

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PAWTUCKET WATER SUPPLY :
BOARD MOTION FOR INTERIM RELIEF : DOCKET NO. 3497
REGARDING GENERAL RATE :
APPLICATION FILING :

REPORT AND ORDER

I. Introduction

On February 28, 2003, Pawtucket Water Supply Board (“PWSB”), a non-investor owned utility, filed with the Public Utilities Commission (“Commission”) an application for a general rate increase for effect April 1, 2003, pursuant to R.I.G.L. § 39-3-11. PWSB requested a revenue increase of 28%, to collect an additional \$3,157,389 in operating revenues, for a total revenue requirement of \$14,708,719. The Commission suspended the effective date of PWSB’s requested rate increase in order to conduct a full investigation and to hold public hearings.¹

II. Motion for Interim Relief

On April 14, 2003, PWSB filed a Motion and Memorandum for Interim Relief. Specifically, PWSB requested the Commission allow PWSB to utilize \$359,700 of the funds currently collected in its restricted Infrastructure Replacement Account (“IFR”) to undertake projects more appropriately classified as Operation and Maintenance (“O&M”) expenses. The projects and their estimated costs are as follows: the replacement of granular activated carbon (“GAC”) filters (\$213,000), the replacement of laboratory equipment to maintain state certification compliance (\$109,200), the rebuilding of a critical wash water motor and raw water pump to maintain treatment operations (\$9,500),

¹ As customers of PWSB, the City of Central Falls and the Town of Cumberland have intervened in the instant docket.

the inspection of two water storage tanks to comply with Department of Environmental Management (“DEM”) requirements (\$8,000), and an emergency inspection of the existing water treatment facilities by a contractor to discover any potential problems caused by movement of the filter building in February 2003 (\$20,000). According to PWSB, because the IFR account currently contains sufficient funds to cover all of these O&M expenses, the request to utilize IFR funds to cover the O&M expenses would not require an interim rate increase.² However, the effect of reducing the IFR account by \$359,700 would be to delay the ongoing replacement of water mains project for one year.³

In its Motion and Memorandum, PWSB argued that the immediate need for funding the above-reference O&M projects was caused by recent unforeseen events, namely that all but one were caused by the delay in contracting with a vendor to construct a new water treatment facility. The need for inspection of the existing treatment plant was caused by a shift in its structure in February 2003. According to PWSB, none of the unforeseen events was caused by any error of PWSB. Furthermore, PWSB argued that, to a reasonable degree of certainty, a delay in the work for which funding is requested would jeopardize the proper functioning of the PWSB water system.⁴

III. Hearing

Although no objection was filed by any of the parties to the instant docket, the Commission held a hearing on May 8, 2003, to obtain further information regarding the immediate need for the work, the effect of the funding request on IFR projects, and

² The IFR account had a balance of \$1,863,699 as of May 1, 2003.

³ Motion and Memorandum for Interim Relief, pp.1-2; PWSB Exhibit 1 (Pre-filed Testimony of Pamela Marchand), pp. 1-4; PWSB Exhibit 2 (Memorandum dated May 7, 2003), p. 1.

⁴ Motion and Memorandum for Interim Relief, pp. 2-3, 5-6.

whether it would also be appropriate to order an interim rate increase to begin collecting the funds immediately rather than awaiting the final order in the instant docket.

The following parties entered appearances:

FOR PWSB:	Joseph A. Keough, Jr., Esq.
FOR CENTRAL FALLS:	Matthew T. Oliverio, Esq.
FOR CUMBERLAND:	Richard Kirby, Esq.
FOR DIVISION:	Leo Wold, Esq. Special Assistant Attorney General
FOR COMMISSION:	Cynthia Wilson, Esq. Senior Legal Counsel

At the hearing, PWSB presented Ms. Pamela Marchand, P.E., Chief Engineer of PWSB, in support of PWSB's request, who stated that the requested funding is to address the most critical projects that need to be undertaken as soon as possible. The replacement of the GAC filters and the rebuilding of the wash water motor and the raw water pump are the most critical. The GAC filters are needed to meet drinking water standards. Each one has a useful life of four years and the current filters were put into service over four years ago. Additionally, Ms. Marchand testified that the tank inspection must be completed by the end of the summer per DEM regulations. The inspections must be completed every five years and the last one was completed five years ago. She stated that PWSB is experiencing difficulties with the existing laboratory equipment and that the back-up equipment is beyond repair. This equipment is needed for bacterial analysis and is required to meet Rhode Island Health Department regulations.

Addressing the one year delay in the IFR main replacement program, Ms. Marchand testified that in order to adequately supply safe and potable water, the five

O&M projects are of a higher priority than the main replacement project. She noted that approximately three to five miles of pipe would be left to complete in calendar year 2011 and that, because of the technology that the new treatment plant vendor will potentially be using, this delay should not adversely affect water quality any more than if the project is completed on schedule in calendar year 2010. Ms. Marchand testified that the delay may affect costs due to year-to-year fluctuations. She indicated that a reasonable estimate is a 3% increase per year. However, with regard to the impact of the delay on PWSB ratepayers for costs that would have been the responsibility of the new treatment plant vendor absent the delay, Ms. Marchand testified that PWSB will attempt to negotiate with the vendor in order to eliminate adverse impact on ratepayers.

With regard to the reasonableness of the interim funding requested, Ms. Marchand testified that for all expenditures over \$3,000, the City of Pawtucket requires the project to be put out to bid. For all expenditures less than \$3,000, PWSB is only required to solicit three proposals. However, there is only one company that provides GAC filters and her estimate for the GAC filter replacements is the result of yearly RFPs previously issued for this purpose. The cost estimates for laboratory equipment, the wash water motor, and rebuilding of the raw water pump are based on calls made by PWSB to various vendors to identify a reasonable range. The cost for the tank inspection is based on Ms. Marchand's prior experience with this type of project. Finally, the inspection of the existing treatment plant structure has already been started with an emergency authorization in the amount of \$20,000 from the City of Pawtucket Purchasing Board.

With regard to the amount of time necessary to replenish the IFR account, Ms. Marchand testified that it would take approximately seventeen months from the time

PWSB begins collecting rates designed to recover the \$359,700. Given the fact that PWSB will not begin collecting these rates until it receives approval from the Commission, it will be early 2005 before the funds have been fully replenished. She testified that because the main replacement projects tend to begin in one spring/summer and are completed in the following spring/summer, the collection of the funds should coincide well with the segment of the program that is planned to commence in the spring/summer 2004.

The Division presented two witnesses to provide an opinion and recommendation regarding the propriety of PWSB's request. Mr. Alberico Mancini, a Division Engineering Specialist, testified that he is familiar with the PWSB facility, that he has reviewed PWSB's Capital Improvement Projects ("CIP") and IFR Programs, and that he has reviewed PWSB's request and contacted the Rhode Island Department of Health to verify their position with regard to the deficiencies listed by PWSB. Based upon his investigation, he believes that the O&M projects need to be completed as soon as possible, preferably during the summer 2003, in order to ensure a continued safe level of water quality and an adequate supply. He testified that the one year delay in the water main replacement program is not as significant as the O&M projects because the water mains are functioning properly, whereas PWSB is experiencing problems in other areas.

The Division also presented Mr. John Bell, a Division Fiscal Analyst, to provide the Commission with an opinion as to whether the Commission should order an immediate rate increase to begin collecting the \$359,700 prior to the final decision in the instant docket. He testified that, because PWSB had not requested an immediate rate increase, the IFR account contains sufficient funds to cover the O&M expenses, and such

an increase would lead to customer confusion, the Commission should not order an interim increase. He did agree that another reason not to start collecting the funds immediately was Ms. Marchand's testimony that the funds would be available for the 2004 main replacement project when needed.

In closing, the Division recommended approval of PWSB's Motion as filed with the caveat that the Division will be further reviewing the propriety of the request within the context of the full rate case. Central Falls and Cumberland both indicated that they were not objecting to PWSB's Motion but that such requests should not become regular practice. Furthermore, both parties expressed concern with the costs associated with the delays of the new water treatment plant and the main replacement program. Therefore, they reserved their rights to explore these issues further within the context of the full rate case.

IV. Commission Findings

At the close of the hearing, after considering the evidence presented, the Commission rendered a Bench decision approving, as filed, PWSB's Motion to utilize IFR funds for certain O&M projects. The Commission specifically found that the circumstances surrounding the need for PWSB's request were caused by reasonably recent unforeseen events and that the unforeseen events were not caused by an error committed by PWSB. Furthermore, the Commission found that denial of the interim relief requested "will interfere with the accommodation, convenience and welfare of the people."⁵ Finally, the Commission found, based upon the testimony of Ms. Marchand and Mr. Bell, that there was not a need to order an emergency interim rate increase.

⁵ R.I.G.L. § 39-1-32. See Order No. 16398 (issued October 10, 2000) (indicating the appropriate standard for review of a request for emergency interim rate relief).

The Commission is cautious about granting interim relief because such relief is typically sought to address a single issue. Whenever funds are taken from one account and transferred to another, there is an impact on the programs funded by the first account. In this case, the use of IFR funds for O&M expenses will result in a delay to a long-term IFR project, namely, the replacement of PWSB's water mains. However, there is precedent for the Commission to allow PWSB this type of relief, particularly in the case where approval will not create the need for an immediate rate increase. In Docket No. 3378, the Commission allowed PWSB to use \$45,000 from the main replacement program funds to perform a critical O&M project, namely, the removal of sludge from the drying beds and settling basins and the cleaning of said basins. The associated impact on the main replacement program was a delay in the replacement of 560 feet of pipe until the end of the total project; however, an immediate rate increase was not required.

Despite that recent decision and the decision in the instant case, the Commission cautions PWSB against routine filings for interim relief. The Commission is well aware of the events since the final decision in Docket No. 3378 and is taking those factors into account when approving this motion.⁶ Finally, the Commission notes that the standard for interim rate relief is much higher than for a request for interim relief that does not immediately affect rates. However, despite the fact that PWSB has not requested interim rate relief, it has met the higher standard.

⁶ The approval of a vendor to construct and operate a new treatment plant for PWSB took fifteen months longer than anticipated and, as a result, PWSB still does not have a vendor operating the existing treatment plant as originally contemplated. In Docket No. 3378, PWSB did not anticipate the need to undertake the O&M projects for which funding has now been requested. Additionally, in March 2002, when the Commission was considering its decision in Docket No. 3378, PWSB did not foresee the shifting of the effluent pipe gallery and filter building in February 2003. Finally, PWSB has cooperated fully with a Commission investigation regarding the adequacy of its existing treatment plant and has provided all requested information in a timely manner.

Nothing contained in this Order should be construed as a denial of the request of the parties who reserved their rights to further review PWSB's interim relief requests within the context of the full rate case, which will be heard in August 2003. Nothing contained in this Order should be construed as a waiver on the part of the Commission to further review the propriety of PWSB's interim relief request as it impacts rates within the context of the full rate case.

Finally, PWSB shall file with the Commission evidence of the actual costs associated with each of the five O&M projects which are the subject of the instant Motion within thirty (30) days of completion of each project.

Accordingly, it is

(17466) ORDERED:

1. Pawtucket Water Supply Board's Motion for Interim Relief is hereby granted as filed.
2. Nothing in this Order shall be construed as a waiver by the Commission or a denial of the request of the parties who reserved their rights to further review Pawtucket Water Supply Board's interim relief requests in the context of the full rate case.

3. Finally, PWSB shall file with the Commission evidence of the actual costs associated with each of the five O&M projects which are the subject of the instant Motion within thirty (30) days of completion of each project.

EFFECTIVE AT WARWICK, RHODE ISLAND, ON MAY 8, 2003,
PURSUANT TO A BENCH DECISION. WRITTEN ORDER ISSUED ON MAY 21,
2003.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Kate F. Racine, Commissioner

Brenda K. Gaynor, Commissioner