

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: CITY OF NEWPORT, UTILITIES DEPARTMENT, :
WATER DIVISION’S PETITION TO RECOVER :
ELECTRONIC PAYMENT FEES RESULTING FROM : DOCKET NO. 5254
COVID-19 PUC DECISIONS :**

ORDER

On April 29, 2022, the City of Newport, Utilities Department, Water Division (Newport Water) filed with the Public Utilities Commission (Commission) a Miscellaneous Petition to Recover Electronic Payment Transaction Fees. Newport Water’s cost of service does not include recovery of electronic transaction fees that were previously recovered from the users of electronic payment methods. On March 16, 2020, the Commission, in response to the COVID-19 pandemic and associated economic and social restrictions opened Docket No. 5022 which, among other restrictions on collections activities, prohibited the regulated utilities from charging late fees, interest charges, credit card fees, debit card fees, and ACH fees to their customers. While many of the restrictions on collections were lifted over time, on November 5, 2021, the Commission ordered the utilities to continue absorbing the costs associated with electronic payment methods and allowed the utilities, for whom recovery of electronic transaction expense was not part of their cost of service, to propose a time-limited recovery tariff of those waived fees.¹

¹ Order No. 24424 at 7; <https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-06/5022-Emergency-Ord24424%20%286-6-2022%29.pdf>.

The Commission also voted unanimously to require the utilities to continue to absorb any online payment transaction fees and to allow the utilities who do not have those costs included in their cost of service the opportunity to file for rate recovery on a going forward basis through a specific ratemaking mechanism that would be in effect through the utility’s next rate case. It should be designed to recover no more than actually expended by the utility to absorb the fees. The Commission did not address previously accrued costs associated with the waived fees because some of the utilities have indicated they may not seek back cost recovery. Additionally, the Commission did not design a cost recovery mechanism because each utility may have different needs or timing of their respective request. The Division noted that they would support recovery in a future ratemaking proceeding on the basis that such extraordinary costs would qualify for an exception to retroactive ratemaking prohibitions. This, however, also appears to qualify for a time-limited exception to the restrictions on single-issue ratemaking. In the utility’s next base rate case (general or

In its Petition, Newport Water proposed two recovery mechanisms supported by prefiled testimony of Robert C. Schultz, Jr. Mr. Schultz proposed to recover Newport Water's actual incurred expenses for the processing of credit card and debit card fees (electronic transaction fees) for the period July 1, 2020, through the date of the Commission's decision in this matter by withdrawing that amount from its restricted Revenue Reserve Account and transferring it to the Operations Fund. He indicated that the balance of the restricted Revenue Reserve Account was approximately \$887,699 as of March 31, 2022, while the total fees accrued through February 28, 2022 were \$106,918.48. To recover ongoing fees, Mr. Schultz proposed increasing Newport Water's cost of service by \$6,200 per month, calculated at the average monthly expense over the most recent eight-month period including an annual growth factor for a total of \$74,400 per year.²

Mr. Schultz and Harold Smith, Newport Water's rate consultant responded to discovery, including data requests and record requests to break out the costs between the water division and pollution control division which share payment processing costs. Newport Water estimated that the impact on the water pollution control division would be approximately \$25,000. However, Newport Water did not believe the pollution control division should be back-billed where the PUC's 2020 and 2021 Orders were directed only to the regulated entity, Newport Water. Newport Water noted that the pollution control division had not budgeted for those expenses. Additionally, the rate impact on Newport Water's customer base would be minimal. Newport Water did note that the pollution control division would be on notice of the increased expenses going forward.³

On June 1, 2022, the Division of Public Utilities and Carriers (Division) submitted Memorandum from John Bell, Chief Accountant, summarizing the filing and recommending

abbreviated), the costs should be included in their cost of service in the same manner as all other billing costs, taking into account any cash flow benefits that result from online payments.

² Newport Water's Pet. at 4.

³ NBC's Responses to PUC's Data Requests, Division Data Requests, and Record Requests.

approval. Mr. Bell stated that withdrawing the actual incurred costs from the restricted Revenue Reserve Account was reasonable.⁴ Commenting on the proposal for the recovery of future costs, he stated that the proposal and calculation of projected expenses was reasonable, subject to an annual true-up of the actual expenses to revenues. Any over- or under-recovery would be settled through the restricted Revenue Reserve Account. The Division, however, reserved its right to comment further on the allocation of costs between the water division and pollution control division pending its review of outstanding data requests and participation in the public hearing.

Following a June 14, 2022, hearing at the PUC's offices, Newport Water filed a supplemental response to Record Request 2, stating, the restricted revenue reserve account is funded each month from all revenues collected by Newport Water. Since the charge to the water pollution control division represents approximately 2% of annual revenues, water pollution control contributes approximately 2% of the funding to the revenue reserve.^{5,6}

On June 20, 2022, the Division indicated that it and Newport Water agreed on a true-up mechanism related to any differences between the actual ongoing electronic payment fees and the amounts recovered through rates and from the City of Newport Water Pollution Control Division. This agreement is documented in Newport Water's response to Record Request 5, which the Division had reviewed and with which it concurred.⁷

⁴ Bell Mem. at 2 (June 1, 2022).

⁵ Newport Water Response to RR-2, Supplemental.

⁶ Following a hearing held on June 14, 2022, Portsmouth Water and Fire District a wholesale customer and intervenor, addressed this issue noting its position as follows: (1) WPC should contribute to the payment of the electronic payment fees incurred and proposed to be paid for via a withdrawal from Newport Water's restricted Revenue Reserve Account; (2) if Newport Water can confirm that miscellaneous revenues received from WPC contribute to the balance in the restricted Revenue Reserve Account, then there is no need to bill WPC separately for those amounts; but (3) if revenue from WPC does not contribute to the restricted Revenue Reserve Account, then Newport Water should bill WPC for its commensurate allocated share of the electronic payment fees incurred in the same manner that it bills WPC for other customer service expenses. (PWFD Response to PUC RR-2).

⁷ Bell Mem. at 1 (June 20, 2022).

Specifically, Newport Water and the Division agreed to support Newport Water's request for an additional \$74,400 of revenues from rates to cover Electronic Payment Fees. They recommended that this expense should be included in the Customer Service O&M budget item. As part of the Customer Service O&M budget item, 50% of this expense (\$37,200) would be allocable to the City of Newport Water Pollution Control Division ("WPC"). Under the current formula for allocating the WPC share, it pays .632% of the 50% share of this expense, or \$23,510.40. Thus, Newport Water could collect \$74,400 in rates and \$23,510.40 from WPC for a total of \$97,910.40. At the end of the fiscal year, Newport Water will determine the exact amount of Electronic Payment Fees it paid on behalf of customers. If Newport Water pays more than \$97,910.40, it will be allowed to withdraw the balance from the restricted Revenue Reserve Account. If Newport Water pays less than \$97,910.40, it will deposit the balance in the restricted Revenue Reserve Account.⁸

At an Open Meeting held on June 21, 2022, the Commission reviewed the filings and unanimously approved Newport Water's request to collect the Electronic Transaction Fees incurred between July 1, 2020 and June 30, 2022 from the restricted Revenue Reserve Account. The Commission further approved Newport Water's request to collect an additional \$74,400 in rates subject to the agreements between Newport Water and the Division memorialized in Newport Water's response to Record Request 5. On July 9, 2022, Newport Water submitted a compliance filing which was approved by the Commission at its July 14, 2022 Open Meeting.

Accordingly, it is hereby.

(24788) ORDERED:

⁸ Newport Water's Response to Record Request 5.

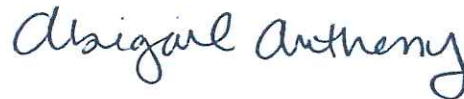
1. The City of Newport, Utilities Department, Water Division is authorized to withdraw from the restricted Revenue Reserve Account, the actual accrued total of waived electronic payment processing fees incurred from the July 1, 2020 through June 30, 2022.
2. The City of Newport, Utilities Department, Water Division is authorized to collect an additional \$74,400 annually to recover Electronic Payment Fees subject to the agreement with the Division as outlined in the response to Record Request 5 in this docket.
3. The City of Newport, Utilities Department, Water Division's compliance tariff filing made on July 9, 2022 is hereby approved.

EFFECTIVE AT WARWICK, RHODE ISLAND, ON JULY 1, 2022, PURSUANT TO OPEN MEETING DECISIONS ON JUNE 21, 2022 AND JULY 14, 2022. WRITTEN ORDER ISSUED ON AUGUST 18, 2023.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman



Abigail Anthony, Commissioner



John C. Revens, Jr., Commissioner



NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws §39-5-1, any person aggrieved by a decision or order of the PUC may, within seven (7) days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.