

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

**PUBLIC UTILITIES COMMISSION**

IN RE: PRUDENCE ISLAND UTILITIES :  
CORPORATION -- THE MORATORIUM : DOCKET NO. 2969  
ON NEW CONNECTIONS FOR WATER :  
SERVICE :

REPORT AND ORDER

The beauty of Prudence Island beckons many to ponder moving to this scenic land to enjoy the sun of summer. The allure of Prudence Island is to some extent, however, a siren's song. According to Prudence Island Utilities Corporation ("PIUC"), there is a lack of water for the present residents of the island, and thus a moratorium on connecting new customers to the water system. Like the cursed sailor in Coleridge's "The Rime of the Ancient Mariner", property owners of the island exclaim "Water, water everywhere, nor any drop to drink."<sup>1</sup> As a result, pursuant to R.I.G.L. Sections 39-1-1 and 39-1-38, the Public Utilities Commission ("Commission") initiated an investigation into the moratorium on new connections, and required PIUC to show cause why it should not be obligated to connect one new customer to its system every six months.

I. THE DIVISION

The Division of Public Utilities and Carriers ("Division") conducted an investigation as to whether additional customers could be added to

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<sup>1</sup> Samuel Taylor Coleridge, "The Rime of the Ancient Mariner," Part II, 9<sup>th</sup> stanza, lines 39-40.

the PIUC water system on a periodic basis. As a result of the investigation, the Division filed a report prepared by GZA GeoEnvironmental, Inc. (“GZA”), and testimony from Alberico Mancini, an engineering specialist for the Division. In the GZA report, it was noted that PIUC water system relies on four wells referred to as Indian Spring Well No. R-1 and No. R-4, the Army Well and the DeWitt Well.<sup>2</sup> The PIUC water system also currently has a storage capacity of 24,000 gallons provided by two 12,000 gallon tanks referred to as the Green and Broadway Tanks.<sup>3</sup> Further, the report stated that PIUC water system presently has 325 connections, an additional 25 landowners who pay to maintain their right to connect to the system and a list of an additional 20 property owners who wish to connect to the system (“Moratorium List”). These additional 45 connections would increase demand by approximately 14 percent.<sup>4</sup>

GZA reports that the existing four wells on the island have a short-term capacity of approximately 49 gallons per minute (“gpm”) or approximately 71,000 gallons per day (“gpd”). With existing storage capacity, the estimated peak-day supply was approximately 95,000 gpd.<sup>5</sup> Because the peak day demand in 1999 was 87,500 gpd (without water

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<sup>2</sup> Division Exhibit 2: GZA GeoEnvironmental Report, p. 2.

<sup>3</sup> Id.

<sup>4</sup> Ibid., at pp. 2-3.

<sup>5</sup> Ibid., at p. 1.

restrictions, the demand would have been approximately 130,000 gpd), the existing PIUC water system “does not, at all times, meet the needs of the 325 residences that are currently connected to the system.”<sup>6</sup> The water system, however, “has more than sufficient capacity to meet the average daily demand,” which is approximately 36,000 gpd or 25 gpm, as well as “marginal capacity to meet the average daily summer demand,” which is 53,000 gpd or 37 gpd.<sup>7</sup> Other than increasing storage capacity, the report recommended that with careful monitoring the pumping from Indian Spring well R-4 could be increased from 28 gpm to 40 gpm through increasing the capacity and lowering the depth of the pumps.<sup>8</sup> The report also stated that saltwater intrusion as result of this recommendation, although possible is unlikely and thus, “not a material issue.”<sup>9</sup> In conclusion, the report emphasized that, by following its recommendations, the PIUC water system “can be expanded to accommodate a limited number of additional connections.”<sup>10</sup>

In his prefiled testimony, Mr. Mancini, an engineering specialist for the Division, concluded that “PIUC has the potential to increase its customer base and eliminate the existing moratorium by increasing its

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<sup>6</sup> Id.

<sup>7</sup> Ibid., at p. 2.

<sup>8</sup> Id.

<sup>9</sup> Ibid., at p. 7.

<sup>10</sup> Id., at 2.

storage capacity and by also increasing the capacity of the Indian Spring (R-4) well during peak demand periods.”<sup>11</sup> Mr. Mancini discussed the three most significant problems facing PIUC: water quality, water storage, and the distribution system.

As for water quality, Mr. Mancini noted that PIUC’s Indian Spring wells R-1 and R-4 currently comply with lead and copper testing and thus met all health standards. However, high levels of iron and manganese in the water cause the tap water to be discolored and sediment-laden.<sup>12</sup> To improve the water quality, PIUC with the assistance of Pare Engineering implemented a sequestering process, which does not remove iron and manganese from the water but keeps these elements in solution.<sup>13</sup> This process has improved the water quality and the PIUC has received a positive customer response.<sup>14</sup>

With regard to water storage, Mr. Mancini noted that the current storage capacity is inadequate for a peak demand period, which “only occurs in the summer months.”<sup>15</sup> Mr. Mancini explained that as pumping from wells does not meet current demand, the storage tanks begin to empty. Once the storage tanks are exhausted, several homes

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<sup>11</sup> Division Exhibit 1: Testimony of A. Mancini, p. 3.

<sup>12</sup> Id.

<sup>13</sup> Ibid., at p. 5.

<sup>14</sup> Ibid., at p. 6.

<sup>15</sup> Ibid., at p. 4.

experience water loss.<sup>16</sup> To increase storage, the PIUC has considered the purchase of four 33,000 gallon tanks from the Narragansett Brewery; three of the tanks would act as a 100,000 gallon storage reservoir.<sup>17</sup> The cost of these tanks would be approximately \$100,000.<sup>18</sup>

Addressing the distribution system, Mr. Mancini explained that the PIUC's current piping is old and undersized. It is in need of replacement, particularly the water main along Narragansett Avenue.<sup>19</sup> To resolve this problem, the PIUC has replaced outdated sections of pipe along the entire length of Pier Road.<sup>20</sup> The PIUC has also identified the replacement of the main line along Narragansett Avenue as a subsequent construction project, which will cost approximately \$100,000.<sup>21</sup> The combined costs of the storage tanks and replacement of the main line along Narragansett Avenue total approximately \$200,000; PIUC intends to seek funding from the Rhode Island Clean Water Finance Agency and the Rhode Island Department of Health.<sup>22</sup> The estimated annual impact

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<sup>16</sup> Id.

<sup>17</sup> Ibid., at p. 7.

<sup>18</sup> Id.

<sup>19</sup> Ibid., at p. 4.

<sup>20</sup> Ibid., at p. 6.

<sup>21</sup> Ibid., at p. 7.

<sup>22</sup> Id.

of a \$200,000 loan with 7.5% interest rate and a 20 year amortization would be \$56 per customer.<sup>23</sup>

Mr. Mancini stated that there are twenty customers on the Moratorium List.<sup>24</sup> Of these, only two customers actually have residential structures on their property instead of vacant lots.<sup>25</sup> With the installation of storage tanks, PIUC could “supply the existing customer base as well as additional customers” because “the storage tanks would then refill during the week when the demand decreases.”<sup>26</sup> Consequently, Mr. Mancini concluded that the two homeowners who are on the Moratorium List should receive water service immediately and that additional individuals could receive water service from PIUC after additional storage tanks are installed.<sup>27</sup> Mr. Mancini also concurred with the GZA report that the pump at the Indian Spring R-4 well should be replaced, and the pumping slowly increased as needed during peak demand periods.<sup>28</sup>

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<sup>23</sup> Ibid., at p. 8.

<sup>24</sup> Ibid., at p. 9.

<sup>25</sup> Id.

<sup>26</sup> Ibid., at p. 10.

<sup>27</sup> Ibid., at pp. 13-14.

<sup>28</sup> Id., at p. 14.

## II. PRUDENCE ISLAND UTILITY CORPORATION

In support of its position to continue the moratorium, the PIUC filed reports from Pare Engineering Inc. (“Pare”) and Daniel W. Urish, as well as prefiled testimony from Thomas B. Nicholson, Managing Engineer of Pare; Daniel W. Urish, a civil engineer and groundwater hydrologist; and Mark Kimball, Chief Engineer of Control Engineering, Inc.

The Pare status report issued in November 24, 1999 on the PIUC water system concluded that “no new customers should be added until adequate water resources can be assured to provide a reliable quality water supply to all its customer base.”<sup>29</sup> Pare disagreed with various assertions made by GZA. Pare “does not believe that it is viable or prudent to increase the pumping capacity from the Indian Spring basin” because “the current rate during dry periods of the summer of 1999” resulted in poor water quality.<sup>30</sup> Furthermore, Pare explained that “increasing the pumping rate at slow increments” through monitoring was “beyond the current capabilities” of the PIUC.<sup>31</sup> Pare also expressed its concerns regarding salt intrusion in the wells.<sup>32</sup> Lastly, the Pare report emphasized that the installation of the new proposed storage

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<sup>29</sup> PIUC Exhibit 5: Pare Engineering Status Report, p. 12.

<sup>30</sup> Ibid., at p. 10.

<sup>31</sup> Ibid., at p. 11.

<sup>32</sup> Id.

tanks would not provide capacity for additional customers because the storage tanks were “proposed as a method to prevent...service interruptions.”<sup>33</sup>

To supplement the Pare report, Mr. Nicholson provided prefiled testimony. He concluded that no new customers should be added to the PIUC water system at the present time.<sup>34</sup> Mr. Nicholson based his conclusion on several factors. He noted that poor water quality raised concerns as to the capability of obtaining additional water from the basin during dry seasons.<sup>35</sup> He also emphasized the inadequate water storage, and that certain system lines are in need of repair.<sup>36</sup> Mr. Nicholson concluded that until “infrastructure repairs are made and additional water supply sources are added to the system, adding new customers would be reckless.”<sup>37</sup>

The PIUC also filed the Urish report issued in November 1999, regarding the groundwater resources on Prudence Island. Urish stated that increasing well capacity by lowering the pump level is a “risky venture” and “must be monitored carefully” because of the potential for

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<sup>33</sup> Ibid., at p. 10.

<sup>34</sup> PIUC Exhibit 4: Testimony of T. Nicholson, p. 2.

<sup>35</sup> Ibid., at p. 3.

<sup>36</sup> Id.

<sup>37</sup> Id.



saltwater intrusion.<sup>38</sup> Urish also emphasized that the Mill Creek “aquifer may already be stressed” and that “adding more customers is not advisable when the current supply is already inadequate and tenuous.”<sup>39</sup> To supplement the report, Mr. Urish provided prefiled testimony, which concluded that “new customers not be added until the system’s storage capacity is increased and additional water supply resources” are connected to the system.<sup>40</sup> He based this conclusion on the evidence that the Mill Creek aquifer is “overstressed, creating a significant risk of salt water intrusion” and that “increased usage demands will increase” the possibility of “salt water intrusion in a fractured bedrock aquifer such as the Mill Creek basin.”<sup>41</sup>

The PIUC also submitted prefiled testimony from Mark Kimball. Mr. Kimball explained that the moratorium on adding new customers to the PIUC water system went into effect in 1989 pending a groundwater availability study.<sup>42</sup> This study, completed by Mr. Urish in 1992, concluded that the Mill Creek basin aquifer “was being pumped near capacity” and that the moratorium should continue until new wells were installed, the PIUC system was improved, and new water sources

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<sup>38</sup> PIUC Exhibit 7: Report of D. Urish, p. 3.

<sup>39</sup> Id.

<sup>40</sup> PIUC Exhibit 6: Testimony of D. Urish, p. 2.

<sup>41</sup> Ibid., at p. 3.

<sup>42</sup> PIUC Exhibit 8: Testimony of M. Kimball, p. 2.

located.<sup>43</sup> As a result, Indian Spring wells R-1 and R-4 were installed, and a sequestering process and flushing program to improve the quality of the drinking water was instituted.<sup>44</sup> Mr. Kimball also explained that the PIUC is planning to expand water storage capacity by the summer of 2001 and make piping improvements by the summer of 2002.<sup>45</sup> However, he concluded that the PIUC should not add additional customers to the system until infrastructure improvements are completed and supplemental water services located.<sup>46</sup>

### III. THE STIPULATION

Following public notice, a hearing for the purpose of taking public comment on this matter was conducted at the offices of the Commission, 100 Orange Street, Providence, Rhode Island on September 22, 1999. At the hearing, some individuals spoke in favor of ending the moratorium while others spoke in favor extending it.<sup>47</sup> Subsequently, PIUC and the Division agreed to a timetable for the PIUC to increase storage capacity

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<sup>43</sup> Id.

<sup>44</sup> Ibid., at pp. 2-3.

<sup>45</sup> Ibid., at pp. 4-5.

<sup>46</sup> Ibid., at p. 5.

<sup>47</sup> One individual, Mr. John Jack Barrett, a realtor who was on the PIUC executive board of directors and opposed the moratorium at the time it was instituted, stated that the moratorium has succeeded in keeping the PIUC “a private club serving, approximately 325 customers” (T. 9/22/99, pp.13-14). He noted that fees increase because no new customers are added but individuals are installing wells on the island and thus are not paying their share of the cost of the water system. (Ibid., p. 14.)

and improve its Narragansett Avenue water main. In addition, the PIUC and the Division agreed that individuals who are on the Moratorium List and awaiting a water connection are entitled to obtain water service if they can demonstrate undue hardship. On March 3, 2000, they jointly filed this agreement in the form of a Stipulation<sup>48</sup> with the Commission.

Prior to the submission of the Stipulation, a public hearing was conducted at the Commission's offices on February 24, 2000. The following appearances were entered:

FOR THE PIUC:	Ralph M. Kinder, Esq. Armstrong, Gibbons & Gnys
FOR THE DIVISION:	Leo Wold, Esq. Special Assistant Attorney General
FOR THE COMMISSION:	Steven Frias, Esq. Senior Legal Counsel

At the time of the hearing, the parties informed the Commission that they had reached agreement on various issues except for the standard to be utilized to determine whether an undue hardship exception exists for an individual on the Moratorium List.<sup>49</sup> At hearing, the Commission adopted the Division's standard for undue hardship, which is:<sup>50</sup>

Undue hardship is satisfied if there is currently a residential structure on the subject property that on or after the

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<sup>48</sup> A copy of the Stipulation is attached and incorporated by reference as Appendix A.

<sup>49</sup> T. 2/24/00, p. 7.

<sup>50</sup> Ibid., p. 87.

effective date of the moratorium: (i) was disconnected from the water system due to circumstances beyond the control of the petitioner and his/her predecessors-in-interest, or (ii) where the installation of a well to supply the subject property with potable drinking water is impossible, or (iii) where a well existed that supplied the subject property with potable drinking water and the well became contaminated or dried up.

At the hearing, the parties presented direct testimony from various expert witnesses. The PIUC presented Mr. Nicholson and Mr. Kimball and the Division presented Mr. Powers and Mr. Mancini.

Mr. Nicholson concluded from his investigation that “there simply wasn’t enough water out on the island.”<sup>51</sup> He was alarmed that the PIUC water system was having “difficulty” meeting the minimum standard of service for water systems as developed by the American Waterworks Association.<sup>52</sup> Mr. Nicholson noted that during the summer months, the aquifer’s water supply was stressed and the potential for salt water intrusion increased.<sup>53</sup> Mr. Nicholson admitted, however, that the wells on Prudence Island have been pumped “for a significant period of time without salt water intrusion.”<sup>54</sup> Also, he explained that water conservation methods on the island have reduced the consumption of water by residents to “about half what a normal person would use on the

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<sup>51</sup> Ibid., p. 104.

<sup>52</sup> Id.

<sup>53</sup> Ibid., p. 106. He also stated that “in any well in Rhode Island there is a risk of salt water intrusion.” Id.

<sup>54</sup> Ibid., p. 107.

mainland.”<sup>55</sup> Further, Mr. Nicholson did not believe private wells on the Island are “going to have an adverse effect” on the aquifer, but that overdrawing water from one point in the aquifer could risk salt water intrusion.<sup>56</sup> To remedy the situation of water loss during summer weekends, the witness recommended increasing water storage.<sup>57</sup> He reiterated that adding new customers would exacerbate the current problems facing the PIUC water system.<sup>58</sup>

Under cross-examination, Mr. Nicholson modified his testimony by explaining that wells could be added on the island, but only outside the Mill Creek aquifer.<sup>59</sup> He also acknowledged that Department of Environmental Management has denied the PIUC permission to utilize the Navy Well.<sup>60</sup> Mr. Nicholson stated that if the twenty-five individuals who have the right to water service were added to the PIUC system, it would be “doubtful” that PIUC could handle these new customers; therefore, more restrictive water use would be implemented.<sup>61</sup> The

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<sup>55</sup> Ibid., p. 109.

<sup>56</sup> Ibid., pp. 110-111.

<sup>57</sup> Ibid., pp. 144-115.

<sup>58</sup> Ibid., pp. 116-117.

<sup>59</sup> Ibid., pp. 127-128.

<sup>60</sup> Ibid., pp. 133-134.

<sup>61</sup> Ibid., pp. 134-135.

proposed additional storage tanks, Mr. Nicholson emphasized, will not provide additional water but will only prevent the system from running out of water on a routine basis.<sup>62</sup> The witness also pointed out that Prudence Island differs substantially from Block Island because the latter has more residents and therefore can fund a more elaborate infrastructure.<sup>63</sup>

On behalf of the Division, Mr. Michael Powers, an engineer with GZA, was called to testify. Mr. Powers said that immediately adding one or two individuals on the grounds of undue hardship would not substantially increase the risk of salt water intrusion.<sup>64</sup> In regard to conservation measures, Mr. Powers recommended installing a metering system, and low flow toilets.<sup>65</sup> Under cross-examination, Mr. Powers testified that he believed new customers could be added after storage is increased. He also recommended installing a monitoring system.<sup>66</sup> Mr. Powers reiterated his belief that salt water intrusion is not a material issue.<sup>67</sup>

After the conclusion of the hearing, on March 3, 2000, the parties filed a Stipulation. In this Stipulation, the Division and the PIUC agreed

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<sup>62</sup> Ibid., p. 136.

<sup>63</sup> Ibid., pp. 147-148.

<sup>64</sup> Ibid., p. 155.

<sup>65</sup> Ibid., p. 157.

<sup>66</sup> Ibid., pp. 159-160.

to a schedule of improvement to the water storage capacity, to be completed by May 31, 2001; and improvements to the Narragansett Avenue water main, to be completed by May 31, 2002. The timetable is conditional on the PIUC obtaining the necessary permits and financing from various government agencies. The utility also agreed to provide the Division and Commission with quarterly progress reports regarding compliance with the schedule from improvements.

The Stipulation also recites that individuals on the Moratorium List may obtain water service on grounds of undue hardship. An individual on the Moratorium List must file written request with the PIUC for a water connection on the basis of undue hardship; this request should be accompanied by supporting documentation to explain the nature of the hardship. Based upon the definition approved by the Commission at the hearing on February 24, 2000, the PIUC will issue a written decision on an undue hardship connection request within 30 days after the receipt of the request, and forward the decision along with the request and supporting documentation to the Division.

Within 30 days of its receipt of the decision and documentation, the Division shall review the decision and documentation *de novo* and issue its own written decision utilizing the definition of undue hardship adopted by the Commission. If the PIUC or the claimant is dissatisfied with the Division's decision, review of the Division's decision is available

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<sup>67</sup> Id., 164-165.

by the Commission. The PIUC also agreed to notify by mail the individuals on the Moratorium List of this undue hardship claim procedure.

Finally, in the Stipulation the PIUC agreed to retain a consultant to investigate and report on whether the DeWitt Well and the Army Well should be rehabilitated to increase their current yield. This report will be completed and forwarded to the Commission and Division by May 31, 2000.

#### COMMISSION FINDINGS

After reviewing the evidence, it is clear to the Commission that the PIUC water system “is anything but a typical water system.”<sup>68</sup> At times, it must appear to the Prudence Island residents that Prudence Island is “kind of out there all by itself.”<sup>69</sup> The Division and the PIUC are commended in their efforts to improve the water system on the island. The Stipulation has outlined an ambitious undertaking to increase water storage by 2001, and improve the water pipe system by 2002. The Commission hopes that these endeavors will ensure that the PIUC customers will not face the loss of water service during summer weekends. It is clear that until the water storage capacity of the PIUC is increased, it would not be prudent to add a large number of customers to the PIUC water system.

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<sup>68</sup> Ibid., p. 138.

<sup>69</sup> Ibid., p. 147.



The Commission is pleased that the Division and the PIUC have recognized the need to immediately add customers who can demonstrate an undue hardship. The Division's definition of undue hardship, which was adopted by the Commission, is fair and equitable and balances the rights of present PIUC customers with the urgent needs of prospective customers. The addition of a handful of customers will not overly burden the PIUC water system.

Although, in the current state of the PIUC water system, it would be unwise to lift the moratorium on additional water connections, the Commission reserves its right to revisit this issue once the additional water storage is installed. It is the Commission's fervent wish that the Division and the PIUC work together to ensure that some day all residents of Prudence Island have access to adequate water supplies.

At an open meeting on March 9, 2000, the Commission considered the evidence presented in the case and found the proposed Stipulation was just and reasonable and in the best interest of ratepayers.

Accordingly, it is

(16261) ORDERED:

1. Prudence Island Utility has shown cause why the moratorium on new water connections should continue for the present time, except for cases of undue hardship.

2. The Stipulation filed on March 3, 2000 between the Division of Public Utilities and Carriers and Prudence Island Utility Corporation is hereby approved.
3. The standard of undue hardship proposed by the Division of Public Utilities and Carriers is adopted.
4. The Prudence Island Utility Corporation is required to connect to water service, as soon as possible, individuals on the Moratorium List who successfully meet the standard of undue hardship.
5. The procedure for determining whether an individual has met the standard of undue hardship is outlined in the Stipulation approved by the Commission.
6. The Prudence Island Utility Corporation shall comply with the reporting requirements set forth in the Stipulation and this Report and Order, and shall abide by all other terms and conditions imposed by the Stipulation and by this Report and Order.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND, ON MARCH 9, 2000, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED MAY 24, 2000.

PUBLIC UTILITIES COMMISSION

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Kate F. Racine, Commissioner

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Brenda K. Gaynor, Commissioner

**APPENDIX A**

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

**IN RE: PRUDENCE ISLAND UTILITY )  
CORPORATION FOR THE MORATORIUM) DOCKET NO. 2969  
ON NEW CONNECTIONS FOR WATER )  
SERVICE )**

**STIPULATION**

The above matter came up before the Public Utilities Commission (“Commission”) on February 24, 2000. After hearing in which public testimony was taken, exhibits were introduced in evidence and the testimony of experts and witnesses was heard, and, after a conference between the parties at the direction of the Commission, the Division of Public Utilities (“Division”) and Prudence Island Utilities Corporation (the “Utility”) stipulate and agree as follows:

1. In the early Fall of 1999, the Commission noticed a hearing for September 22, 1999 requiring the Utility to show cause why it should not be obligated to connect one new customer to its system every six months.
2. Between September 22, 1999 and January 10, 2000, the hearing was continued several times in order to afford the Division and the Utility an opportunity to prepare their cases and to attempt to negotiate a settlement. On or about January 10, 2000, the Commission fixed a firm date of February 24, 2000 for holding the hearing.

3. In order to aid the Division with its investigation into whether the Utility could include additional customers to its water system, the Division retained Michael A. Powers, P.E. of the firm of GZA Geo Environmental, Inc.

4. Further, as part of its investigation as to whether additional customers could be added to the system on a periodic basis, the Division toured and examined the Utility's water system, reviewed correspondence forwarded by members of the public to the Commission and Division, spoke with management of the Utility, reviewed prior studies done in connection with the water system, conferred with the Department of Health and the Department of Environmental Management and inquired into a congressional representative's plan for obtaining a desalinization plant from Navy ships that are being decommissioned.

5. The Utility and the Division agree to the attached schedule as a timetable for the Utility to complete improvements for supplementing potable water storage capacity and improving the Narragansett Avenue water line (the "Projects"). A copy of the Schedule is attached hereto and marked "Exhibit A" and is restated and incorporated into this Settlement Agreement by reference.

6. The timetable referenced herein is subject to and conditioned upon the Utility's obtaining all necessary federal, state and local permits and a reasonable financing plan and approval of said plan by the Division pursuant to R.I. Gen. Laws § 39-3-15.

7. The Utility shall provide the Division and the Commission with a written report every three (3) months (with the first report due on June 15, 2000) as to the progress that the Utility has made in complying with the Schedule. In particular, in each report, the Utility shall identify for the Division and the Commission: (i) the steps that it has taken to comply with the Schedule, (ii) the status of the relevant phase of the Projects, (iii) when each phase of the Schedule has been completed and/or is estimated to be completed, and (iv) any other information that informs the Division and the Commission as to the progress of the Projects. The Division and the Utility recommend to the Commission that individuals on “Moratorium List” should be entitled to obtain water service and/or restoration of lost water rights on the ground of “undue hardship.”<sup>70</sup>

8. The Division and the Utility agree on the following procedure for considering “undue hardship” requests.

a. All individuals on the “Moratorium List” may file a written request for water connection on the basis of “undue hardship.” Written requests should be accompanied by all supporting documentation and should explain why the claimant believes he/she is entitled to relief. Written requests should be forwarded to:

Eugene Rinker  
P.O. Box 250  
Prudence Island Utility Corporation

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<sup>70</sup>The “Moratorium List” consists of 21 individuals who may obtain water service and/or the right to connect to the system on a “first come, first serve” basis.

Prudence Island, RI 02872  
401-683-9200

- b. Within thirty (30) days after the receipt of any request, the Utility shall issue a written decision with its reasons therefor as to whether the request should be granted or denied on the basis of the definition adopted by the Commission on the hearing that took place on February 24, 2000. A copy of that definition is attached hereto and marked "Exhibit B".
- c. The Utility promptly shall forward its decision, along with the request and all supporting documentation, to the Division at the following address:

Alberico Mancini  
Division of Public Utilities and Carriers  
100 Orange Street  
Providence, Rhode Island 02903  
222-3500, ext. 122

The Utility also shall promptly forward a copy of its decision to the claimant by regular mail, postage prepaid.

- d. Within thirty (30) days of its receipt of any written decision and supporting documentation, the Division shall review the decision and documentation *de novo* and issue its own written decision with its reasons therefor, again based upon the definition of "undue hardship" adopted by the Commission on February 24, 2000. See Exhibit B. The Division shall promptly forward a copy of its decision to the

claimant and the Utility by regular mail, postage prepaid, along with notice that the claimant and the Utility possess the right to seek review of the decision by filing a claim with the Commission.

e. In the event that either the Utility or the claimant is dissatisfied with the decision of the Division, the claimant or the Utility may file a claim with the Commission to review the decision of the Division. Requests seeking Commission review shall be forwarded to:

Luly Massaro  
Clerk  
Public Utilities Commission  
100 Orange Street  
Providence, RI 02903  
401-222-3500, ext. 107

9. Within thirty (30) days of the date of the filing of this Stipulation, the Utility shall forward notice of the review process (Paragraph No. 8(a)-(e), above) by regular mail, postage prepaid, to each current “Moratorium List” member and post notice of this review process at “Marcie’s Store”.
10. The Division and the Utility agree that individuals who may have claims and are within the current service area of the Utility but who are unknown must apply to the Utility and become “Moratorium List” members prior to filing any “undue hardship” requests with the Utility.

11. Any person granted water service must comply with all applicable terms and conditions for water service from the Utility.

12. The Division and the Utility agree that the Utility will retain a qualified company to investigate and report whether the DeWitt Well and Army Wells should be rehabilitated to increase their current yields (hereinafter designated as the "Report"). The Report, among other items, will consider: (i) whether the current pumps are of the appropriate capacity, (ii) whether the wells should be surged, (iii) the cost of any proposed efficiencies, (iv) the anticipated benefits and risks of the proposed efficiencies and (v) any other matters that may be relevant to increasing the yields of the DeWitt and Army wells.

13. The Division and the Utility agree that the Report will be completed and forwarded to the Commission and Division by May 31, 2000.

14. After considering the testimony of Timothy Curry and Raymond Branco at the hearing that took place on February 24, 2000, the Division and the Utility agree as follows:

- a. Mr. Curry's case falls within the definition of "undue hardship" adopted by the Commission at the hearing; and
- b. Mr. Branco shall forward copies of all documentation supporting his case to the Utility. Thereafter, his case shall be reviewed pursuant the review process outlined in Paragraph No. 8, above.



DIVISION OF PUBLIC UTILITIES  
AND CARRIERS  
By its attorneys,

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PRUDENCE ISLAND UTILITY  
CORPORATION  
By its attorneys,

ARMSTRONG, GIBBONS & GNYS, LLP

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Ralph M. Kinder, Esq.  
155 South Main Street  
Providence, RI 02903  
401-751-1500

March 2, 2000

March 2, 2000

## **“EXHIBIT A”**

### SCHEDULE OF PROJECTS

#### PROJECT I – IMPROVEMENTS FOR SUPPLEMENTATING POTABLE WATER STORAGE CAPACITY

<u>Phase of Project</u>	<u>Completion Date</u>
Investigation and location of storage tanks; preparation and submission to Department of Health ("DOH") of permit application	May 31, 2000
DOH permitting review and approval	June 30, 2000
Bid specification and bidding	August 31, 2000
Tank purchase and transportation	October 31, 2000
Tank installation and appurtenant construction	March 31, 2001
Testing, startup and training	May 31, 2001

**PROJECT II – IMPROVING THE NARRAGANSETT AVENUE WATER LINES**

<b><u>Phase of Project</u></b>	<b><u>Completion Date</u></b>
Bidding specification and bidding	August 31, 2001
Finance applications and approval	September 30, 2001
Line installation and appurtenant construction	March 31, 2002
Testing and startup	May 31, 2002