Revenue Administration was generous in time and expertise in discussing these matters and I am sending a copy of this letter to Barbara Robinson, to make sure that I have not misstated any aspect of our meeting.

I understand that you intend to explore these issues again with the Village District. If the Commissioners are "on board" with these concepts, we should work on a joint petition to the Public Utilities Commission and Warrant Articles for the Annual Meeting. A vote at the ESC/ECA level would also be required. It is likely that this could be handled as one "transaction", but we should review corporate records before determining how that should be structured.

Please let me know if you have any questions or concerns. I will be pleased to provide a more detailed analysis if you wish.

Very truly yours,



Jay C. Boynton

JCB/rab
Cc: Barbara Robinson, DRA

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3b

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3b-9

Witness: Brian Harding

REQUEST: Numerous statements about the risk of "sewerage damage to the lake" have been made by ESC and ECA officials. (emailed Forum on Proposed Merger 11/7/12) Can you please provide the top 3 explicit risks that the existing sewer system infrastructure has to the lake and what the solution/cost would be for each risk?

RESPONSE: The State of NH has dozens (perhaps hundreds) of examples of home owners and developers who built structures with septic tanks and/or sewage systems on or near the water. It doesn't take an engineer to see that a significant break in a line or pipe carrying raw sewage could cause damage to the water body in question. The amount of damage would be dependent upon the size of the break and the amount of sewage in question.

Eastman Sewer Company, Inc.

DW 13-171

Responses to Geraldine Logan Set 3b

Data Request Received: 11/19/13

Date of Response: 12/03/13

Request No. Geraldine Logan 3b-10

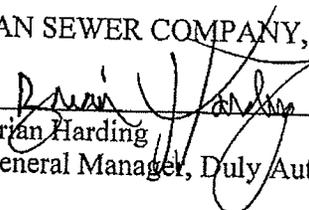
Witness: Brian Harding

REQUEST: The community has capital reserve funds of \$1.5 million. You are currently in a community marketing campaign to spend \$3-5 million on a 14 year old building while simultaneously maintaining that the community does not have the funds to maintain a 40 year old sewer system. How do your actions to go forward with this capital building effort promote social welfare and responsible financial management of a public utility?

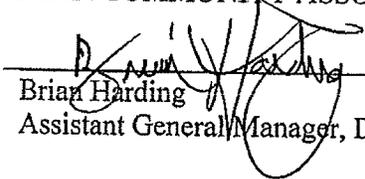
RESPONSE: Neither I nor anyone else is "currently in a community marketing campaign" to do anything of which I am aware. Further, I have never maintained that the community does not have the funds to maintain the sewer system. Quite the contrary, I believe that the community, which includes the ECA, the ESC and the VDE, will be ultimately responsible and we are only talking about taking money out of one pocket and putting it into another. The community would have to pay for a sewer disaster no matter who operates it. I see absolutely no relationship between the potential renovation of the Center and the maintenance of the sewer system.

EASTMAN SEWER COMPANY, INC.

By: _____

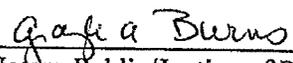

Brian Harding
General Manager, Duly Authorized

EASTMAN COMMUNITY ASSOCIATION

By: 
Brian Harding
Assistant General Manager, Duly Authorized

STATE OF NEW HAMPSHIRE
COUNTY OF SULLIVAN

Subscribed and sworn to before me this 2nd day of December 2013 by BRIAN
HARDING, General Manager of the Eastman Sewer Company, Inc. and Assistant General
Manager of the Eastman Community Association.


Notary Public/Justice of Peace
My Commission Expires:

GAYLE A. BURNS
Notary Public - New Hampshire
My Commission Expires December 9, 2014