

REBUTTAL TESTIMONY
OF
JULIA FORGUE, P.E.
ON BEHALF OF
THE CITY OF NEWPORT, UTILITIES DEPARTMENT, WATER DIVISION

In re: City of Newport Utilities Department, Water Division

Docket No. 4243

September 21, 2011

1 **I. INTRODUCTION**

2 **Q. Please provide your full name, title and business address for the record.**

3 A. Julia Forgue, P.E. I am employed by the City of Newport where I serve as Director of
4 Utilities. My business address is 70 Halsey Street, Newport, RI.

5

6 **Q. Are you the same Julia Forgue who submitted pre-filed direct testimony in this**
7 **docket?**

8 A: Yes I am.

9

10 **Q. What is the purpose of this testimony?**

11 A. I would like to respond to certain points or conclusions made in the pre-filed
12 testimony of Thomas Catlin for the Division of Public Utilities and Carriers (“Division”)
13 and Christopher Woodcock for the Portsmouth Water and Fire District (“Portsmouth”). I
14 would also like to address issues regarding Newport’s funding of its restricted accounts.

15

16 **II. DIVISION TESTIMONY**

17 **Q. Do you agree with the adjustments Mr. Smith made in response to Mr. Catlin’s**
18 **testimony?**

19 A. Yes, I do.

20

21 **Q. Do you agree with Mr. Smith’s testimony regarding Consultant Fees?**

22 A. Yes. I do. As Mr. Smith pointed out, Mr. Catlin’s recommendation to reduce non-rate
23 case related consultant costs to a level consistent with historical expenses does not fully
24 account for Newport’s increased need for consultants for the design/build projects at
25 Station One and Lawton Valley (collectively “Treatment Plant Projects”). In addition,
26 Newport is not double counting consultant costs as suggested by Mr. Woodcock.

1 **Q. Do you agree with Mr. Smith’s testimony regarding debt service?**

2 A. Yes, and I would like to reinforce Mr. Smith’s testimony regarding debt service costs.
3 As set forth in Mr. Smith’s testimony, there is no guarantee that the Rhode Island Clean
4 Water Finance Agency (“RICWFA”) can fully fund the Treatment Plant Projects. As such,
5 we don’t know if the entire project can be funded through subsidized borrowings. If it
6 cannot, then Newport will have to seek unsubsidized loans for any portion the RICWFA
7 cannot fund. This will necessarily lead to higher interest rates. As such, and in
8 consultation with our financial adviser, Maureen Gurghigian of First Southwest, the
9 interest rate for the proposed borrowing should remain at 6%, while the cost of
10 issuance can be lowered to 12% (See rebuttal testimony of Maureen Gurghigian).

11

12 **III. PORTSMOUTH DIRECT TESTIMONY**

13 **Q. Do you agree with the adjustments Mr. Smith made in response to Mr. Woodcock’s**
14 **testimony?**

15 A. Yes I do.

16

17 **Q. Do you have anything to add to Mr. Smith’s testimony?**

18 A. Yes, I would like to further address some of the issues raised by Mr. Smith regarding
19 Mr. Woodcock’s direct testimony as well as some issues he did not address. These
20 issues are as follows:

- 21 ▪ Debt Service
- 22 ▪ City Service Costs
- 23 ▪ Chemical Costs
- 24 ▪ Consultant Fees
- 25 ▪ Monthly and Quarterly Reports
- 26 ▪ Funding of Newport’s Restricted Accounts

- 1 ▪ Pumping Costs

2

3 **Q. What issue would you like to address regarding Debt Service?**

4 A. As set forth above, I agree with Mr. Smith’s adjustment to Newport’s Debt Service
5 Cost. In addition, Mr. Woodcock testified that we overstated our debt service
6 requirements, which harms all rate payers. To support his claim, Mr. Woodcock states
7 that Newport has a history of changing Capital and Debt Service Plans and proposing to
8 use restricted Debt Service funds to repay the City of Newport.¹ While I do not believe
9 we overstated our debt service needs, and Newport does not wish to engage in
10 rehashing past history, I feel I must address these issues briefly.

11

12 First, Mr. Woodcock claims that Newport has a demonstrated history of changing its
13 Capital Plans and not using allowed funds for the purposes claimed. In support of his
14 position he generally cites to Docket 4025. Yet, in Docket 4025, Mr. Woodcock never
15 alleged that Newport used capital funds for purposes other than claimed.²

16 Furthermore, it must be made clear that Newport does not use its restricted Capital
17 Fund Account for improper purposes.

18

19 As I testified in past dockets, Newport’s Capital Plan is always subject to change, but this
20 does not mean Newport uses these funds for improper purpose.³ Newport Water’s
21 Capital Plan uses the Infrastructure Replacement Plans (IRP) submitted to the RIDOH
22 every five (5) years. The 2010 IRP updated and replaced the 2005 IRP. The Capital Plan
23 identifies projects projected to commence in certain fiscal years and Newport Water’s
24 staff attempts to maintain the schedule. However at times projects are delayed for

¹ Woodcock Direct, p.6

² Woodcock Direct, Docket 4025, pp.33-35

³ Julia Forgue Rebuttal, Docket 3818, pp.23-27

1 specific reasons such as delays in receiving regulatory approvals; projects requiring
2 more time to develop than anticipated; changes in the approach to the project; changes
3 in regulatory submission deadlines; etc.

4

5 Second, Mr. Woodcock states that Newport has presented debt service plans that
6 change after revenues are approved. Mr. Woodcock cites Newport's Response to PWFD
7 1-6 as an example.⁴ Once again, I must stress that Newport does not use its restricted
8 Debt Service Account to pay expenses other than debt service. In response to PWFD 1-6
9 Newport did not state that it "changed" its Debt Service Plan. Rather, Newport
10 explained that name designations changed. In addition, we explained the particular
11 circumstance surrounding the Easton Pond Dam Improvements borrowing. For that
12 particular borrowing, Newport could not obtain the proper certificate of approval
13 ("COA") from the Rhode Island Department of Environmental Management for the
14 entire project. Because Newport could not obtain this COA, we had to take out a Bond
15 Anticipation Note (BAN), which is now scheduled to be rolled over into a RICWFA
16 borrowing for the full cost of the Easton Pond Dam Improvement Project.

17

18 Newport did not voluntarily "change" its plan to borrow from the RICWFA for the Easton
19 Pond Dam Improvement Project. Newport simply ran into a road block with the COA
20 that delayed the full borrowing. As I have pointed out in my testimony from past
21 dockets, obtaining certificates of approval can be problematic for some projects.⁵ This
22 results in delays wherein a BAN has to be taken out. Simply because borrowing is
23 delayed does not mean Newport is diverting money from its Debt Service Account for
24 inappropriate purposes.

⁴ Woodcock Direct, p. 6

⁵ Forgue Rebuttal, Docket 4025, pp. 11-13

1 Third, Mr. Woodcock testified that in Docket 3578 Newport proposed to use Restricted
2 Debt Service Funds to repay the City of Newport.⁶ Mr. Woodcock summarizes the
3 circumstances in Docket 3578 in one sentence without providing all the facts. As Mr.
4 Woodcock knows, Newport had cash flow problems following the completion of Docket
5 3578 and needed to transfer \$317,955.00 from the Restricted Repayment to the City
6 Account to the Debt Service Account to make a debt service payment.⁷ Eventually,
7 Newport was allowed to reimburse the \$317,955.00 to the Repayment to the City
8 Account from the Debt Service Account.⁸ Thus, Newport's use of debt service funds to
9 repay the City was simply a reimbursement. Furthermore, it was approved by the
10 Commission.

11

12 **Q. Can you address Mr. Woodcock's recommendations regarding City Services?**

13 A. Yes, I agree with Mr. Smith's testimony on this topic. I also do not think this issue
14 should be re-litigated in this docket. However, for the record, I do disagree with Mr.
15 Woodcock's testimony that increased capital projects "minimally" impact City
16 Departments, "if at all."⁹ The City of Newport's departments *are* impacted by the
17 Treatment Plant Projects. These are enormous public works projects, and the City is
18 closely involved in bringing them to fruition.

19

20 The City's Finance Director, Laura Sitrin, provided testimony in Docket 4025 that is
21 relevant to this issue:

22 "[I] think it is important to take a big picture view of the Water Fund and its role
23 in the overall municipality of the City of Newport. The Water Fund is the second
24 biggest fund in the City, and there is no separate Board or Authority that

⁶ Woodcock Direct, p.6

⁷ See Docket 3578 Order No. 18121, December 17, 2004

⁸ Docket 3578, Order No. 18590, March 16, 2006

⁹ Woodcock Direct, p.13 lines 11-12

1 manages its operations. The Water Fund’s capital and debt needs alone require
2 significant effort on the part of policy makers, managers and other employees of
3 the City of Newport. The capital, debt and operating issues are technical,
4 complicated and difficult to immediately understand. Furthermore, the Water
5 Fund is highly regulated by several different agencies, including, but not limited
6 to, the Rhode Island Public Utilities Commission. This requires a greater degree
7 of attention and extra effort to understand the applicable regulations and ensure
8 compliance.

9
10 The rate filing process alone requires increased effort on the part of the City
11 Manager, Water personnel and Finance personnel. It also requires additional
12 attention from the City Solicitor and City Council. Also, the Water Fund’s
13 financial activities and payroll are intertwined to a large degree with other City
14 operating funds. Vendor checks are issued from the Water Fund’s own checking
15 account, but all other financial activity is handled through wire transfers and
16 journal entries. All of these factors create an environment where more support
17 is needed for the Water Fund than for other funds.”¹⁰
18

19 These same principals apply to the Treatment Plant Projects. Thus, the allocation of City
20 Services should not change for the reasons set forth in my testimony and Mr. Smith’s
21 testimony.

22
23 **Q. Do you have any comments on Mr. Woodcock’s testimony concerning chemical
24 costs?**

25 A. Yes. Newport agrees that Chemical costs should be based on actual chemical pricing
26 for FY12. However, Mr. Woodcock stated that there seemed to be no basis for the
27 estimated use. Chemical usage has been calculated using the three year running
28 consumption of the chemical with the following exceptions:

- 29 • Sodium Chlorite usage at both Lawton Valley and Station has increased in an
30 effort to lower TTHM levels. This is projected to continue at or slightly above FY
31 2010 levels.

¹⁰ Sitrin Rebuttal, Docket 4025, p. 2

- 1 • Sodium Hydroxide usage is based upon a full year consumption for FY 2010 and
2 nine months for FY 2009. Both treatment plants converted to Sodium Hydroxide
3 in September, 2008.
- 4 • Copper Sulfate usage is based upon the average of FY 2008 and FY 2010only. FY
5 2009 was not used due to being an abnormally low consumption year for the
6 chemical.

7

8 Thus, it is our position that Chemical costs should be based on the actual chemical
9 pricing for FY12 applied against the quantities we calculated.

10

11 **Q. Do you have any comments on Mr. Woodcock’s testimony regarding consultant**
12 **fees?**

13 A. Yes, I agree with Mr. Smith’s testimony on this topic. Newport is not double counting
14 its consultant fees. Because of the Treatment Plant Projects, we are employing a
15 number of different consultants who are being paid from different sources as set forth
16 in Figure 1 attached to Mr. Smith’s testimony.

17

18 **Q. Do you agree with Mr. Woodcock’s suggestions regarding monthly and quarterly**
19 **reporting?**

20 A. No I do not. I do agree with Mr. Woodcock that I have “better firsthand knowledge
21 of the goings on”¹¹ in the Water Division, and I keep track of the financial issues
22 affecting the Water Division. Furthermore, by requesting to discontinue the monthly
23 and quarterly reports, I am not suggesting “it is not important to gather this type of
24 financial information.”¹² Working closely with the Deputy Utility Director for Finance, I

¹¹ Woodcock Direct, p. 24

¹² Woodcock Direct, p. 24

1 know the amount of outstanding payroll and funds owed to the City and outside
2 vendors at all times. The issue in this case is the reports themselves and their value. It is
3 simply our request that Newport be ordered to file the same reports that other
4 regulated water utilities typically file. Newport is also willing to continue producing the
5 monthly cash flow narrative.

6

7 As I testified in past dockets, the monthly reports are mere snapshots in time of the last
8 day of each month. The information in the reports is stale the day they are filed. In
9 fact, the reports can be affected by what day of the week the month ends. Mr.

10 Woodcock uses the example of Newport's June 2011 report, which showed a number of
11 payables. June 30, 2011 fell on a Thursday and many customers pay on, or immediately
12 before, the last day of the month, and those payments would not have been posted
13 until July 5th or later due to the holiday. In fact, the information in the June 2011 report
14 was completely different thirty days later:

- 15 • Newport owed four payrolls in the June report and only two in the July report.
- 16 • The second and third quarter sludge disposal payments to the City had not been
17 made in the June report. In the July report they had.
- 18 • Equipment charges for the month of April had not been paid in the June report.
19 In the July report they had.
- 20 • \$100,000.00 of vendor invoices were 60 days overdue in the June report. In the
21 July report this number was \$5,488.42.

22

23 Newport has no issue with providing the information in the monthly cash flow narrative,
24 and the standard financial reports that other regulated water utilities file. This would
25 provide all the parties with information regarding Newport's payables. However, the
26 time needed to produce the monthly and quarterly cash flow reports and trial balances

1 can be put to better use especially considering the anticipated demands of the
2 Treatment Plant Projects.

3

4 Mr. Woodcock also attempts to show that Newport's payables are not being paid. This
5 is simply not true. Newport pays its bills as soon as money is available to pay them. The
6 charts on page 23 of his testimony demonstrate that Newport will always have payables
7 at the end of every month. This is because invoices arrive every month. Newport's
8 ability to pay vendors and the City at any moment in time depends on cash receipts and
9 the amount we must retain for restricted account transfers. Filing monthly cash flow
10 and trial balance reports will not change this process.

11

12 **Q. Has Newport changed the way it funds its restricted account?**

13 A. Yes. As pointed out in the Docket 4025 Order most utilities fund their accounts to
14 conform with their bond indentures:

15 "Newport Water is unique as to other regulated non-investor owned water
16 utilities in Rhode Island in that when consumption is reduced, the funds that end
17 up short are the O&M accounts. Other water utilities fund O&M first and then
18 fund their restricted accounts on a whole dollar basis in a certain priority order
19 until there are no more revenues left with which to fund. Therefore, most of the
20 other water utilities are under-funded in their IFR accounts, but have not had to
21 rely on their respective host city for cash flow.²³⁹ Conversely, Newport Water has
22 been funding their restricted accounts first on a whole dollar basis and O&M
23 last.²⁴⁰ Had Newport Water applied their revenues in the same manner as the
24 other water utilities, there would most likely not have been an issue of
25 outstanding payables to the City in either this docket or Docket No. 3818."¹³

26

27 In the past, Newport did not fund its accounts in strict conformance with its bond
28 indenture. Newport interpreted the Commission's Orders as requiring it to fund its
29 Restricted Accounts first. However, after consultation with bond counsel, Newport

¹³ Docket 4025 Order, pp 77-78

1 must begin funding its accounts in strict conformance with the bond indenture. Thus,
2 beginning in July 2011 Newport will fund its accounts in the following order:

- 3
- 4 1. Operating Fund for Operating & Maintenance Expenses;
 - 5 2. Restricted Accounts established by the City as required by any order of
6 the PUC used to pay O&M Expenses (Electricity, Chemicals, Retiree
7 Insurance, Accrued benefits Buyout, Salary & Wage Increase) ;
 - 8 3. Debt Service Account;
 - 9 4. Operating Revenue Allowance Account;
 - 10 5. Capital Spending Account Accounts; and
 - 11 6. Other Restricted Funds or Accounts established by the City in compliance
12 with applicable law or as required by any order of the PUC.
- 13

14 **Q. Do you have any comment on Mr. Woodcock's testimony about Newport's**
15 **tracking of pumping costs?**

16 A. Yes. As detailed in Data Response PWFD 2-3 Newport Water continues to track
17 separate costs for the operation of the 6MG finished water pumps at Lawton Valley and
18 the booster pump at Station 1. Costs for this pumping are broken down into electricity,
19 labor, and repair/maintenance costs. FY 2010 costs were detailed in PWFD 2-3 and
20 attached is a summary of the FY10 and FY11 costs.

21

22 Mr. Woodcock also indicates that Newport should provide the IFR report to include the
23 "full capital program." Newport currently does this by providing information in the
24 format previously agreed to by all the parties and the Commission. Projects are added
25 to the quarterly IFR report from the capital program when the project begins to draw

1 funds. Similarly projects are removed from the quarterly IFR report when they are
2 completed.

3

4 **Q. Does this conclude your testimony?**

5 A. Yes it does.

6

Newport Water Division- Docket 4243
Julia A. Forgue, P.E. Rebuttal Testimony
Finished Water Pumping Expenses

	FY 2010	FY 2011
Station One		
50275 Repair & Maintenance - Equipment	\$0.00	\$0.00
50311 Operating Supplies	\$2,622.00	\$2,590.00
Labor	\$6,552.00	\$6,552.00
Electrical	\$17,747.00	\$13,665.00
Total Station One	\$26,921.00	\$22,807.00
Lawton Valley		
50275 Repair & Maintenance - Equipment	\$254.67	\$951.82
50311 Operating Supplies	\$2,123.33	\$1,825.00
Labor	\$2,196.00	\$3,285.00
Electrical	\$19,873.00	\$25,789.00
Total Lawton Valley	\$24,447.00	\$31,850.82

CERTIFICATION

I hereby certify that on September 21, 2011, I sent by electronic mail a copy of the within to Service List herein below, and mailed one original and nine copies to Luly Massaro, Clerk, Rhode Island Public Utilities Commission.

Parties/Address	E-mail Distribution	Phone/Fax
Julia Forgue, Director of Public Works Newport Water Department 70 Halsey St. Newport, RI 02840	jforgue@cityofnewport.com	401-845-5601
	jtracey@cityofnewport.com	401-846-0947
	lsitrin@CityofNewport.com	
Jon Hagopian, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	jhagopian@riag.ri.gov	401-222-2424
	sscialabba@ripuc.state.ri.us	401-222-3016
	pdodd@ripuc.state.ri.us	
	dmacrae@riag.ri.gov	
Harold Smith Raftelis Financial Consulting, PA 511 East Blvd. Charlotte, NC 28203	Hsmith@raftelis.com	704-373-1199
	Hhoover@raftelis.com	704-373-1113
Gerald Petros, Esq. Hinckley, Allen & Snyder 1500 Fleet Center Providence, RI 02903	gpetros@haslaw.com	401-274-2000
	clomas@haslaw.com	
William McGlinn Portsmouth Water & Fire District 1944 East Main Rd. PO Box 99 Portsmouth, RI 02871	wmcglinn@portsmouthwater.org	401-683-2090 ext. 224
Ellen M. Evans Senior Trial Attorney Naval Facilities Engineering Command Litigation Office 720 Kennon St., Bldg. 36, Room 136 Washington Navy Yard, DC 20374-5051	ellen.evans@navy.mil	202-685-2235 202-433-2591
Dr. Kay Davoodi, P.E. Utility Rates and Studies Office NAVFACHQ- Building 33 1322 Patterson Ave SE Washington Navy Yard, D.C. 20374-5065	Khojasteh.davoodi@navy.mil	202-685-3319 202-433-7159
	Larry.r.allen@navy.mil	
Maurice Brubaker Brubaker and Associates, Inc. PO Box 412000 St. Louis, MO 63141-2000	mbrubaker@consultbai.com	401-724-3600 401-724-9909
	bcollins@consultbai.com	

Thomas S. Catlin Exeter Associates, Inc. 10480 Little Patient Parkway, Suite 300 Columbia, MD 21044	tcatlin@exeterassociates.com	410-992-7500 410-992-3445
Christopher Woodcock Woodcock & Associates, Inc. 18 Increase Ward Drive Northborough, MA 01532	Woodcock@w-a.com	508-393-3337 508-393-9078
Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	lmassaro@puc.state.ri.us	401-780-2107 401-941-1691
	cwilson@puc.state.ri.us	
	sccamara@puc.state.ri.us	

Joseph A. Keough, Jr., Esquire # 4925
KEOUGH & SWEENEY, LTD.
100 Armistice Boulevard
Pawtucket, RI 02860
(401) 724-3600