

Burton Deposition

Exhibit 5

1

STATE OF NEW HAMPSHIRE

PETITION FOR VALUATION PURSUANT TO RSA 38:9

2

3

4

CITY OF NASHUA

Docket No. DW-04-048

5

6

DEPOSITION of ROBERT R. BURTON

7

8

Taken by Notice at the law offices of UPTON &

9

HATFIELD, LLP, 159 Middle Street, Portsmouth, New

10

Hampshire, on Thursday, February 9, 2006, commencing

11

at nine in the forenoon.

12

13

14

15

16

17

18

19

Court Reporter: Marcia G. Patrisso,

20

Certified Shorthand Reporter

21

NH CSR No. 83 (RSA 331-B)

22

Registered Professional Reporter

23

Certified Realtime Reporter

1 A. No; that was handled by our financial
2 folks of the project, as in our accounting
3 department. I did not work in the accounting
4 department. I would assume HR had some say in that
5 as well.

6 Q. I take it in your job as director of
7 field services, which had 150 employees, you had
8 some interest in the progress of negotiations?

9 A. Absolutely.

10 Q. And you followed them rather closely?

11 A. I did while in that capacity, yes.

12 Q. And in terms of paying benefits, do
13 you know whether there were any give-backs that were
14 achieved by Veolia in its May 1, '04, contract as
15 compared with the prior contract?

16 MR. UPTON: Do you understand the term
17 "give-backs," because I'm not sure I do.

18 Q. Isn't that a term of art in labor
19 negotiations?

20 A. Give me exactly what you mean by
21 "give-back," I guess.

22 Q. In other words, it's a less favorable
23 term from the worker's standpoint in comparison with

1 the prior contract in terms of paying benefits, and
2 presumably working conditions as well?

3 A. If your question is, then, is there
4 something in the newly negotiated contract that is
5 less -- something that's not in the new contract
6 that was in the old one -- is that what you're
7 referring to?

8 Q. Yes.

9 A. The only major one I can recollect
10 from the standpoint of paying benefits was that it
11 was negotiated that new hires would have a different
12 retirement system than the current employees.

13 Q. Okay. What would be the new
14 retirement system that new employees would get?

15 A. It was a 401(k)-based retirement
16 system entirely.

17 Q. And the prior contract called for all
18 employees to have a defined benefit pension?

19 A. That was correct.

20 Q. And do you know what a defined benefit
21 pension is?

22 A. Yes, I do.

23 Q. And so new employees would receive a

1 401(k)?

2 A. Yes.

3 Q. And do you remember what the --

4 A. Actually, existing employees can
5 contribute as well.

6 Q. To the 401(k)?

7 A. Yes.

8 Q. But they also retain their defined
9 benefit pension; is that correct?

10 A. That's correct.

11 Q. Do you remember what the contribution
12 was that Veolia would make toward an employee's
13 401(k)?

14 A. I do not recollect from the contract,
15 no, what the amount is.

16 Q. As to prior employees who were part of
17 the defined benefit plan, was Veolia still going to
18 make contributions and were they still going to
19 accrue service after May 1 of '04 to the --

20 A. To the defined plan?

21 Q. Correct.

22 A. My recollection would be that the
23 defined plan for existing employees was not changed.

1 Q. Well, there's a difference between a
2 benefit that's already been earned, continuing to
3 exist as opposed to accruing new service years or
4 points and accruing additional benefits over time.
5 Do you know whether those employees continued to
6 accrue new benefits over time?

7 A. My recollection is the rules
8 underneath which the defined plan has operated have
9 not changed.

10 Q. Any other changes to pay and benefits
11 that you recall in the contract that was negotiated
12 beginning May 1, '04?

13 A. Any changes?

14 Q. Other changes.

15 A. I do know that there was pay increases
16 given.

17 Q. What about health insurance changes?

18 A. I do not have an exact recollection,
19 no. I don't currently have immediate employees
20 reporting to me, so I have not read the final
21 contract.

22 Q. Well, but when you were the director
23 of field services in '04, you certainly had 150

1 employees who reported directly or indirectly to
2 you, right?

3 A. Uh-huh.

4 Q. That would be the sort of thing that
5 people would talk about, wasn't it?

6 A. The contract was not finalized when I
7 was director of field services.

8 Q. I see. Well, was there discussion in
9 terms of negotiations that there would be changes to
10 the health insurance benefit?

11 A. If you're asking me to provide
12 information from the standpoint of hearsay.

13 Q. Yes, please.

14 A. As best...

15 (There is a pause.)

16 MR. UPTON: You can say what you know.

17 A. Yeah, I'm trying to remember,
18 actually, if anything was done with health care. I
19 know there are changes year to year. And our health
20 care from the standpoint of non-represented
21 employees, there's modifications made from year to
22 year. It's entirely plausible there were similar
23 modifications to theirs as well.