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June 14, 2002



Debra Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
8 Old Suncook Road
Concord, NH 03301

**Re: Petition for Approval of the Acquisition of Pennichuck Corporation
by Philadelphia Suburban Corporation**

Dear Ms. Howland:

Enclosed for filing with the Commission are an original and eight copies of a Petition for Approval of the Acquisition of Pennichuck Corporation by Philadelphia Suburban Corporation and pre-filed testimony of Maurice L. Arel and David P. Smeltzer. In addition, I enclose a Petition for Intervention by Philadelphia Suburban Corporation in the above-captioned docket. I am also enclosing a diskette with the Petition, pre-filed testimony, and Petition for Intervention in electronic form.

Thank you for your assistance with this matter. Please call me with any questions.

Very truly yours,

Sarah B. Knowlton

cc: Maurice L. Arel
Michael W. Holmes, Esquire
Kathy Pape, Esquire
Richard A. Samuels, Esquire

**STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

DW 02-

**Re: Pennichuck Water Works, Inc.
Pittsfield Aqueduct Company
Pennichuck East Utility, Inc.**

**Petition for Approval of the Acquisition of Pennichuck Corporation
by Philadelphia Suburban Corporation**

Pennichuck Water Works, Inc. ("PWW"), Pittsfield Aqueduct Company ("PAC") and Pennichuck East Utility, Inc. ("PEU") (together, the "Joint Petitioners") hereby file this petition requesting that the New Hampshire Public Utilities Commission (the "Commission"), pursuant to the provisions of RSA 369:8,II and RSA 374:33, approve the indirect acquisition of PWW, PAC and PEU by Philadelphia Suburban Corporation ("PSC" or "Philadelphia Suburban"). The proposed acquisition will be accomplished through the merger of Pennichuck Corporation ("Pennichuck"), the parent corporation of PWW, PAC and PEU, into Raleigh Acquisition Corporation ("Raleigh"), a wholly owned subsidiary of PSC. As described below, and as supported in detail by the prefiled written testimony submitted by the Joint Petitioners and PSC, the transactions described above will result in 'no net harm', and in fact will be beneficial to the customers of PWW, PAC, and PEU, and therefore, the proposed transactions meet the public interest standard embodied in RSA 369:8,II and RSA 374:33. In support thereof, the Joint Petitioners state the following:

1 PWW is a New Hampshire corporation and a public utility as defined in RSA 362:2, with a principal place of business in Nashua, New Hampshire. PWW serves approximately 21,993 customers in the City of Nashua and the Towns of Amherst, Hollis, Merrimack and Milford, New Hampshire. PWW also owns and operates eleven community

water systems in Bedford, East Derry, Epping, Milford, Newmarket, Plaistow and Salem, New Hampshire.

2. PAC is a New Hampshire corporation with a principal place of business in Nashua, New Hampshire. PAC serves approximately 633 customers in the Town of Pittsfield, New Hampshire.

3 PEU is a New Hampshire corporation with a principal place of business in Nashua, New Hampshire. PEU serves approximately 4,240 customers in the Towns of Atkinson, Derry, Hooksett, Litchfield, Londonderry, Pelham, Plaistow, Raymond, Sandown and Windham, New Hampshire.

4. Pennichuck is a New Hampshire corporation with a principal place of business in Nashua, New Hampshire. Pennichuck is a holding company that owns 100 percent of the common stock of PWW, PAC, and PEU. Pennichuck also owns two other subsidiaries, Pennichuck Water Service Company and The Southwood Corporation, neither of which is a public utility as defined by RSA 362:2.

5. PSC is a Pennsylvania corporation with a principal place of business in Bryn Mawr, Pennsylvania. PSC is a holding company for seven utilities that provide water and wastewater service to approximately 2 million residents in Pennsylvania, Illinois, Ohio, North Carolina, Maine and New Jersey. These utilities include Pennsylvania Suburban Water Company, Little Washington Wastewater Company, Consumers Illinois Water Company, Consumers Ohio Water Company, Consumers Maine Water Company, Consumers New Jersey Water Company, and Hydraulics, Inc. Through a Petition to Intervene being submitted contemporaneously with this Petition, PSC is seeking to become a

full intervenor in this proceeding, so that it can provide such information as may be appropriate as part of the Commission's investigation.

6. Raleigh is a New Hampshire corporation, formed for the sole purpose of carrying out the acquisition of Pennichuck by PSC.

7. On April 29, 2002, Pennichuck and PSC entered into an Agreement and Plan of Merger (the "Merger Agreement") that provides for the merger of Pennichuck with and into Raleigh. Upon consummation of the merger, Raleigh will cease to exist as a separate corporate entity, and Pennichuck will continue as the surviving corporation.

8. Provided that the necessary regulatory approvals and the approval of the stockholders of the respective companies are obtained, the Merger Agreement would result in Pennichuck becoming a direct, wholly owned subsidiary of PSC. A copy of the Merger Agreement is appended to the prefiled testimony of Maurice L. Arel, Chief Executive Officer of Pennichuck, as Attachment MLA-1. An organizational chart indicating the major operating units of the post-merger corporate structure of PSC is appended to the prefiled testimony of David P. Smeltzer, the Senior Vice President and Chief Financial Officer of PSC, as Attachment DPS-1.

9. The Merger Agreement sets forth the following actions that will result in Pennichuck becoming a wholly owned subsidiary of PSC:

a. Pennichuck's stockholders will vote on the approval of the merger of Pennichuck with Raleigh. The meeting of stockholders is anticipated to occur by the early Fall of 2002.

b. Upon receipt of the necessary regulatory approvals and the filing of the Articles of Merger with the New Hampshire Secretary of State, Raleigh will be merged

with and into Pennichuck. Pennichuck, which is a New Hampshire corporation, will remain as the surviving corporation. PWW, PAC, and PEU will continue as subsidiaries of Pennichuck.

c. As set forth in the Merger Agreement, in order to consummate the acquisition of Pennichuck by PSC, each outstanding share of Pennichuck common stock will be extinguished and automatically converted into the right to receive a number of shares of PSC stock based on an exchange ratio determined as follows:

1. if PSC's average closing price is not less than \$23.000 but not greater than \$25.000, the exchange ratio will be equal to the quotient, rounded to the nearest thousandth, of 33.000 divided by the PSC average closing price; or
- ii. if the PSC average closing price is less than \$23.000, the exchange ratio will be 1.435; or
- iii. if the PSC average closing price is greater than \$25.000, the exchange ratio will be 1.320.

10. In New England Electric System, DE 99-035, Order No. 23,308 (1999) (“New England Electric”), the Commission stated that the mandate in RSA 369:8, which requires that mergers will “not adversely affect the rates, terms, service, or operation of the public utility within the state” embodies the same standard reflected in RSA 374:33, which authorizes the Commission to approve mergers that are “lawful, proper and in the public interest.” New England Electric, slip op. at 16. Thus, proposed mergers must meet a “no net harm” test in order to be approved by the Commission. Id. The Commission stated that, in applying the no net harm test, it must “assess the benefits and risks of the proposed merger and determine what the overall effect on the public interest will be, giving the transaction approval if the effect is at worst neutral from the public interest perspective.” Id. Accordingly, the Commission’s standard will be met where an applicant for approval of a

merger demonstrates that customers would be no worse off with the merger than without the merger. The Joint Petitioners believe that the merger will also provide benefits to their customers.

1 Pursuant to the Commission's findings in New England Electric, the Joint Petitioners file herewith a merger proposal that meets and exceeds the Commission's no net harm standard. The proposed transactions and the expected benefits are discussed in detail in the accompanying testimony of David P. Smeltzer and Maurice L. Arel.

12. As discussed in the testimony of Mr. Arel and Mr. Smeltzer, PWW, PAC, and PEU's customers will benefit substantially from PSC's ability to fund needed capital additions to meet federal and state environmental standards and to maintain and improve customer service through access to internal and external sources of capital, PSC's access to lower cost capital, the substantial engineering and technical expertise of PSC and cost savings that the acquisition by PSC will create.

13. Philadelphia Suburban is committed to continued investment in PWW, PAC and PEU's distribution systems, continued support of community interests and to maintaining a local presence to provide safe, reliable and cost-effective service to PWW, PAC and PEU customers. See Prefiled Testimony of David P. Smeltzer.

4. In addition, the merger will not have an adverse effect on rates, terms, service or operation of PWW, PAC, or PEU for at least the following reasons:

- A. The corporate structure of Pennichuck will not be affected by either the merger or the stock transfers. In addition, the tariffs, rates and regulations of PWW, PAC, and PEU will not change or be amended by either the merger or the stock transfers.
- C. The assets, including rate base, of PWW, PAC, and PEU will not be altered by the merger or the stock transfers. In particular, Philadelphia

Suburban is not proposing to record an acquisition premium on the books of account of any of the companies as a result of either the merger or the stock transfers.

- D. Pennichuck's regulated subsidiaries will continue to be managed locally.
- E. The merger and the stock transfers will provide PWW, PAC, and PEU's customers with the benefit of the expertise of Philadelphia Suburban.

15. Philadelphia Suburban's merger with Pennichuck will not have an adverse impact on the rates, terms, service and operations of PWW, PAC, and PEU, and will enable Pennichuck to improve its already excellent operations and service. Therefore, Philadelphia Suburban's acquisition of Pennichuck clearly will result in no net harm to PWW, PAC, and PEU's customers.

WHEREFORE, the Joint Petitioners respectfully request that the Commission:

- a. Determine that the proposed indirect acquisition of PWW, PAC, and PEU by PSC, which will be accomplished through the merger of Pennichuck and Raleigh, will result in "no net harm" to the customers of PWW, PAC or PEU;
- b. Approve the above-described transactions as filed in accordance with RSA 369:8,II(b)(2), or, alternatively, RSA 374:33; and
- c. Issue such other and further orders as may be just and reasonable and consistent with the public interest.

Respectfully submitted,


JOINT PETITIONERS:

PENNICHUCK WATER WORKS, INC.
PITTSFIELD AQUEDUCT COMPANY
PENNICHUCK EAST UTILITY, INC.

By Their Attorneys,

McLANE, GRAF, RAULERSON &
MIDDLETON, P.A.

Date: June 14, 2002

By: 
Richard A. Samuels, Esq.
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Certificate of Service

I hereby certify that a copy of this Petition, including the prefiled testimony referred to in the Petition, have this day been sent by first class mail to Michael W. Holmes, Esq., Consumer Advocate, and Kathy Pape, Esq., rate counsel for Philadelphia Suburban Corporation.

Dated: June 14, 2002


Sarah B. Knowlton, Esq.