STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

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| IN RE: | CITY OF NEWPORT, UTILITIES DEPARTMENT, WATER DIVISION APPLICATION TO CHANGE RATE SCHEDULES | DOCKET NO. 2985 |

REPORT AND ORDER

On May 28, 1999, the City of Newport, Utilities Department, Water Division ("Newport Water"), a municipal utility, filed with the Public Utilities Commission ("Commission") a rate application pursuant to R.I.G.L. § 39-3-11. This filing failed to conform to the Commission's Rules of Practice and Procedures ("Rules"), and on June 8, 1999, the Commission directed Newport Water to comply.[1]

Responding to the filing, the Division of Public Utilities and Carriers ("Division") asserted that the deficiencies were such that the case should either be withdrawn and refiled, or should be rejected. The Commission considered the Division's response at an open meeting on July 27, 1999, and noted the concerns, further granting Newport Water the ability to utilize the same test year if it should elect to withdraw and refile.

[1] In Order No. 13947 (issued June 19, 1992), in Docket No. 2029, the Commission ordered Newport Water to file a fully allocated cost of service ("COS") study in its next general rate case, or within three years. No compliance filing was made by June, 1995; however, the May, 1999 general rate filing should certainly have contained a COS study, in order to comply with the Rules as well as the order in Docket No. 2029. In addition to this deficiency, Newport Water's filing did not include documentation supporting the allocation of COS amounts between affiliates, transactions with affiliated entities (e.g., the City of Newport), rate case expenses, and the proposed in-city/out-of-city rate structure.

At a subsequent open meeting on August 3, it was noted that Newport Water intended to withdraw its general rate filing. Instead, the case was updated and supplemented on August 5, 1999.

Newport Water originally requested a rate increase of 27% for the collection of additional operating revenues in the amount of $1,893,179, effective March 1, 2000. If approved as filed, the bill of a typical in-city residential consumer with an annual consumption level of 100 hcf would increase by 6% or $17.80; an outside-city residential consumer's bill would increase by 29%, or $87.46.

An order was issued on August 31, 1999, suspending the effective date of the original filing for a period of six months.[2] On September 10, 1999, the Portsmouth Water and Fire District ("Portsmouth"), which purchases water at wholesale rates from Newport Water, filed a timely motion to intervene. On October 15, 1999, although beyond the allotted time, the Department of the Navy ("Navy") also intervened.

The utility's noncompliance with the Commission's prior orders and the myriad filing requirements contained in the Rules continued, resulting in lengthy and expensive proceedings. Newport Water repeatedly failed to provide timely and responsive answers to data requests. Both the Division and Portsmouth ultimately filed motions to compel; however, even after the Commission had ordered Newport Water to respond to all data requests within fifteen days, Newport Water failed to comply. In fact, some of the Portsmouth data requests were never answered.

Moreover, the information Newport Water provided in its data request responses was not always complete or correct. Both the Division and Portsmouth had to promulgate an

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[2] See Open Meeting Minutes of August 31, 1999.

extraordinary number of data requests to follow up on Newport Water's responses and obtain basic information; a measure of the magnitude of the task may be garnered from a simple recitation of the numbers of data requests propounded: approximately one hundred by Portsmouth, and one hundred and forty by the Division.

The utility changed its legal representation in the midst of this process. The direction taken by Newport Water may have been a result of uncertain leadership, with no clear directive from the chief operating officer and fundamental policy issues being left to the determination of the utility's consultants. This conduct was detrimental to Newport Water's own interests and that of ratepayers. The acrimonious and fruitless discovery process ultimately forced the Commission to extend the deadline for filing testimony and to postpone for an additional two months the hearings originally scheduled for January, 2000. Despite the extension, the Division and Portsmouth were forced to file incomplete testimony, including the COS studies that Newport Water should have included in its rate application. Newport Water continued to change its positions and testimony, even adopting new figures on the morning of the initial hearings.

Following notice, a hearing was conducted at the Newport City Hall, Newport on November 15, 1999 at 7:00 P.M. for the purpose of taking public comment on the rate filing.[3]

Public hearings were also conducted at the offices of the Commission, 100 Orange Street, Providence, on March 15 and 17, 2000. The following appearances were entered:

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[3] Comments were heard from Keith W. Stokes, Executive Director of the Newport County Chamber of Commerce; Joseph Marshall, a resident of Redrick Farm in Portsmouth, which is serviced by Newport Water; Allen Shears of Portsmouth; Liz Mathines of Newport; David Hemley, who owns property in Portsmouth; Robert Sanders, who owns property in Middletown; Vernon Gordon, Town Solicitor for Portsmouth; Gunther Kern, a resident of Newport; Jean Marie Napolitano, a former member of the Council; Michael Embury, Town Administrator for Middletown; and Jay Timothy O'Reilly, a business owner in Newport. In addition, letters were received from the Hon. John H. Maher, Representative of District 96, and from Ronald Pulito, a Newport resident, objecting to the rate increase.

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| FOR NEWPORT WATER: | R. Daniel Prentiss, Esq.<br>Terence M. Fracassa, Esq. |
| FOR THE DIVISION: | Elizabeth A. Kelleher<br>Special Assistant Attorney General |
| FOR PORTSMOUTH: | Gerald J. Petros, Esq.<br>Christopher R. Bush, Esq. |
| FOR THE COMMISSION: | Adrienne G. Southgate<br>General Counsel |

I. Testimony of Newport Water and the Division.

Newport Water's attorney, Mr. Prentiss, announced at the inception of the hearings on March 15, 2000 that an agreement had been reached with the Division to adopt the revenue requirement analysis performed by the Division's consultant, Thomas Catlin, and contained in his surrebuttal testimony and exhibits.[4] Newport Water also adopted the cost allocation study performed by the Division's consultant, Jerome Mierzwa, which is discussed in both his direct and surrebuttal testimony and appurtenant schedules.[5]

The only exception taken by Newport Water was to the Division's proposed wholesale rate to be charged to Portsmouth. The Mierzwa cost allocation study established a cost-based rate to Portsmouth of $2.09 per thousand gallons. Mr. Catlin proposed a rate of $1.82 instead, relying upon the convention of applying to both Portsmouth and the Navy a wholesale rate increase equal to 150% of the overall system average increase in rates.

In Newport Water's view, only five outstanding issues remained in the case:

1. Should Portsmouth continue to be subsidized by other ratepayers?

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[4] Mr. Catlin's surrebuttal testimony was admitted as Division Ex. 2.

[5] Mr. Mierzwa's direct and surrebuttal testimony were admitted as Division Exs. 3 and 4, and, in Mr. Mierzwa's absence at the hearing, were adopted by Mr. Catlin.

2. How frequently should the granulated activated carbon (“GAC”) filters at the Station One treatment plant be changed?

3. What amount should be included in the test year for the cost of the Public Works director’s replacement vehicle?

4. How should the Commission treat the four years of outstanding accounts receivable, following the expiration of their contract, from Portsmouth to Newport?

5. How should the Commission deal with the issue of Drinking Water State Revolving Fund (“SRF”) debt service?

Responding to this characterization of the outstanding issues, Ms. Kelleher disagreed that the Commission should address the outstanding receivables between the two municipalities. She noted that Commission jurisdiction does not attach to such contractual matters unless requested by a party to a wholesale water contract. Such a request was not part of Newport Water’s initial or revised filings, and Portsmouth was not a necessary party to the general rate filing.

Mr. Petros, speaking for Portsmouth, concurred. He pointed out that the issue could not even be raised but for the fact that Portsmouth had intervened in this docket. Further, he protested the lack of any formal notice that Newport Water intended to adopt the Division’s position in the case.

Commissioner Gaynor announced that the issue of accounts receivable due under the expired contract was not properly before the Commission, and would not be adjudicated. Given the acrimonious nature of the relations between the parties, she admonished the parties to confine their testimony and argument to the remaining issues as outlined in Mr. Prentiss’ opening presentation. She took under advisement Newport Water’s motion to strike, on the grounds of hearsay and plain inaccuracy, certain portions of the surrebuttal testimony filed by Mr. McGlinn and Mr. Woodcock which alluded to the mechanism for SRF financing.

During the hearing, Newport Water called Roy B. Anderson,[6] the City's Director of Public Works who serves as Director of the Water Department. Mr. Anderson was asked to briefly describe the projects Newport Water had in mind when it sought SRF financing. He responded that the City's 1997 Optimization Study reviewed the water system and pollution control needs.[7] Based upon this study, Newport Water determined to optimize its water system through enhancements to the Newport Water Plant in Newport and the Lawton Valley Water Plant in Portsmouth.[8] It was recommended that these projects, with total capital costs of approximately $7,000,000, be financed through the low-interest SRF loan program administered by the state's Clean Water Finance Agency ("CWFA") in connection with the Rhode Island Department of Health ("DOH").[9]

Mr. Anderson testified that Newport Water had made a preliminary application to CWFA for $3,000,000 in SRF loan authority, and received a general expression of acceptance.[10] The projects were also added to DOH's priority list, a condition precedent to receipt of SRF monies. Further, the City Council enacted authority for issuance of revenue bonds in the amount of $3,000,000, as the City's security for the SRF funding.[11]

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[6] Mr. Anderson's direct testimony was admitted as Newport Ex. 1; his rebuttal testimony was admitted as Newport Ex. 2.

[7] T. 3/15/00, p. 30.

[8] Ibid., pp. 30-31.

[9] Ibid., p. 31.

[10] Id.

[11] Ibid., p. 32.

It was Mr. Anderson's understanding that the CWFA expects approval of the SRF debt service in the context of the instant proceeding prior to completion of the final loan application.[12] If such approval were forthcoming, the final loan agreement could be executed in June, and Newport Water could begin drawing down on the SRF loan.[13] The witness tendered a schedule showing the allocation of the expected expenditures over a time line.[14] The schedule details three categories of projects for CWFA financing: four projects for the Lawton Valley facility, four for the Newport facility, and two for the transmission and distribution system.[15]

The witness noted that Newport Water had already incurred certain obligations that would fall within the ambit of the CWFA financing. The Lawton Valley tank repainting project, at $210,000, has been completed. In addition, the City of Newport has advanced up-front engineering costs, preliminary design and planning expenses for the various projects.[16]

It was Mr. Anderson's expectation that Newport Water would spend the entire loan proceeds by the end of December, 2000.[17] The first interest payment on the SRF loan would need to be made in September, 2000, with the first principal payment due one year later.[18] However, Newport Water has discretion as to whether it should capitalize the interest and defer

[12] Ibid., p. 33.

[13] Id.

[14] See Newport Ex. 9.

[15] T. 3/15/00, p. 34.

[16] Ibid., p. 35.

[17] Ibid., p. 36.

[18] Ibid., pp. 36-37.

its first debt service payment to 2001.[19] It has elected not to do so, so that the total loan commitment is not reduced by interest payments.[20]

Portsmouth's attorney, concerned regarding the timing of Newport Water's requirements for SRF debt service in rates given the repeatedly modified and expanded construction schedule, led Mr. Anderson through the CWFA financing options. In addition to capitalization of interest, these include the alternative of making no principal payments until the last capital project is completed. The witness conceded that even if Newport Water's construction were to be finished at the end of 2001,[21] the utility could elect not to make any principal payments on the loan until sometime in 2002.[22]

Mr. Anderson testified that Newport Water budgeted $18,000 for the new Ford Taurus he expects to obtain in the immediate future.[23] Half of the expense was allocated to the Newport Water Division, and half to the City's Water Pollution Control agency.[24] The witness acknowledged that four years' usage was a reasonable expectation.[25] However, he stated that

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[19] Ibid., p. 37.

[20] Id.

[21] This was the projection set forth in Schedule 19 of Mr. Amenta's testimony, Newport Ex. 7. However, Mr. Anderson later testified that final completion of all $7,000,000 in capital projects "would probably be not until '02". See T. 3/15/00, p. 107.

[22] Ibid., p. 44. The payment month is variously identified as March and May in questions posed by Mr. Petros. See also ibid., 45.

[23] Ibid., p. 53.

[24] Ibid., pp. 53-54.

[25] Ibid., p. 53.

"normal procedure" was to handle the payment as a cash outlay, since each year Newport Water expects to buy some vehicles, such as pickups or dump trucks.[26]

The final area of inquiry involved the GAC filters, four of which are in use at the Station One treatment plant in Newport. The instant proposal was to change two filters in 2000 and two in 2002, continuing on that replacement schedule on a four-year cycle.[27] Mr. Anderson conceded that these filters have not been regularly replaced; in fact, two of the existing filters have been in operation since 1993.[28] The other two filters have been in service for less than four years each.[29]

A recommendation as to GAC filter replacement was received from the manufacturer, which also sells the replacement filters.[30] Rather than relying upon a four-year cycle, the manufacturer proposes replacement when the iodine level reaches roughly half of its original level, depending on the resulting water quality.[31] Mr. Anderson admitted that he did not know the iodine levels of any of the existing GAC filters.[32]

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[26] Ibid., p. 54.

[27] Ibid., pp. 67-68.

[28] Ibid., p. 68.

[29] Ibid., p. 79.

[30] Ibid., p. 69.

[31] Ibid., pp. 69-70. Mr. Anderson testified that the system designer, Metcalf & Eddy, had recommended a replacement cycle of three to four years. Ibid., p. 71. However, this was a "guideline", and other factors such as water quality, flow through the filter, and so forth would be part of the decision to replace a filter or not. Id.

[32] Ibid., p. 72.

Mr. Anderson was asked to clarify where in the rate filing the GAC filter replacement was listed. He could not recall whether it was part of the proposed infrastructure replacement ("IFR") plan filed with DOH,[33] or was included in the cost of service as an operating expense.[34] Although Mr. Anderson conceded that he had responded to a data request, identifying replacement of each of the GAC filters as an expense of roughly $40,000 annually, he could not agree that this sum should therefore be excised from the SRF debt service schedule.[35]

Turning his attention to the rate structure, Mr. Anderson stated that the Navy's present two-step declining block contractual rate would be amended, following the adoption of the Division's rate design, to a single flat rate.[36]

When asked why Newport Water had failed to comply with the Commission's prior order in Docket No. 2029 regarding the filing of a COS study by June 1995, Mr. Anderson indicated that the City had a new Council and a new City Manager, and that the focus of their efforts was on the 1997 Optimization Study, rolling the COS study and rate redesign into that effort.[37] He admitted that no extension to file the COS study was ever requested.[38]

Under pointed questioning from the bench, Mr. Anderson stated that he understood the consequences of Newport Water's failure to follow a "very explicit directive" from the

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[33] As of the issuance date of this Report and Order, DOH has yet to approve the IFR plan filing.

[34] Ibid., p. 39.

[35] Ibid., p. 41.

[36] Ibid., p. 78.

[37] Ibid., pp. 80-81.

[38] Ibid., p. 81.

Commission regarding the COS study.[39] He added that the City of Newport had not made a conscious decision that it would not comply with the prior order; rather, "it was through an omission that was not done".[40]

A separate area of inquiry involved the customer bill format. Mr. Anderson agreed that current bills do not provide the rate that the customer is paying for water consumption, although they list the total amount billed for usage and the total amount billed as a customer charge.[41] He agreed that it would be appropriate for bills to include the rate, so that a customer could verify the rate if a billing question arose.[42]

In order to facilitate scheduling, the Division was permitted to call one of its witnesses out of sequence. Alberico Mancini, an engineering specialist with the Division, presented his findings of the review of Newport Water's proposed IFR plan, and his conclusions and recommendations for the amortization of the debt to be incurred as a result of the planned improvements.[43]

Newport Water's consultant, Walter E. Edge, Jr., was the utility's next witness.[44] Mr. Edge formally adopted the Division's revenue requirement analysis and allocated COS study,

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[39] Ibid. pp. 82-84. Commissioner Racine's query, "Do you realize the Commission has the
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with very limited exceptions.[45] He explained that the rationale for differing with the Division's analysis as applied to the appropriate wholesale rate for Portsmouth was that Mr. Mierzwa used a base rate of $1.51 (the rate under the expired contract) times 150% of the percentage increase, whereas Newport Water felt the appropriate base rate multiplier was $1.90, a rate which had been under discussion during the parties' renegotiation of their contract, although never ratified by either Newport Water or Portsmouth since the contract expiration. He also reasoned that, since the Portsmouth is not the end user of the water, the Portsmouth ratepayers would not receive the full percentage increase granted by the Commission.[46]

Mr. Edge discussed the circumstances which led to Newport Water's failure to comply with the Commission's directives regarding the COS study, and the steps the utility took subsequent to being notified of deficiencies in the instant filing.[47] The utility ultimately filed three cost studies. The Optimization Study, for Test Year 1997, contained two: a base extra capacity model and a seasonal rate model, both of which assumed a 20% rate increase. In addition, in Mr. Edge's supplemental testimony, a Rate Year cost allocation study was filed. All three studies showed that the wholesale rate being charged to Portsmouth should be substantially higher.[48]

There were a number of questions regarding the CWFA financing. To support the responses, Newport Water introduced into evidence the original September 11, 1998 letter from Mr. Mallinoff, the Newport City Manager; a September 24, 1998 letter from Mr. Anderson to

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[45] T. 3/15/00, pp. 123-124.

[46] Ibid., p. 125. Over objection, Mr. Edge delineated his calculations. Ibid., pp. 127-133.

[47] Ibid., pp. 134-136.

[48] Ibid., p. 137.

Mr. Simeone, Executive Director of the CWFA; and Mr. Simeone's March 10, 1999 response to Mr. Mallinoff in which the $3,000,000 SRF loan application is approved.[49] Mr. Edge indicated that Newport's September, 2000 interest payment might well fall before the loan actually closed. The timing of this payment anticipated the expenditure of the SRF loan proceeds by September, 2000.[50] However, Mr. Amenta's Schedule 19, "Total Infrastructure 5-Year Capital Improvement Schedule," contained in his amended rebuttal testimony and filed three months prior to the hearing, does not validate that anticipated spending.[51]

Owing to time constraints, the Division called its consultant, Thomas S. Catlin, to provide testimony in the midst of Mr. Edge's examination. Mr. Catlin indicated that, subsequent to the filing of his surrebuttal testimony, he received additional information that altered certain of his recommendations. The first item was in regard to the electric rates to be charged to Newport Water. Given the Commission's March 14, 2000 approval of the merger of Eastern Utilities Associates and the New England Electric System, certain distribution rate reductions will be implemented, creating a savings of $67,770 in Newport Water's electric costs.[52]

The second item related to the cost of the GAC filter replacement. Based on Mr. Anderson's testimony, Mr. Catlin determined that this $40,000 item had been included both in the IFR plan and again as a chemical cost. Mr. Catlin recommended that it be treated as a chemical cost, and therefore reduced the cash capital redundancy, for a total reduction of

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[49] This set of correspondence was admitted as Newport Ex. 12.

[50] T. 3/15/00, p. 159.

[51] Id.

[52] Ibid., pp. 193-194.

$40,807.[53] With these two changes, Mr. Catlin's recalculated revenue requirements figure is $851,581.[54]

Mr. Mierzwa's research, "a functional cost study based on the information…to come up with a reasonable approximation on costs,"[55] indicated that the rates charged to both the Navy and Portsmouth were significantly below cost. Given the fact that even Mr. Woodcock's COS study shows that Portsmouth's rate is slightly below cost, Mr. Catlin stated that restricting the increase to one and one-half times the system average was appropriate in the interest of rate continuity and avoiding rate shock.[56]

As to the question of using $1.51 as a base, rather than the higher figure contained in Newport Water's testimony, Mr. Catlin indicated that the basis for the Division's recommendation was that this was the last rate specified in the contract between Newport Water and Portsmouth, and that no subsequent rate had been agreed upon by the parties.[57]

Mr. Catlin criticized Newport Water's failure to comply with the Commission's previous order regarding the COS study. He added that the study Newport Water ultimately submitted should have been performed differently, since it is impossible to implement seasonal rates when customers are being billed only once every four months.[58] He recommended that Newport

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[53] Ibid., p. 194.

[54] Ibid., p. 195.

[55] Ibid., p. 207.

[56] Id.

[57] Ibid., p. 208.

[58] Ibid., p. 212.

Water be directed to file an appropriate COS study by a date certain, sometime in the next twelve to eighteen months.[59]

Mr. Catlin detailed some of the difficulties which might be encountered in properly performing a COS study. He explained that to do a "truly representative…analysis of peak demand by customer class is an extraordinarily time-consuming and expensive endeavor."[60] Since Newport Water has three very different types of customer – the retail customers as a whole, a wholesale customer representing a significant portion of the demand on the system, and the Navy – it may be less important to develop data by class (residential, commercial, industrial).[61] Mr. Catlin felt that getting good system data for the two largest customers was of prime importance.[62]

With regard to the differential between the first and second block rates, Mr. Catlin felt that further reductions could be made as a result of the changes the Division recommended.[63]

Mr. Catlin concluded his testimony by reflecting on the rate case expenses incurred by the parties. While observing that expenses must be incurred to go through hearings regardless of the size of the utility or the magnitude of the rate increase, the witness called this case "extraordinarily complicated", and gave his opinion that the costs in the case were unusually high.[64]

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[59] Ibid., pp. 213-214.

[60] Ibid., p. 217.

[61] Ibid., p. 218.

[62] Ibid., p. 236.

[63] Ibid., p. 234.

[64] Ibid., p. 239.

On cross-examination, Mr. Catlin supported keeping the SRF debt service in the revenue requirement, with the understanding that payments on such debt service would commence within the first year of when the rates take effect.[65] He added that if the SRF loan payments are "significantly delayed", then it might be appropriate to delay the beginning of recovery for those costs.[66] Mr. Catlin also cited the restricted accounts to be established for debt service and cash capital spending as important, since this practice averts some of the risk of being mistaken as to the timing of the SRF loan expenditures.[67]

He explained that, in addition to the $3,000,000 SRF loan, Newport Water has an ongoing revenue requirement of roughly $1,400,000 annually for payment of capital expenditures.[68] Mr. Catlin included the costs of Mr. Anderson's car, not because he anticipated the specific purchase of vehicles on an annual basis, but because the total revenue requirement included capital outlays for such things as infrastructure replacement, treatment plant improvements being paid out of cash, and other miscellaneous capital expenditures such as desks, office equipment, and vehicles.[69]

With regard to the amortization of rate case expenses, Mr. Catlin testified that he had seen commissions amortize such expenses over the period since the last general rate filing, as

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[65] Id.

[66] Ibid., p. 240.

[67] Ibid., pp. 240-241.

[68] Ibid., p. 244.

[69] Ibid., p. 250.

well as over the expected rate effective period.[70]

was completed.[76] The revised schedules, admitted as Newport Exs. 9 (SRF Payment Schedule) and 10 (Bar Chart Showing Schedule of Disbursements) reflect more recent information garnered from the CWFA. Mr. Amenta testified that the "project schedule was shortened due to the availability of funds through the SRF program."[77] Many projects that were not expected to begin construction during 2000, as reported on Table 19, show a significant percentage of construction occurring this year in the revised schedules.[78]

Mr. Amenta explained the process of making improvements to the two water treatment facilities which will, at the end of roughly three years, enable Newport Water to operate the plants without attendants.[79] The Lawton Valley plant will be able to operate at a reduced capacity during the change-out of valves and the addition of instrumentation.[80] To make up for the shortfall, the Station One plant would remain on-line at full service during the construction period. Once Lawton Valley's improvements are in place, attention will shift to Station One. The storage tank will provide capacity for peak demand periods, and the facility will have a computerized and automated system that can operate in an unattended mode. Eventually, the two plants will operate in concert during the period from May to September; Station One will be shut down in the off-season.[81]

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[76] Ibid., p. 63.

[77] Ibid., p. 71.

[78] Ibid., p. 73.

[79] Ibid., p. 98.

[80] Ibid., p. 97.

[81] Id.

II. Portsmouth Testimony.

Portsmouth's case was presented through the testimony of three individuals, William J. McGlinn, General Manager and Chief Engineer for the Portsmouth Water and Fire District,[82] David Fox, its general counsel,[83] and Christopher P.N. Woodcock, a rate consultant.[84]

Mr. McGlinn's testimony explained Portsmouth's water system, its water supply needs, and how the Newport Water system interconnects to Portsmouth. He stated that Portsmouth's needs exceed four hundred million gallons annually, and that all of its water is purchased from Newport Water.[85] Mr. McGlinn testified that, despite uncertainties about the rate which will ultimately be set for sales from Newport Water to Portsmouth,[86] Portsmouth is not negotiating with the Stonebridge Fire District ("Stonebridge"), nor does he foresee purchasing water from Stonebridge or any other water system in the near future.[87] Portsmouth has physical interconnections only with Newport Water and Stonebridge.[88]

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[82] Mr. McGlinn's prefiled direct testimony was admitted as Portsmouth Ex. 3; his rebuttal testimony was admitted as Portsmouth Ex. 4.

[83] Mr. Fox's prefiled direct testimony was admitted as Portsmouth Ex. 5.

[84] Mr. Woodcock's prefiled direct testimony was admitted as Portsmouth Ex. 1; his rebuttal testimony was admitted as Portsmouth Ex. 2.

[85] See Portsmouth Ex. 3, pp. 3-4.

[86] T. 3/17/00, p. 130.

[87] Ibid., p. 119.

[88] Ibid., p. 120.

Mr. McGlinn stated that the rate being paid to Newport Water is the three-tier rate that was reflected in the expired contract. For the current year, he projects an overall average cost of $1.51 per thousand gallons.[89]

He explained that at all of Portsmouth's supply comes from the Lawton Valley Water reservoir, and that, "using its own infrastructure, PWFD is drawing its water directly from the LV-WTP directly through the 4.0MG underground reservoir." [90] He noted that the operating costs of the Lawton Valley Pump Station should not be allocated to Portsmouth, and that the water supply from the Station One Plant in Newport did not provide service to Portsmouth.

Although Mr. McGlinn did not reject any specific portion of Newport Water's capital program, he expressed concerns over the capital costs associated with the Station One Plant and the water production at the plant. He also expressed concerns over the need to automate the Station One Plant, and Newport's proposal to charge out-of-city water customers a higher rate.

In his surrebuttal testimony, Mr. McGlinn explained why he felt that all interest and principal on the SRF loan need not be recovered in this rate filing and therefore, his rate consultant removed such funding from the rate year cost of service.

Mr. Fox, who gave no oral testimony, presented in his prefiled exhibit a brief history of the rates Portsmouth has been paying Newport Water since 1992. He noted that the rates were based on a 1983 agreement between Portsmouth and Newport Water, which expired on December 31, 1995. Subsequent to the expiration of the contract, Portsmouth continued to pay Newport Water at the final contract rate while the parties attempted to negotiate a new agreement.

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[89] See Portsmouth Ex. 3, p. 6.

[90] Ibid., p. 7.

Mr. Christopher Woodcock is president of Woodcock & Associates, a firm providing consulting services on water and wastewater rates and studies. He was engaged by Portsmouth to review the rate filing in order to present revenue requirements, cost allocation, and rate design testimony, particularly as they apply to Portsmouth. Mr. Woodcock filed direct and surrebuttal testimony on the cost of service. His revenue requirements differed from what the Division and Newport Water agreed to as a result of three adjustments: (1) the removal of $40,354 for GAC filter change outs; (2) a reduction of $7,113 in the cost recovery for the Director's new vehicle; and (3) elimination of $220,745 of debt service for the SRF debt.

Mr. Woodcock censured the COS studies and seasonal rate design proposal offered by Newport Water. He noted that as the utility billed most customers only three times per year, implementing any form of seasonal rate "borders on the absurd."[91] Mr. Woodcock also criticized the development of the in-city/out-of-city rate differential. He stated that he found it necessary to conduct a cost of service study "from scratch",[92] and he did so using the base-extra capacity approach. His rate design developed flat rates for Portsmouth, the Navy, and for each of three retail classes: residential, commercial and government. Also, he converted the public fire service charge now based on inch-feet of mains to an equivalent flat-rate charge per hydrant.

In surrebuttal, Mr. Woodcock updated his revenue requirements, cost of service, and the results of his cost study. He noted that his cost study and the Division's yielded similar results:

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[91] See Portsmouth Ex. 1, p. 8.

[92] Id.

the rates for both the Navy and Portsmouth should increase more than the overall increase in revenues, and fire charges should be reduced.[93]

Mr. Woodcock did not propose rates that were based on the exact results of his COS study. He used the results to guide his rate design proposals, which were essentially the same as the Division's. He agreed that the Navy and Portsmouth should receive increases of 1.5 times the average increase in revenue requirements, and that the customer charges should not be changed. Due to a different revenue requirement, Mr. Woodcock proposed the slightly lower rate than the Division for Portsmouth. His recommended rate for Portsmouth is $1.71 per thousand gallons. Also, he proposed a single, flat rate for retail consumption in his surrebuttal filing.

Mr. Woodcock's live testimony was brief. He disagreed with Mr. Catlin's recommendation that the GAC filter replacement costs be included in chemical costs because including them in the chemical costs could generate a surplus if the money were not spent to replace the carbon filters.[94] He felt that restricting the funds would not alleviate the problem, because the allocation might be spent on other chemicals.[95]

III. Commission Findings

**Revenue Requirements**

Newport Water and the Division agreed to a revenue increase of $851,580, or an 11.8% increase, for a total cost of service of $8,060,270. This position reflected two adjustments to the cost of service filed by the Division; the cost of electricity was reduced by $66,429, grossed-up

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[93] See Portsmouth Ex. 2, p. 9.

[94] T. 3/17/00, p. 132.

[95] Ibid., p. 133.

to a revenue requirements figure of $67,770,[96] to reflect the newly-established Narragansett distribution rates, and $40,000 was eliminated from the IFR/Capital account for the GAC filter replacements,[97] since this item was also included in the chemical costs.[98]

Portsmouth proposed three additional adjustments, based on a belief that the funds were either unnecessary at this time, or would not be used for the purposes expressed in Newport Water's filing. The Division recommended that restricted accounts be utilized in each of these areas. Since each of these adjustments would affect the revenue requirement, they bear further discussion.

1. Debt Service. Newport Water's capital improvement program was an ever-evolving target for the parties to this rate case. If, when, and how various projects would be constructed was so cloaked in ambiguity, despite the voluminous discovery, that the Commission's task of deciding when debt service would be required was made much more challenging. Portsmouth's position that no funds should be allocated for the SRF debt was superficially attractive. However, Newport Water presently has access to below-market funding through the CWFA. The cost to obtain the funds at a later point, when the money is demonstrably needed, is unknown. In addition, loans through the CWFA apparently require the Commission's pre-approval of debt service funding through rates. For these reasons, the

[96] The revenue requirement gross-up allows for adjustment to bad debts at .5% and to the net operating allowance of 1.5%.

[97] The grossed-up figure is $40,807.

[98] The total for chemical costs, including GAC, is $292,186. See Division Ex.1, Schedule TSC-7.

Commission will allow $220,745 in rates for debt service for the SRF loan,[99] to reimburse funds already legitimately spent by Newport Water on IFR projects and to proceed with the other IFR projects. In order to assure that the CIP program itself and consequent disbursement of these funds is monitored, the Commission will restrict all debt service amounts and will require frequent reports on both the status of the projects and the disbursements of the loan.

2. GAC Filter Replacement. Arguing against funding for GAC filter replacement, Portsmouth pointed out that there was no proof of the manufacturer's recommendation regarding filter replacement, and no testing to ascertain whether the filters needed to be changed. Moreover, to the extent that Newport Water had received advice to replace the filters every four years, it had ignored that advice. However, it is undisputed that regulatory requirements enacted in November 1999 impose strict requirements on water utilities for GAC replacement.[100] Further, there is no reason to suppose that Newport Water will not comply with the expected schedule of GAC replacement on a four-year cycle. The Commission therefore allows $40,000 in rates for this chemical expense and orders that these funds be restricted. Restricting the funds for GAC replacement within the chemical account will assure that these ratepayer dollars are not misspent.

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[99] In the initial year following the receipt of the SRF funds, Newport Water may only have to pay interest; the first principal payment will not likely be due until September of 2001. T. 3/15/00, pp. 36-37.

| | |
|---|---|
| Principal amount | $ 100,745 |
| Interest | 120,000 |
| Total | $ 220,745 |

[100] See Newport Ex. 8, p. 5. The new requirements limit allowable concentrations of disinfection byproduct compounds (trihalomethanes and chlorites) in the distribution system. Therefore, "GAC is the final line of defense in the overall treatment process." Id.

3. Vehicle Expense. The Division and Newport Water included $9,000 in the revenue requirement for expenses associated with Mr. Anderson's new automobile, which cost $15,097. Portsmouth contended that the revenue requirement should be reduced by $7,113 to reflect a reasonable amortization period of four years.[101] The other parties responded that Portsmouth's focus "is an unrealistic distortion and poor rate making."[102] We agree that the appropriate metric is whether an overall expenditure – in this instance, for vehicle purchases – is reasonable and regularly incurred. The Commission will provide for an amortization period of three years to recover the total costs of vehicle replacements requested in this filing.[103]

## Commission Adjustments

At an open meeting conducted on April 6, 2000, the Commission considered the evidence that had been submitted in the case, and resolved the myriad issues as described more fully below.

1. Water Administration. The Commission was troubled that Newport Water failed to file its COS study and rate design, which had been due by June 1995, on a timely basis. Moreover, the utility failed to comply with certain of the Rules in regards to filing requirements. Further, it is not feasible to implement the seasonal rates endorsed by Newport Water because of the nature of its billing cycles (every four months). The filing also introduced an in-city/out-of-city rate differential that was not well supported by the prefiled testimony and supporting schedules to show exactly how the rates were developed. In summary, the Commission was not

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101 See Brief of Portsmouth, p. 16.

102 See Brief of Newport Water, p. 6.

103 See Adjustment #5 under "Commission Adjustments," below.

at all impressed by Newport Water's attempt to present a late-filed COS study developing seasonal rates that could not realistically be implemented with this filing.

Notwithstanding the enormous effort and expense that the Division and Portsmouth took to ferret out necessary information and data, Newport Water's failure to file a complete rate application and to provide timely, accurate and complete data request responses[104] made it difficult for the Commission and the parties to accurately identify Newport Water's existing revenues and expenses. Nor, for use in future dockets, could the Commission make a definitive determination as to the cost to serve the various rate classes. Accordingly, all the participants will be forced to revisit these issues again.

The content of the rate filing was Newport Water's sole responsibility. The utility filed for a revenue increase of $1,893,179, or 27%; the rebuttal position was $1,516,565; the final position was $851,581, or 11.8%. Ultimately, the utility's requested cost of service increase was less than half of that contained in the original filing. The adjustments adopted by Newport Water were the result of the parties' discovery and the positions taken by the Division and the intervenors. Newport Water's proposed rate design changes resulted in the parties filing their own COS studies in support of different rate designs.

The Commission believes that Newport Water could have presented a revenue increase request more in line with its final position; this would have reduced the cost, time, and effort of

[104] For example, Newport Water did not fully respond to a Commission's data request seeking detail on rate case expense. Commission DR-11, subsequently admitted as Commission Ex. 1, asked for a summary of rate case costs, contracts for services, a statement as to how each firm was selected, and copies of invoices. The response did not provide copies of any contracts for services, and stated that the consultants were paid on an hourly basis. The Commission might conclude that there were no contracts. Moreover, the response stated, "Copies of invoices billed to date will be forwarded to the Commission." However, no invoices were ever filed. Without invoices and contracts, the Commission is left to speculate as to the reasons for and propriety of the billings.

all the parties. Also, a timely filed COS study and rate design that more closely adhered to this Commission's directive in Docket No. 2049 would have produced a better end result, and a more appropriate rate design for this utility.

Because all of this contributed to the excessive costs of the rate case, the Commission cannot authorize collection from the utility's ratepayers of the full level of rate case expense incurred by Newport Water. Although it is not an investor-owned utility, Newport Water's last two annual fiscal reports filed with the Commission showed a surplus of over $300,000 in each year. Therefore, the Commission infers that there is a fund balance sufficient to absorb a portion of the rate filing expenses incurred by Newport Water.[105]

Thus, the Commission will disallow recovery of 33.3% of the $273,376 rate case expense incurred by Newport Water in this filing.[106] The resulting reduction is $91,125, leaving a total

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[105] Although its fiscal position may be different at this time, Newport Water has not filed its annual report with the Commission for FY 1999 or any semi-annual fiscal reports since 1995. These filings are Newport Water's responsibility. Accordingly, the Commission need not examine Newport's current financial status before making any adjustment to rate case expense.

[106] In Order No. 13877 (issued March 16, 1992), the Commission eliminated one-third of Blackstone Valley Electric Company's rate case expense after adopting the standards articulated by the Maine Public Utilities Commission for measuring what is reasonable:

1. The novelty and difficulty of the issues presented;
2. The customary fee for similar services, including the fees rendered in the relevant market to companies of similar size in matters of similar importance to the client;
3. The amount of money at issue and the results obtained;
4. The extent to which the attorney's or expert's services contributed to the presentation of the case, the conduct of the proceedings, resolution of matters prior to Commission decision, and the Commission's deliberation and decision of the proceedings;
5. Whether the utility used negotiation or bidding process, or otherwise considered information concerning the availability, experience, quality and cost of outside attorney and expert service when hiring outside agents; and
6. The experience and ability of the attorney or expert.

recovery of $222,251. This adjustment leaves intact the amount of $40,000 for the Division's estimated costs for this rate case.

Newport Water's rebuttal position amortized $200,000 in rate case expense over four years, or $50,000 per annum in rates. Its final proposal during the hearings was to amortize $313,381[107] in rate case expense over six years, retaining the $50,000 annual amount in rates.[108] The Commission will utilize the proposed six-year amortization period.

The effect of the Commission's adjustment is $13,000 per annum**,** and it reduces the annual amount in Newport Water's rates from $50,000 to $37,000.

2. Customer accounts. This adjustment to uncollectible accounts results from the other adjustments made; it provides for .5% in uncollectible billings.

3. Treatment and pumping. The Commission has kept intact the revenue requested to support the IFR program filed by Newport Water; this includes the $220,745 for debt service on the $3,000,000 SRF loan that funds IFR projects. Outside of the IFR program, Newport Water has requested approximately $700,000 in rates to pay for on-going capital expenditures. Expenditures encompass vehicle procurement,[109] office equipment, field equipment, treatment plant improvements, and design costs.[110] Reviewing this program for capital expenditures raises

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See In re: Millinocket Water Company, 70 PUR 4th 383 (1985), aff'd, 515 A.2D 749 (1986). Applying that standard to the instant case, the Commission is particularly struck by the fact that Newport Water's rate case expense amounts to more than thirty percent of the utility's requested revenue increase.

[107] This total was composed of $131,200 for Maguire; $66,000 for Bacon & Edge; $76,176 for Legal; and $40,005 for the Division's costs.

[108] See Newport Ex. 14.

[109] See Adjustment #5, below.

[110] See Newport Ex. 3, Schedule WEERY-8.

questions regarding potential duplication of other funding requests, since Newport Water failed to provide adequate detail, and whether there is currently a need for the full amount of funding. In this regard, we find questionable a $100,000 request for funding at each treatment plant. Although each requested line item is labeled as a contingency type of expenditure, at one plant it is listed under "Lease Purchase Principle" and at the other plant it is under "Office Improvements". There was no explanation or further support for these items in the record. Therefore, the Commission will remove the $200,000 requested for "Contingency of Facility Improvements".

4. Distribution Maintenance. The Commission has identified a $40,000 capital amount requested for "Water Main Replacement Program" in Mr. Edge's Schedule WEERY-8 that has little or no other support. In this docket, we provide funding for an IFR program that reflects spending of $1.7 million in fiscal years 2000 and 2001 for "Distribution Piping". Because the Commission finds no explanation or supporting detail for the separate funding request for Water Main Replacement, we will remove the $40,000 from the capital program.[111]

5. Vehicle Replacement. As previously stated, the Commission feels that a three-year amortization program is appropriate for funding the replacement of vehicles. Newport Water has scheduled the procurement of trucks, other vehicles, and patrol bikes that total $99,200 as part of the $700,000 requested for capital spending. The record does not reflect an extended program of vehicle replacements. We see no requirements to fund the replacements on recurring basis and will adjust to a three-year amortization period for funding. This reduces the vehicle allowance

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[111] Id.

by $66,134, [112] providing for an annual amount in rates of $33,066. For simplicity, the total adjustment will be made to distribution maintenance equipment.[113]

6. Operating Reserve. The Commission has generally provided an Operating Reserve equal to 1½% of total expenses for non-investor owned utilities. This funding provides a reserve to offset reduced consumption billings or to cover unforeseen expenditures. The funding of this reserve has been discretionary, and at times it has been unfunded or funded at a rate below the common 1½ % level. Reflecting on the particulars of this rate filing, the Commission notes the lack of compliance in making a timely cost of service filing and the need to reject the utility's initial filing for various deficiencies. We have expressed other concerns regarding support for various funding requests, the high rate case costs incurred by Newport Water and others, and the problems of timely compliance with data requests. As a result, the Commission has decided to provide an Operating Reserve of .5% of total expenditures allowed. This is an adjustment of $81,017 and results in a reserve of $38,100.

Taking into account the adjustments made to the filing, we authorize Newport Water to recover additional annual revenues of $449,419, for a total cost of service amount of $7,658,108. This represents an increase of approximately 6% over current revenues. Our cost of service schedule is attached to this Report and Order as Attachment A.

**Rate Design**

Portsmouth's rate design witness, Christopher Woodcock, filed testimony recommending that the Commission order across-the-board rate increases[114] as Newport Water had not

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[112] Id. The total request for vehicle funding is $99,200. It includes the following items: car - $9,000, van - $14,000, patrol bikes - $2,200, hoist truck - $24,000, and dump truck -$50,000. Allowing funding for the vehicles over a three-year period adjusts the total by $66,134.

otherwise justified the rate design proposed in its filing. However, absent the Commission ordering such increases, Mr. Woodcock stated that his COS study and the Division's study presented similar results, and that he could agree with most of the Division's rate design proposals. The Commission feels that the complete record in the docket justifies more meaningful rate design than simple implementation of across-the-board rate increases. Therefore, the Commission will consider Portsmouth's alternative position on rate design along with the now similar positions of the Division and Newport Water.

In rebuttal, Newport Water adopted the Division's rate design proposals other than the Portsmouth wholesale rate. However, the utility proposed that Portsmouth be charged the cost-based rate calculated by the Division in its cost allocation study, $2.09 per thousand gallons. Both the Division and Portsmouth recommended increasing the Portsmouth wholesale rate by 150% of the overall increase in rates. Portsmouth's rate design witness recommended the adoption of a single flat retail rate, while Newport Water and the Division proposed that the current two-block differential in retail rates be reduced by one-half.

The parties have a consensus on the following rate design proposals:

- No change to the current Private Fire Service rates;
- Conversion of the Public Fire Service rate that is expressed in inch-feet of mains to a flat rate of $560 per hydrant, with no increase in revenue allocation to this class;
- Implementation of a flat rate for the Navy and an increase in the current Navy rate by 150% of the overall increase in rates; and
- No change to the current rates for customer charges.

The Commission generally agrees with the rate design changes that the Division and Portsmouth have proposed, based upon their COS studies. With Newport Water's adoption of

[113] A small amount would otherwise be allocable to Water Administration and Customer Accounts.

the Division's COS study results and most of the Division's rate design proposals, there are basically two issues for the Commission to decide:

(1) Should the retail rate be flat as recommended by Portsmouth, or should rate impacts be minimized by reducing but not eliminating the two-block rate differential?

(2) What increase or rate should be imposed on Portsmouth?

The Commission adopts the following rate design:

- The current Private Fire Service rates will remain the same because the indicated cost to serve this class is below the current rate level.
- A Public Fire Service rate of $560 per hydrant, reflecting a conversion of the current inch-feet of fire main charge to an equivalent revenue level using a flat rate.
- Current rates for customer charges will remain the same because the indicated cost for this charge is below the current rates.
- An increase to the current Navy rate by 150% of the overall increase in rates because the indicated cost to serve the Navy significantly exceeds current revenue recovery;[115] also, the two-block Navy rate shall be changed to a single flat rate.
- Portsmouth is to receive an increase equal to 150% of the overall increase in rate revenues and the two-block rate shall be changed to a single flat rate. The increase is to be calculated based on a current flat rate of $1.51 per thousand gallons.
- The retail rate will be calculated based on recovery of the remaining revenue increase, and the two-block differential shall be reduced by approximately one-half.

Although Newport Water argues for a Portsmouth rate based on the results of the Division's COS study, we do not feel that the record supports that proposal. That study was developed by Mr. Mierzwa, who testified that, "The Division's cost of service study presents an initial indication of the costs associated with the various services provided by Newport Water."[116] The Division represents that the results of its study essentially provide no more than a

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[114] See Portsmouth Ex. 2, p. 10.

[115] Both the Division and Portsmouth COS studies demonstrate that the Navy rate should increase by approximately one-third.

[116] See Division Ex. 3, p. 3.

reasonable indication of the costs to serve the rate classes. Therefore, we will not adopt the Division's exact cost allocation to determine the Portsmouth rate.

In Newport Water's last general rate filing, Docket No. 2029, we directed Newport Water to file a cost of service study within three years.[117] However, in that order, the Commission also opened a generic docket (Docket No. 2049) on the cost of service methodology for regulated water utilities, and ordered Newport Water's next filing to reflect the Commission's findings in that docket.

Notwithstanding this direct mandate, Newport Water did not file its COS study with the Commission until 1999, some fours years after it was due. The cost study and the rate design proposals that were ultimately filed in the instant docket were heavily criticized by the other parties. Also, the parties criticized Newport Water for providing insufficient data to permit development of their own COS studies. The Commission rejected the initial rate filing of Newport Water because its COS study was not based on either the test year or rate year; also, the Commission found insufficient data to support the proposed in-city/out-of-city rate differential.

The Commission is again compelled to address major concerns with Newport Water's COS study and the resulting rate design. We take note that:

- We did not accept Newport Water's filed COS study as the basis for the design of rates in this docket;
- We did not adopt the in-city/out-of-city rate differential, which Newport Water filed but did not pursue as its recommended rate design; and
- We did not adopt a seasonal rate design and Newport Water did not file seasonal rates; however, Newport Water filed a cost allocation study based on a seasonal rate model and stated their intention to eventually adopt such rates.[118]

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[117] Order No. 13947 (issued June 19, 1992).

[118] See Newport Water Ex. 4, p. 2.

As a result of the lack of progress in the development of an appropriate COS study for the allocation of costs to Newport Water's rate classes and the absence of flat retail rates mandated by the general laws,[119] we will give more specific direction to Newport Water.

Over the next several years, the deployment and operations of both Lawton Valley and Station One will be dictated by capital improvements to the plants. This means that "normal operating conditions" and "costs to operate" during the period will be difficult to assess. Therefore, we will focus on implementing flat retail rates as the next step in rate design.

Newport Water is to file by June 30, 2001 flat retail commodity rates in accordance with the Commission's directives in Docket No. 2049, the generic docket on water rate design. The filing shall allocate the commodity revenue requirement of the retail rate class that results from this Docket's compliance filing to a minimum of three retail rate classes. We expect Newport Water to study the characteristics of its retail rate class to appropriately classify customers into homogenous groupings. Newport Water will have to clearly support to the Commission its basis for developing the rate groups. On an interim basis, every three months, Newport Water is to apprise the Commission and the Division on the status of its rate design. The retail rates developed shall not reflect an in-city/out-of-city differential or a seasonal rate design.

Also, in the next general rate filing, we direct that Newport Water submit a cost allocation study utilizing the base-extra capacity method. To provide a meaningful cost of service study, it is imperative that Newport Water develop the appropriate underlying data. Therefore, we direct Newport Water to immediately start accumulating the necessary data, such as average-day use and maximum-day use by rate classes, the net book value of assets by functional category, and the allocation of net plant values, etc. Newport Water shall report to the

[119] R.I.G.L. Section 46-15.4-6(8).

Commission and Division on its progress with rate design with each semi-annual fiscal report filed. We encourage Newport Water to work with the Division and other interested parties on an on-going basis to reach consensus on the type of data, acceptability of data, and sufficiency of data to be assembled.

**Compliance Rates**

Newport Water made two attempts to file rates in compliance with the Commission's April 6 Open Meeting decision. The original filing of Compliance Testimony by Walter E. Edge was made on April 27, 2000; Supplemental Compliance Testimony was filed on May 8, 2000. The Commission's original open meeting decision contemplated a 50% reduction in the rate differential. Of the various scenarios proposed in the Supplemental Compliance Testimony, Option 5 reduces the rate differential by only 20%.

The Division filed a memorandum on May 11, 2000, in which it recommended that Option 5 was the most reasonable of the rate options proposed by Newport Water. This option spreads the rate increase most evenly amongst the customers, while still eliminating seventeen cents of the rate differential between the first and second blocks. It will result in bill impacts of roughly 11.8% for the largest retail customers.

The Commission considered the supplemental compliance filing and the Division's recommendation at an open meeting on May 16, 2000, and unanimously adopted Option 5 as being most closely in compliance with the April 6 Open Meeting decision. Incorporated into this Report and Order as Attachment B are the approved rate schedules.

**Miscellaneous Findings**

1. Restricted Accounts. In order to better allow the Commission to track and regulate the expenditures in certain categories, we have adopted the use of restricted accounts. In this

Report and Order, we will restrict the funding provided for debt service ($2,701,874), capital spending ($1,401,154), and the chemical allowance ($292,186 including the GAC replacement amount of $40,000). By restricting accounts, we require that the funding provided be used solely for the purposes designated, and that any unspent funds be set aside in interest-bearing accounts. Further, any unspent funds shall be carried over to subsequent years for their intended purposes. Newport Water shall file reports to the Commission every four months on the funding and expenditure of restricted funds.

2. IFR and Capital Program. The Commission has authorized for capital expenditures a significant amount of Newport Water's annual revenues. Although the utility's capital expenditure program was a moving target, we feel that the necessity to complete renovations and carry on the IFR program supports the funding provided. We have restricted the funding for capital, and we also will direct Newport Water to provide a detail reporting on its capital program every four months. The reporting will account for all the projects presented in the Capital Program/IFR Program[120] and all other capital items funded.[121]

Newport Water shall file a report for the periods ending June 30, October 31, and February 28 of each year. This report will consolidate and show all the projects referenced above and any additions or deletions to the project schedule. For each project, Newport Water will note the status – planned, design phase, RFP outstanding, bidding, construction, etc.; whether a contract has been executed; the projected start and end dates of construction; the estimated cost; the cost expended to date and cost to complete; and the source of funding for the project. For new projects or for projects under design or construction, a brief description should

[120] See Newport Ex. 8 and Ex. 9.

[121] See Newport Ex. 3, Schedule WEERY-8.

be provided. For projects dropped from the capital program, a brief reason should be noted. The information for new or deleted projects may be omitted where the individual project cost is below $5,000.

3. Financial Reporting. The Commission has requested all Municipal Water utilities to file a short-form fiscal report to the Commission on a semi-annual basis for the periods ending December 31 and June 30. Newport Water has not filed these reports since 1995. We direct Newport to file timely semi-annual fiscal reports in the form prescribed within 90 days after the close of the reporting period.

4. Bill Format. Newport Water shall revise the format of its billing so as to show the individual commodity rates, Water Quality Protection rates, and customer service charges. This information is necessary to allow a customer to calculate the bill total and to be aware of all charges that are imposed by the billing. A draft of the bill revision shall be presented to the Commission within 90 days of the issuance of this Report and Order.

Accordingly, it is

(16235) ORDERED:

1. The August 5, 1999 rate application filing by the City of Newport, Utilities Department, Water Division, is hereby denied and dismissed.
2. Newport Water is authorized to recover additional annual revenues of $449,419, for a total cost of service amount of $7,658,108.
3. Rates submitted on May 8, 2000 and approved by the Commission are attached and incorporated by reference as Attachment B. Rates are effective for usage from and after April 1, 2000.

4. Newport Water shall restrict the funding of the accounts enumerated below. These funds should be set aside in interest-bearing accounts, and unspent amounts should be carried forward to ensuing years for their intended purposes.
   a. Chemicals at $292,186, which includes an allowance of $40,000 for GAC replacement;
   b. Debt service payments at $2,701,874, which includes $220,745 for SRF; and
   c. IFR/Cash funding for capital expenditures at $1,401,154.
5. Newport Water shall file reports on these restricted accounts every four months from and after the period ending August 31, 2000. The reports shall include the funds set aside; the amounts expended for the period and for the fiscal year to date; and the balance of each restricted fund.
6. Newport Water shall file reports on the IFR/cash capital program every four months, from and after the period ending August 31, 2000.
7. Newport Water shall file semi-annual financial reports within 90 days after the close of the reporting period (September 30 and March 31).
8. Newport Water shall redesign its billing format to specify the commodity rate for the Water Quality Protection charge, and the commodity rate being charged to retail customers.
9. Newport Water shall abide by all other terms and conditions imposed by this Report and Order.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND ON APRIL 1, 2000, PURSUANT TO OPEN MEETING DECISIONS ON APRIL 6 AND MAY 16, 2000. WRITTEN ORDER ISSUED JUNE 19, 2000.

PUBLIC UTILITIES COMMISSION

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Kate F. Racine, Commissioner

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Brenda K. Gaynor, Commissioner

**Attachment "A"**

NEWPORT WATER
Docket 2985
COST OF SERIVCE

| | Company Position | Commission Adjustments | Proforma |
|---|---|---|---|
| REVENUES | | | |
| Rate Revenues | $ 6,867,279 | | $ 6,867,279 |
| Miscellaneous Revenues | 341,410 | | 341,410 |
| TOTAL REVENUES | $ 7,208,689 | $ - | $ 7,208,689 |
| | | | |
| EXPENSES | | | |
| Water Administration | $ 506,586 | $ 13,000 | $ 493,586 |
| Customer Accounts | 359,517 | 2,011 | 357,506 |
| Customer Service | 34,942 | | 34,942 |
| Source of Supply | 463,537 | | 463,537 |
| Treatment & Pumping | 2,251,551 | 200,000 | 2,051,551 |
| Water Laboratory | 135,688 | | 135,688 |
| Distribution Maintenance | 1,481,252 | 106,134 | 1,375,118 |
| Fire Protection | 6,206 | | 6,206 |
| Debt Service | 2,701,874 | - | 2,701,874 |
| TOTAL EXPENSES | $ 7,941,153 | $ 321,145 | $ 7,620,008 |
| | | | |
| OPERATING RESERVE | $ 119,117 | 81,017 | 38,100 |
| | | | |
| TOTAL COST OF SERVICE | $ 8,060,270 | $ 402,162 | $ 7,658,108 |
| | | | |
| REVENUE REQUIREMENT | $ 851,581 | $ 402,162 | $ 449,419 |
| | | | |
| | | | |

**ATTACHMENT "B"**

| | |
|---|---|
| STATE OF RHODE ISLAND<br>PROVIDENCE, SC. | PUBLIC UTILITIES COMMISSION |
| IN RE; NEWPORT WATER DIVISION | DOCKET NO: 2985 |

PROPOSED TARRIFS

SCHEDULE

| | |
|---|---|
| A | PUBLIC FIRE PROTECTION |
| B | PRIVATE FIRE PROTECTION |
| C | BILLING CHARGE |
| D | METERED SALES - NEWPORT |
| E | METERED SALES - NAVY |
| F | METERED SALES - PORTSMOUTH |
| G | MISCELLANEOUS CHARGES |

SCHEDULE A

NEWPORT WATER DIVISION RIDPU NO: 2985

PUBLIC FIRE PROTECTION

Applicability:

Applicable throughout the entire territory served by the Newport Water Division for public fire protection.

Rates:

| | |
|---|---|
| Per Hydrant | $560.00 |

Terms of Payment:

All bills for public fire service furnished under this schedule are rendered in advance monthly and are due and payable in full when rendered.

Effective: April 1, 2000

SCHEDULE B

NEWPORT WATER DIVISION RIDPU NO: 2985

PRIVATE FIRE PROTECTION

Applicability:

Applicable throughout the entire territory served by the Newport Water Division for services to private fire protection facilities.

Rates:

For each service connection to the Newport Water Division's mains used wholly or in part to supply fire protection appliances owned and maintained by the customer, the following charges shall apply:

| | Per Annum |
|---|---|
| For each 4 inch connection | $ 285.00 |
| For each 6 inch connection | $ 570.00 |
| For each 8 inch connection | $ 1,305.00 |
| For each 10 inch connection | $ 2,155.00 |
| For each 12 inch connection | $ 3,460.00 |

No additional charge shall be made for private protection appliances owned and maintained by the customer.

Method of Payment:

All bills for private fire services under this schedule are rendered annually in advance and are due and payable in full when rendered.

Effective: April 1, 2000

SCHEDULE C

NEWPORT WATER DIVISION RIDPU NO: 2985

BILLING CHARGE

Applicability:

Applicable throughout the entire territory served by the Newport Water Division for industrial, commercial and residential users, exclusive of fire service connections.

Rates:

For each meter connected to the Newport Water Division's mains the following charges shall apply:

| | |
|---|---|
| Charge per bill | $11.00 |

Method of Payment:

All billing charges under this schedule are rendered in advance concurrent with the billing cycle, monthly or tri-annually and are due and payable in full when rendered.

Effective: April 1, 2000

SCHEDULE D

NEWPORT WATER DIVISION RIDPU NO: 2985

METERED SALES

Applicability:

General metered service in the entire territory served by the Newport Water Division.

Rates:

For all quantities used except for private fire protection and bulk sales the following rates shall apply:

| Tri-Annually | | Monthly |
| --- | --- | --- |
| Thousands of Gallons | Rate per Thousands of Gallons | Thousands of Gallons |
| 0 - 56 | $3.73 | 0 - 14 |
| Over 56 | $2.93 | Over 14 |

Terms of Payment:

All metered sales under this schedule are rendered in arrears monthly or tri-annually at the option of Newport Water Division and are due and payable in full when rendered.

Effective: April 1, 2000

SCHEDULE E

NEWPORT WATER DIVISION RIDPU NO: 2985

METERED SALES

Applicability:

General metered service to the Department of the Navy, Naval Station Newport served by the Newport Water Division.

Rates:

For all quantities used except for private fire protection and bulk sales the following rates shall apply:

$2.0873 per thousand gallons

Terms of Payment:

All metered sales under this schedule are rendered in arrears monthly and are due and payable in full when rendered.

Effective: April 1, 2000

SCHEDULE F

NEWPORT WATER DIVISION RIDPU NO: 2985

METERED SALES

Applicability:

General metered service to the Portsmouth Water and Fire Districts served by the Newport Water Division.

Rates:

For all quantities used except for private fire protection and bulk sales the following rates shall apply:

$1.658 per thousand gallons

Terms of Payment:

All metered sales under this schedule are rendered in arrears monthly and are due and payable in full when rendered.

Effective: April 1, 2000

## SCHEDULE G

NEWPORT WATER DIVISION RIDPU NO: 2985

### MISCELLANEOUS CHARGES

1. Temporary Water Services: Applicable to all temporary meters furnished by the Water Division for temporary purposes such as construction or renovation. Charges are withheld from the water user's $100.00 deposit upon removal of the temporary meter.

   Charge: $60.00 for usage, plus damages

2. Meter Test: Applicable to all meters returned to the Water Division for testing. Charges are payable in advance. If upon completion of the test, the meter is found to be in excess of 2%, plus or minus, of actual, the charge is refunded.

   Charge: $65.00

3. Seasonal Turn-on and Turn-off: Applicable to all meters installed or removed for seasonal users.

   Charge: $40.00 minimum during regular working hours.

4. Turn-on Charge: Applicable to all services turned on after the cessation of a specific violation which resulted in the service shut off. Charges are payable prior to turn on.

   Charge: $40.00 minimum during regular working hours.

5. Meter Service: Applicable to all meters requiring maintenance due to breakage, tampering, overheating or freezing because of owner neglect or abuse.

   Charge: Cost of repair or replacement of the Water Division.

6. Interest on Delinquent Water Accounts: Applicable to all water account balances over 30 days overdue. Interest charges are payable as incurred.

   Charge: 10% per annum.

7. Connection Charge: Applicable to installation of all water services, including registers, pursuant to Newport Water Division rules and regulations. (Rules 2 and 16)

   Charge: Cost of meter and other materials plus 25% overhead and labor related thereto plus 50% overhead.

8. Special Billings: $20.00.each for non-routine bills prepared.

Effective Date: April 1, 2000