



100 Westminster Street, Suite 1500  
Providence, RI 02903-2319  
p: 401-274-2000 f: 401-277-9600  
hinckleyallen.com

**Adam M. Ramos**  
aramos@hinckleyallen.com  
Direct Dial: 401-457-5164

September 1, 2016

**Via Electronic Mail and Regular Mail**

Luly E. Massaro, Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, Rhode Island 02888

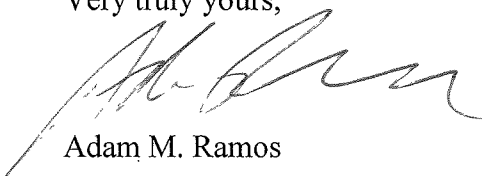
**Re: Newport Water – Docket No. 4243 – Miscellaneous Petition (June 10, 2016)**

Dear Ms. Massaro:

Enclosed for filing in the above-referenced matter are an original and nine copies of Portsmouth Water and Fire District's Response to Newport Water's Miscellaneous Petition for Relief related to the miscellaneous petition filed in this docket on June 10, 2016.

Thank you for your attention to this matter.

Very truly yours,



Adam M. Ramos

AMR:cw  
Enclosures

cc: RIPUC Service List (electronically only)

56011863 (38210.147578)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISISON

IN RE: CITY OF NEWPORT, UTILITIES :  
DEPARTMENT, WATER DIVISION : **DOCKET NO. 4243**  
APPLICATION TO CHANGE RATES :  
MISCELLANEOUS PETITION FOR RELIEF : **Miscellaneous Petition**  
TO WITHDRAW AND UNRESTRICT A : **(June 10, 2016)**  
PORTION OF THE RESTRICTED PAYROLL :  
ACCOUNT :

**PORTSMOUTH WATER & FIRE DISTRICT'S RESPONSE TO  
NEWPORT WATER'S MISCELLANEOUS PETITION FOR RELIEF**

The Portsmouth Water & Fire District ("Portsmouth") submits this response to The City of Newport, Utilities Department, Water Division's ("Newport Water") Miscellaneous Petition for Relief filed on June 10, 2016 (the "Petition") requesting permission to withdraw funds from the restricted Salary Increase Account.

Portsmouth does not object to Newport Water's proposed withdrawal of \$74,400.79 from its restricted Salary Increase Account as described in the pre-filed testimony of Julia Forge, dated June 10, 2016, which was submitted in support of the Petition. Forge Testimony at 4:23-5:2. Although Newport Water's Responses to Portsmouth's First Set of Data Requests (Supplemental), filed on August 18, 2016, are based on preliminary data from FY 2016, it appears that Newport Water did not generate sufficient revenue in FY 2016 to pay for the salary increases that went into effect during that year. Therefore, Portsmouth agrees that Newport Water should use the \$74,400.79 requested to pay for these salary and wage increases.

Portsmouth objects to Newport Water's request to keep the remaining \$131,743.99 balance in the restricted Salary Increase Account after the requested withdrawal for future salary increases. Forge Testimony at 5:12-26. Newport Water seeks to keep this balance because its

“union contracts provide for further increases in FY 2018 and 2019, which will not be covered by the proposed increase in Docket 4595.” Id. at 5:21-26. It is improper for a water utility to seek rate revenues to recover expenses that will be incurred beyond the rate year. R.I. Admin. Code § 53-1-8:2.6(b) (“The rate year is the twelve-month period for which new rates are designed to recover the proposed cost of service.”). When a water utility anticipates increased expenses in future years, the utility has the option to seek a multi-year rate plan that includes increases for the reasonably anticipated expense increases. R.I. Gen. Laws § 39-15.1-4. That option provides a mechanism for the water utility, the Commission and intervenors to assess whether the anticipated increased expenses actually materialize and whether the originally anticipated rate increase is necessary. See id.

Newport Water currently has a rate case pending before the Commission. See Docket 4595. Newport Water did not seek to implement a multi-year rate plan to account for projected salary increases in that docket. See id. The Commission should not permit Newport Water to act outside the rules established for all other water utilities and fund its salary increases on a prospective basis. Moreover, Newport Water does not face the circumstances it faced when the Commission authorized the restricted Salary Increase Account in Docket 4025. Compare Forge Testimony at 2:20-3:2 (stating that account was created because Newport Water was negotiating contracts and did not know the amount of future salary increases) with Forge Testimony at 5:21-6:11 (explaining that “most recent union contracts provide for further increases in FY 2018 and 2019” and identifying that the minimum increase will be 1.9% per the terms of the contracts).

Newport Water could have requested a multi-year rate plan in Docket 4595 to account for the projected salary increases; it did not. Thus, if Newport Water will need additional funds for

salaries in FY 2018 and 2019, then it should file a new rate case to recover those expenses, as called for by the Rhode Island General Laws and the Commission's rules. The excess funds in the restricted Salary Increase Account should be used to reduce rates for all Newport Water customers. Portsmouth's specific proposal for how the remaining \$131,743.99 balance in the restricted Salary Increase Account will be set forth in its post-hearing brief in Docket 4595.

Wherefore, Portsmouth respectfully requests that the Commission **grant, in part, and deny, in part**, Newport Water's Petition, and authorize the requested withdrawal of \$74,400.79, but deny the request to continue the restricted Salary Increase Account and maintain the remaining \$131,743.99 balance for future salary increases.

PORTSMOUTH WATER  
AND FIRE DISTRICT

By its Attorneys,

/s/ Adam M. Ramos  
Gerald J. Petros (#2931)  
Adam M. Ramos (#7591)  
Hinckley, Allen & Snyder LLP  
100 Westminster St., Suite 1500  
Providence, RI 02903  
401-274-2000  
401-277-9600 (fax)

Dated: September 1, 2016

**CERTIFICATION**

I hereby certify that on September 1, 2016, 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.

/s/ Adam M. Ramos \_\_\_\_\_

<b>Parties/Address</b>	<b>E-mail Distribution</b>	<b>Phone</b>
Joseph A. Keough, Jr., Esq. Keough & Sweeney 41 Mendon Ave. Pawtucket, RI 02861	<a href="mailto:jkeoughjr@keoughsweeney.com">jkeoughjr@keoughsweeney.com</a> ;	401-724-3600
Julia Forgue, Director of Public Works Newport Water Department 70 Halsey St. Newport, RI 02840	<a href="mailto:jforgue@cityofnewport.com">jforgue@cityofnewport.com</a> ;	401-845-5601
	<a href="mailto:lsitrin@CityofNewport.com">lsitrin@CityofNewport.com</a> ;	
	<a href="mailto:rschultz@CityofNewport.com">rschultz@CityofNewport.com</a> ;	
	<a href="mailto:wyst@CityofNewport.com">wyst@CityofNewport.com</a> ;	
Harold Smith Raftelis Financial Consulting, PA 511 East Blvd. Charlotte, NC 28203	<a href="mailto:Hsmith@raftelis.com">Hsmith@raftelis.com</a> ;	704-373-1199
Christy Hetherington, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	<a href="mailto:Chetherington@riag.ri.gov">Chetherington@riag.ri.gov</a> ;	401-222-2424
	<a href="mailto:steve.scialabba@dpuc.ri.gov">steve.scialabba@dpuc.ri.gov</a> ;	
	<a href="mailto:pat.smith@dpuc.ri.gov">pat.smith@dpuc.ri.gov</a> ;	
	<a href="mailto:John.bell@dpuc.ri.gov">John.bell@dpuc.ri.gov</a> ;	
	<a href="mailto:al.mancini@dpuc.ri.gov">al.mancini@dpuc.ri.gov</a> ;	
	<a href="mailto:jmunoz@riag.ri.gov">jmunoz@riag.ri.gov</a> ;	
Stacy Sherwood Jerome Mierzwa Exeter Associates, Inc. 10480 Little Patuxent Parkway, Suite 300 Columbia, MD 21044	<a href="mailto:Sherwood@exeterassociates.com">Sherwood@exeterassociates.com</a> ;	410-992-7500
	<a href="mailto:jmierzwa@exeterassociates.com">jmierzwa@exeterassociates.com</a> ;	
Gerald Petros, Esq. Adam Ramos, Esq. Hinckley, Allen & Snyder 100 Westminster St., Suite 1500 Providence, RI 02903	<a href="mailto:gpetros@haslaw.com">gpetros@haslaw.com</a> ;	401-274-2000
	<a href="mailto:aramos@hinckleyallen.com">aramos@hinckleyallen.com</a> ;	
	<a href="mailto:cwhaley@hinckleyallen.com">cwhaley@hinckleyallen.com</a> ;	
	<a href="mailto:jmansolf@hinckleyallen.com">jmansolf@hinckleyallen.com</a> ;	
William McGlenn Portsmouth Water & Fire District 1944 East Main Rd. PO Box 99 Portsmouth, RI 02871	<a href="mailto:wmcglenn@portsmouthwater.org">wmcglenn@portsmouthwater.org</a> ;	401-683-2090 ext. 224

<b>Parties/Address</b>	<b>E-mail Distribution</b>	<b>Phone</b>
Christopher Woodcock Woodcock & Associates, Inc. 18 Increase Ward Drive Northborough, MA 01532	<a href="mailto:Woodcock@w-a.com">Woodcock@w-a.com</a> ;	508-393-3337
Allison Genco, Esq. NAVFAC HQ- Building 33 Dept. of the Navy 1322 Patterson Ave SE, Suite 1000 Washington Navy Yard, D.C. 20374-5065	<a href="mailto:allison.genco@navy.mil">allison.genco@navy.mil</a> ;	
Dr. Kay Davoodi, P.E., Director Utility Rates and Studies Office NAVFAC HQ- Building 33 Dept. of the Navy 1322 Patterson Ave SE, Suite 1000 Washington Navy Yard, D.C. 20374-5065	<a href="mailto:Khojasteh.davoodi@navy.mil">Khojasteh.davoodi@navy.mil</a> ;	
Larry R. Allen, Public Utilities Specialist Dept. of the Navy	<a href="mailto:Larry.r.allen@navy.mil">Larry.r.allen@navy.mil</a> ;	
Maurice Brubaker Brubaker and Associates, Inc. PO Box 412000 St. Louis, MO 63141-2000	<a href="mailto:mbrubaker@consultbai.com">mbrubaker@consultbai.com</a> ; <a href="mailto:bcollins@consultbai.com">bcollins@consultbai.com</a> ;	401-724-3600
<b>File an original and nine (9) copies w/:</b> Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Luly.massaro@puc.ri.gov">Luly.massaro@puc.ri.gov</a> ; <a href="mailto:Cynthia.WilsonFrias@puc.ri.gov">Cynthia.WilsonFrias@puc.ri.gov</a> ; <a href="mailto:Sharon.ColbyCamara@puc.ri.gov">Sharon.ColbyCamara@puc.ri.gov</a> ;	401-780-2107