

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: CITY OF NEWPORT WATER :
DIVISION APPLICATION TO : DOCKET NO. 3578
CHANGE RATE SCHEDULES :

ORDER REGARDING NEWPORT WATER DIVISION'S
REQUEST TO REPAY CITY IN FY 2005

On May 31, 2005, the City of Newport, Utilities Department Water Division ("Newport Water") submitted a filing to the Commission requesting that the company be allowed to make a \$500,000 installment payment to the City of Newport ("City"). This payment would have reduced the outstanding loan due to the City from \$2.0 million to \$1.5 million. Three hundred seventeen thousand nine hundred fifty-five dollars (\$317,955) had previously been transferred out of the "Restricted Repayment to City Account" in November 2004 to cover certain cash shortfalls that occurred at that time in the debt service account. In Order No. 18121, allowing the transfer, the Commission had conditioned repayment of the Fiscal Year 2005 installment on Newport Water's ability to reimburse \$317,955 to the "Restricted Repayment to City Account" without jeopardizing the debt service account.

At the time of the May 31, 2005 filing, Newport Water had provided no evidence that it had reimbursed or could reimburse the "Restricted Repayment to City Account". On June 15, 2005, the Division submitted its Response to Newport Water's filing, noting that Newport Water had not shown an ability to repay the "Restricted Repayment to City Account" and thus concluded that Newport Water should only be allowed to transfer \$182,045 to the City. Authorizing the lesser amount would keep Newport Water from expending more than \$500,000 from the "Restricted Repayment to City Account" in FY 2005.

At its June 16, 2005 Open Meeting the Commission voted to allow Newport Water to repay \$182,045 to the City. On the same day, Newport Water filed a Supplemental Petition¹ and Addendum to Supplemental Petition. These filings outlined various scenarios under which Newport Water could make the \$500,000 installment payment to the City and still be able to reimburse \$317,955 to the “Restricted Repayment to City Account”. The Commission voted to table repayment of the remaining \$317,955, thereby allowing parties adequate time to comment on the scenarios presented by Newport Water on June 16, 2005.

On June 27, 2005, Newport Water submitted a letter to the Commission indicating that the Company did not have sufficient cash to meet its current obligations. As of June 27, 2005, Newport Water had \$105,100 in its checking account and \$325,000 of accounts receivable more than 30 days past due. Some of the larger liabilities due were \$402,000 of payroll expenses due to the City, vendor invoices of \$210,000 and restricted funding obligations of \$272,582. The letter indicated that Newport Water was entering its high use season and that cash flow should improve, however, they still expect to struggle at least for the short term. Newport Water’s plan was to pay its outstanding payroll and vendor invoices before funding its restricted accounts.

The Division provided a Response to Newport Water’s Supplemental Petition on July 1, 2005, recommending the Commission deny repayment due to the cash flow issues. With regard to Newport Water’s request that it be allowed to deviate from the funding requirements of the Commission’s Rate Order, the Division recommended allowing Newport Water to pay its current obligations other than restricted funding, but

¹ The Commission had received an unofficial electronic filing of these documents on June 14, 2005.

to “strictly account to the Commission and Division (via a prompt filing) for all sums that remain due and owing to its restricted accounts”.

On July 5, 2005, Portsmouth Water and Fire District (“PWFD”) provided a Response to Newport Water’s Supplemental Petition stating that it defers to the Division and to the Commission regarding the repayment. However, PWFD did object to the proposal to combine restricted accounts. PWFD asserted that the need for restricted accounts and detailed accounting is even greater than it was when the Commission ordered separate accounts to be maintained.

On July 6, 2005, Mr. Keough, counsel to Newport Water, submitted an electronic mail message to the service list indicating that the request to delay funding of the restricted accounts was withdrawn. Newport Water had made the decision to make the required June 2005 deposits.

At its July 7, 2005 open meeting, the Commission denied the second installment of the payment for FY 2005 until such time that Newport Water can demonstrate that it is on firm financial ground. Given the most recent developments and Newport Water’s continuing cash struggles, not only would it be a departure from the requirements of the prior Commission Order, it would be unwise to allow the company to repay \$317,955 to the City at this time. The Commission notes that when it allowed the Company to transfer funds from the Repayment to City Account to its checking account to cover a cash flow problem resulting from a debt service payment that was made in November 2004, which had to be covered by funds in the checking account, the Commission specifically reduced the FY 2005 installment by that amount. Newport Water’s attachments to its Motion for Relief from Order (seeking to borrow money from the Restricted Repayment to City Account), filed December 6, 2004, had indicated the debt

service account could be repaid in FY 2005. Therefore, because the Company was unable to meet the conditions contained in its filing, namely the ability to reimburse of the Repayment to City Account without jeopardizing the Company's ability to make future debt service payments, in order to avoid a vicious circle, the request is denied without prejudice.

Since the issuance of the Newport Water's last rate order, the Company has been providing its required filings in a timely manner and has maintained contact with the Commission when issues have arisen. It is unfortunate that the Company had chosen to file a rate case in which the rate year ended only a few days after the end of the suspension period. Therefore, it is not particularly surprising that FY 2005, which was the twelve month period following the end of the rate year for which rates were set, was tight, financially. However, Newport Water has filed a rate case, the decision of which will be made prior to the commencement of its requested rate year. Newport Water did not begin to have the problems outlined in the last two rate cases suddenly and will not overcome those challenges by "turning on a dime." It has begun to take steps in the right direction by complying with reporting requirements and filing a rate case. While the Commission still has inquiries to make regarding consumption, revenues and expenses, and accounts receivables, those inquiries will be made in the context of the pending rate matter, Docket No. 3675.

Despite these steps forward, the reality is that Newport Water is experiencing significant cash flow and possibly revenue deficits now. The Commission is concerned that Newport Water is more delinquent on meeting payroll than one would expect of a utility. The Division has already expressed interest in allowing Newport Water to seek relief from funding of certain restricted accounts in order to meet current obligations.

The Commission would be willing to entertain a proposal, assuming such a proposal showed an ability to meet debt service payments as scheduled.

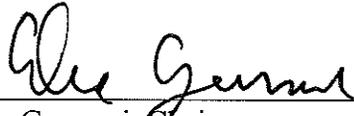
Accordingly, it is hereby

(18362) ORDERED:

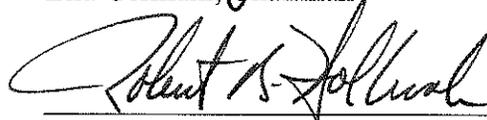
1. City of Newport, Utilities Department Water Division's request to repay the remaining \$317,955 of the Fiscal Year 2005 installment on its debt to the City of Newport is denied without prejudice.
2. City of Newport, Utilities Department Water Division's request to combine currently separate restricted accounts is hereby denied without prejudice.
3. City of Newport, Utilities Department Water Division shall comply with all other findings and instructions contained in this Order.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JUNE 16, 2005 AND
JULY 7, 2005 PURSUANT TO OPEN MEETING DECISIONS. WRITTEN ORDER
ISSUED SEPTEMBER 12, 2005.

PUBLIC UTILITIES COMMISSION



Elia Germani, Chairman



Robert B. Holbrook, Commissioner

