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June 29, 2015

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

**Re: *Providence Water Supply Board***  
***Docket 4406***

Dear Ms. Massaro:

Enclosed please find an original and nine copies of the following document:

1. THE BRISTOL COUNTY WATER AUTHORITY'S OBJECTION TO THE PROVIDENCE WATER SUPPLY BOARD'S MOTION PURSUANT TO RULE 1.26 TO REOPEN THIS DOCKET AND ADOPT THE REVISED SETTLEMENT AGREEMENT DATED NOVEMBER 8, 2013, PREVIOUSLY FILED IN THIS DOCKET.

Please note that an electronic copy of these documents has been provided to the service list.

Thank you for your attention to this matter.

Sincerely,



Joseph A. Keough, Jr.

JAK/kf  
Enclosures  
cc: Service List (*via electronic mail*)

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE: PROVIDENCE WATER SUPPLY BOARD : DOCKET No. 4406**

**THE BRISTOL COUNTY WATER AUTHORITY’S OBJECTION TO THE PROVIDENCE WATER SUPPLY  
BOARD’S MOTION PURSUANT TO RULE 1.26 TO REOPEN THIS DOCKET AND ADOPT THE  
REVISED SETTLEMENT AGREEMENT DATED NOVEMBER 8, 2013, PREVIOUSLY FILED IN THIS  
DOCKET**

**I. INTRODUCTION**

The Providence Water Supply Board (“Providence”) filed a Motion to Reopen Docket 4406 pursuant to Rule 1.26 of the Rules of Practice and Procedure for the Rhode Island Public Utilities Commission. Providence ostensibly asks the Commission to restore \$2,400,000 in funding for its Capital Improvement Program Fund (“CIP Fund”). Providence’s Motion actually seeks approval of a \$30 million Central Operating Facility (“COF”) and funding for miscellaneous projects not covered in its Infrastructure Replacement Plan. Providence seeks this approval on an expedited basis. The Bristol County Water Authority (“BCWA”) objects to this Motion.

**II. OBJECTION**

Providence’s Motion correctly states that the original Settlement Agreement in this Docket, dated November 8, 2013, included \$2,450,000 in annual funding for the restricted CIP Fund. Providence sought this funding to potentially pay for a COF at a later date. The Commission rejected this provision and voted to remove \$2,400,000 of CIP funding at its November 22, 2013 Open Meeting. The Commission rejected this funding because Providence could not provide specific details during the litigation of Docket 4406 regarding a potential COF. Thus, the Commission found that costs associated with a COF failed to qualify as a known and

measurable expense. In the nineteen months since the Commission's Open Meeting, no written decision was issued, but Providence continued its efforts to procure a COF.

On May 7, 2015, Providence entered into a Purchase and Sales Agreement to purchase property for \$10,350,000. On June 17, 2015, Providence filed its Motion to Reopen, which claims the total COF will exceed \$27,000,000 and require a \$30,000,000 borrowing. Providence seeks to restore \$2,400,000 in CIP funding "primarily" to service debt associated with this borrowing. Providence also claims that:

"The restoration of the \$2,400,000 can be accomplished by reverting back to the terms of the revised Settlement Agreement dated November 8, 2013 which was the Agreement signed by all the parties to this docket and pending before the Commission at the time the Commission removed the \$2,400,000..."

While restoring \$2,400,000 of CIP funding can be accomplished by reverting back to the November 8, 2013 Settlement Agreement, funding a \$30,000,000 COF cannot be accomplished without eliminating all the Settlement Agreement's restrictions on these funds. Paragraph 11 of the November 8, 2013 Settlement Agreement addressed the \$2,450,000 funding for the CIP Fund, and it contained several restrictions regarding the COF.<sup>1</sup> These restrictions included the following:

- The CIP Fund was restricted.
- Providence could not withdraw any funds from the CIP "without first seeking permission from the Commission through an Order of the Commission..."
- Providence was required to "file a formal request with the Commission, with notice to all parties in this docket before withdrawing, committing, or encumbering any funds from this account for any purpose related in any way to a COF."

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<sup>1</sup> This Settlement Agreement was replaced by a Settlement Agreement dated November 26, 2013, which removed paragraph 11.

- Providence agreed not to “Enter into any contracts for the purchase or lease of any land or buildings or renovations to any existing buildings for a COF without first seeking permission from the Commission through an Order of the Commission.”
- The parties in Docket 4406 reserved “the right to object to any request made by Providence to withdraw, commit or encumber funds from the CIP for any purpose related in any way to a COF, and to any request to enter into contracts for the purchase or lease of any land or buildings or renovations to any existing building for a COF.”
- The parties specifically did not “waive any rights or issues they asserted or raised in this docket or any issues they may raise in future proceedings, regarding a proposed COF.”

Thus, Providence’s request to revert “back to the terms of the revised Settlement Agreement dated November 8, 2013” would reinstitute these provisions. In this regard, it should be noted that Providence’s proposed Notice of Public Hearing does not mention the \$30 million COF. The notice does not state that Providence seeks to restore \$2,400,000 of CIP funding, while eliminating all the restrictions on its use agreed to by the parties in Docket 4406. As such, Providence’s customers are not on notice that Providence seeks to reopen this matter to obtain \$30,000,000 of funding for a COF.

Furthermore, Providence seeks approval on an expedited basis. Providence’s Motion states that the due diligence period in the Purchase and Sale Agreement expires on September 1, 2015. Therefore, Providence Water argues that it “needs a decision on this filing prior to September 1, 2015 or it stands to, at a minimum, lose its \$250,000 deposit.” However, as Thomas Massaro testified, “Providence may elect to terminate the Agreement for any reason, or for no reason, anytime prior to the expiration of the due diligence period. If terminated by September 1, Providence Water will receive a refund of the \$250,000; after September 1, the deposit is no longer refundable.” (See Massaro Testimony, p.2) Thus, Providence may terminate the Agreement prior to September 1, 2015, or seek an extension of the due diligence date,

without losing its \$250,000 deposit. Therefore, it is not necessary for the Commission and the parties to examine Providence's request in a sixty-day timeframe.

Finally, Providence seeks to restore \$2,400,000 of annual funding even though debt service on the COF borrowing is likely to be no more than \$2,100,000 per year. Providence seeks the excess funds to pay for miscellaneous projects not in its Infrastructure Replacement Plan. This provides Providence with an extra \$300,000 per year for miscellaneous projects.

The BCWA notes that this filing does not set forth its complete objection. A procedural hearing is scheduled in this matter for June 30, 2015, and the BCWA assumes it will have a chance to submit testimony in this Docket. As such, the BCWA may have further objections to Providence's Motion based on further examination of the filing and information obtained through data requests specifically related to the COF and Providence's request.

### **III. CONCLUSION**

WHEREFORE, for the reasons set forth hereinabove the Bristol County Water Authority hereby objects to Providence's Motion.

BRISTOL COUNTY WATER AUTHORITY  
By its attorney,



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Dated: June 29, 2015

**CERTIFICATION**

I hereby certify that on June 29, 2015, I sent a copy of the within to all parties set forth on the Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and regular mail.

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