STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: CITY OF WOONSOCKET :
WATER DEPARTMENT APPLICATION : DOCKET NO. 3626
TO CHANGE RATE SCHEDULES :

REPORT AND ORDER

I. Introduction

On July 13, 2004, the City of Woonsocket Water Division ("WWD" or "Company"), a non-investor owned utility, filed with the Public Utilities Commission ("Commission") an abbreviated rate application filing. WWD requested a rate increase of 39.58% for the collection of $2,067,150 in additional operating revenues for a total cost of service of $7,484,646. WWD requested an effective date of November 1, 2004. On July 26, 2004, at an open meeting, the Commission suspended the effective date of the filing.

The instant general rate case filing represents WWD's fourth such filing in the last eleven years. The following table provides a brief history:

Docket No.	Filing Date	Amount Requested	Amount Allowed	% increase
2099	4/9/93	$2,335,532	$1,999,026	84.8%
2904	3/25/99	$1,232,142	$ 800,544	20.7%
3512	3/27/03	$1,093,451	$ 970,596	22.4%
3626	7/13/04	$2,067,150	$1,602,231	30.4%

II. Woonsocket Water Department's Pre-Filed Testimony

In support of this filing, WWD filed the testimony of Emerson J. Marvel, Water Division Superintendent for the City of Woonsocket ("City") Department of Public Works, and WWD's consultant, Christopher P. N. Woodcock. In his prefiled testimony, Mr. Marvel noted that the requested increase was primarily due to the following factors: (1) increases in permanent services; (2) increases in overtime pay; (3) requested salary upgrades for employees; (4) increases to roads and walks; (5) increases to light and power; (6) increases to property tax, (7) increases in costs relative to State Pollution Monitoring; (8) increases in legal services and engineering services; and (9) increases in infrastructure replacement ("IFR"). Mr. Woodcock also discussed increases to Debt Service and rate case expense as well as the calculation of the Operating Reserve. The Test Year used was calendar year ("CY") 2003 and the Rate Year used was CY 2005.

Mr. Marvel explained that the changes in permanent services are primarily due to contractual increases pursuant to the labor agreement.[1] However, he testified that overtime pay will increase as a result of the implementation of WWD's annual flushing program which will flush the entire system during evening hours to minimize the impact of temporary water discoloration on customers.[2] Defending requested salary upgrades for WWD employees, Mr. Marvel noted that WWD compared its salary scale to those of other regulated water utilities in Rhode Island and found WWD's to be lower by 25% to 30%. Additionally, he maintained that the WWD has been experiencing difficulty hiring and retaining qualified personnel. He indicated that the upgrades for 32 positions would vary from 7 percent to 10 percent depending on the position.[3]

Addressing increases to Roads and Walks, Mr. Marvel indicated that WWD has recently been required to provide full width paving on some of Woonsocket's roads. In addition, he opined that high oil prices will lead to higher prices for asphalt.[4] Similarly,

[1] WWD Exhibit 1A (Direct Testimony and Exhibits of Emerson Marvel), p. 4.
[2] Id. at 6.
[3] Id. at 5.
[4] Id. at 7.

increases in the cost of diesel fuel resulted in higher estimated costs over the Test Year in that category.[5]

With regard to the increase in light and power, Mr. Marvel explained that the City's contract for competitive energy supply had expired in December 2003, at which time, the City, after issuing an RFP, entered into a new energy supply contract which had a higher cost than the prior contract rate. He noted that the competitive supply price is still below Narragansett Electric Company's Standard Offer Service rate. Additionally, Mr. Marvel made an adjustment for anticipated light and power costs associated with the Harris Pond reservoir, a source used only during periods of less than average rainfall.[6]

Discussing increases to Property and Fire taxes, Mr. Marvel indicated that WWD's estimate included increased property values from the Town of North Smithfield as a result of a reevaluation process. The claim was calculated by applying the 2004 tax rate to the new valuation. Mr. Marvel recognized that this amount may overstate the expense and indicated he would notify the parties upon receipt of updated information from the Town of North Smithfield.[7] However, increased estimates for insurance rates were based on actual information received from the insurance carriers for the period ending FY 2005.[8]

Mr. Marvel noted that, pursuant to regulations and recent issues surrounding lead in water as well as regulation changes as part of the Safe Drinking Water Act, WWD will

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[5] Id. at 9.
[6] Id. at 8.
[7] Id.
[8] Id. at 10.

be undertaking additional testing over the Test Year levels. The result is higher projected costs for State Pollution Monitoring.[9]

Discussing projected increases for Legal Services and Engineering Services in the amount of $50,000 for each category, Mr. Marvel explained that the $100,000 request is for services associated with regionalization and privatization of WWD.[10] A $775,000 increase in the IFR account was necessary, according to Mr. Marvel, to begin its pipe replacement program, something on which it is behind schedule.[11]

Mr. Woodcock noted that increases to IFR ($775,000), new Debt Service ($706,369), Personnel ($226,276), Insurance ($100,924), Outside Services ($100,196), Property Taxes ($76,949), and Light and Power ($55,569) account for over 90% of WWD's requested increase. He explained that the Debt Service requirement is the result of the commencement of the obligation to repay the principal and interest on a 2003 bond issuance. Mr. Woodcock recommended the Commission allow funding based on the average of CY 2006 and CY 2007, rather than the Rate Year because of both the lag between setting rates and collecting them and the fact that Rate Year debt service payments are lower than those in CY 2006.[12]

Mr. Woodcock indicated that WWD will be filing rate cases more frequently than in the past. Therefore, WWD requested an annual increase in the annual restricted rate case account to $40,000.[13]

Finally, with regard to an Operating Reserve, Mr. Woodcock recognized that the Commission has been closely reviewing the level of funding and not approving the same

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[9] Id. at 8-9.
[10] Id. at 9.
[11] Id. at 10-11.
[12] Id. at 8-9.
[13] Id. at 10.

level for every company. However, Mr. Woodcock maintained that continuation of a 1.5% reserve calculated on all of WWD's expenses is appropriate given the many unknowns facing the Company.[14]

Addressing rate design, Mr. Woodcock noted that WWD was not proposing an across the board increase to all rates and charges in order to comply with the cost causation requirements of state law with regard to recovery of IFR costs. Mr. Woodcock indicated that he followed the 1993 cost allocation study that brought WWD's rates into compliance with state law and Commission practice, as approved in Docket No. 2099. According to Mr. Woodcock, because of changes in costs to serve various classes of customers and the requirement that IFR costs be recovered based on use, there has been a shift from some fixed (non-use) costs such as the service charges and, to an extent, the fire protection charges.[15] The result is an increase to metered rates that is higher than the overall increase to revenues and an increase to fire protection charges that is lower than the overall increase to revenues.[16]

III. Division's Testimony

On October 29, 2004, the Division of Public Utilities and Carriers ("Division") submitted the Pre-filed Testimony of Andrea C. Crane, its consultant, and David Stearns, Division Rate Analyst V in support of its adjustments to WWD's claims. Ms. Crane made nine adjustments to WWD's claim, resulting in a $531,496 reduction to the rate year revenue requirement. Her adjustments included an increase in the projected operating revenue at current rates. She reduced the following expenses: Personnel ($49,926), Maintenance – Roads and Walks ($63,824), Light and Power ($31,580),

[14] Id. at 10-11.
[15] Id. at 11.
[16] Id. at 11-12.

Property and Fire Taxes ($79,949), Legal and Engineering Services ($100,000), Rate Case ($10,000), Debt Service and Operating Reserve Allowance ($4,395).[17] Mr. Stearns reduced WWD's claim for Light and Power by $5,080.00 as a result of a Commission decision that occurred subsequent to WWD's initial filing.[18]

Discussing her rationale for recommending the Commission allow an increase of $1,528,892, or 28.7% over its Test Year revenues, Ms. Crane noted that the primary drivers are increased debt service and IFR funding. Ms. Crane recommended that, rather than using one year of consumption data, a more appropriate measure would be a three year average, including the Test Year. Her recommendation resulted in a $113,758 adjustment to Rate Year revenues at current rates, thus reducing the amount of the increase needed by WWD.[19]

Addressing Salaries and Wages, Ms. Crane recommended basing funding on actual FY 2004 salaries and wages, noting that "during the test year, the actual average number of employees was 32." Additionally, she recommended adjusting salaries relative to the labor agreements by the 3% stated in the contract rather than the 4.55% proposed by WWD. Likewise, she adjusted longevity payments for the same reason. Finally, with regard to the study upgrade costs, Ms. Crane included those costs in her recommendation. Her recommendations, including associated payroll tax calculations, resulted in a $49,926 reduction to WWD's claims for Salaries and Wages.[20]

With regard to Maintenance – Roads and Walks, Ms. Crane recommended using a three year average of $116,797 rather than the Test Year costs to project the Rate Year

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[17] Division Ex. 1 (Direct Testimony of Andrea Crane), p. 31.
[18] Division Ex. 2 (Direct Testimony of David Stearns), p. 3
[19] Division Ex. 1, pp. 7-10, Schedule ACC-2. Ms. Crane adjusted her three-year average to take into account lost customers as a result of the 2003 mill fire. Id. at 10.
[20] Id. at 10-14.

expense to be recovered in rates. She expressed concern that the City may be allocating costs to the WWD that should not be recovered from the water department. Her resulting adjustment was a $63,824 reduction to WWD's claimed expenses of $180,621 for Roads and Walks.[21]

Addressing Light and Power Expenses, Ms. Crane recommended three adjustments including a reduction to the claim for power costs under the new energy supply contract, a reduction to the claim for costs associated with Harris Pond, and a reduction to reflect a Commission decision related to Narragansett Electric Company's distribution rates. She argued that the WWD should not be required to pay the energy rate associated with the City, but rather, a weighted average of the City rate and the lower wastewater rate in order to eliminate any incentive for the City to subsidize one department's costs with another. With regard to Harris Pond, she argued that based on the most recent three year average, WWD's claim of $25,000 for Harris Pond electric costs was overstated by $21,262.[22]

Turning to Property and Fire Tax Expense, Ms. Crane rejected WWD's assumption that its taxes due to the Town of North Smithfield would be based on applying the old tax rate to the new valuation. Therefore, she recommended rejecting the entire increase of $76,949 unless WWD provides updated tax information from the Town of North Smithfield.[23]

With regard to Regionalization and Privatization Study Costs, Ms. Crane noted that WWD did not have any contracts specifically identifying the services to be

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[21] Id. at 14-15.
[22] Id. at 15-21.
[23] Id. at 21-23.

provided.[24] Furthermore, she argued that it is not clear ratepayers should be paying those costs because when one utility is sold to another, often the shareholders/owners of the system pay for the review of the transaction costs.[25] Therefore, she maintained that "if the City decides to privatize the water utility, it may be reasonable for the City to fund these costs through some revenue stream that is independent of its water utility rates."[26] Her recommendation was to deny both increases to legal and engineering costs totaling $100,000.[27]

Addressing Rate Case Costs, Ms. Crane recommended increasing the restricted rate case funding by 50% to $30,000 per year, $10,000 less than requested by WWD. She noted that at the end of FY 2004, the rate case reserve had a balance of $57,105, which should be used toward the instant case. She maintained that her adjustment would provide sufficient funds to WWD.[28]

Turning to Debt Service funding, Ms. Crane recommended the Commission set rates which would allow WWD to recover the average of CY 2005, 2006 and 2007 debt service requirements in the amount of $749,476 for the Clean Water Financing Agency ("CWFA") debt, rather than $780,540, which was based on the two-year average 2006 and 2007.[29] She noted that the Company had assumed a three-year period between rate filings, hence justifying her use of the three year average.[30] This adjustment reduced WWD's revenue requirement by $31,004.

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[24] Id. at 23-24.
[25] Id. at 24-25.
[26] Id. at 25.
[27] Id.
[28] Id. at 25-27.
[29] Id. at 27-29.
[30] Id. at 29.

Discussing the Operating Reserve Allowance, Ms. Crane agreed that WWD should be allowed to collect 1.5%, but calculated only on the O&M expenses rather than on total revenues as requested by WWD. She maintained that this is reasonable in light of the fact that the purpose of the Operating Reserve is to provide protection from fluctuating costs like O&M costs, whereas Debt Service, IFR, and Renewal and Replacement ("R&R") expenses "do not fluctuate significantly and/or are within WWD's control…"[31] Her recommended operating reserve allowance of $56,216 reflects a reduction of $54,395 from WWD's claim of $110,611.

IV. WWD's Rebuttal Testimony

On November 24, 2004, WWD submitted the Rebuttal Testimony of Mr. Marvel and Mr. Woodcock to address continuing items of dispute between the Company and the Division. Mr. Marvel explained that as of the date of his testimony, WWD had 33 employees working, the number funded in the last rate case. He maintained that all 33 positions are needed to effectively operate the system and allowing funding for only 32 employees would necessitate laying off one employee.[32]

Addressing Roads and Walks, Mr. Marvel argued that WWD should be allowed to recover the higher costs associated with the full width paving policy. He maintained that averaging the last three fiscal years, which include 18 months during which the policy was not in place, would not provide WWD with sufficient funds to comply with the policy. In response to Ms. Crane's concern that WWD was being charged for costs more properly allocated to other city departments, he indicated that "while the city engineering department supervises road repair, all invoices from engineering are

[31] Id. at 30.
[32] WWD Exhibit 2 (Rebuttal Testimony of Emerson Marvel), pp. 1-2.

reviewed by WWD, matched to a WWD work order, and checked by WWD for appropriateness and relevancy of the charge."[33]

Addressing Ms. Crane's adjustment to rate year revenues at current rates, Mr. Woodcock stated that the data Ms. Crane used to develop her three year average actually indicate declining sales since FY 1999, with the exception of FY 2000. He provided a table from the Northeast Regional Climate Center which showed that "the summer of 1999 was one of the hottest and driest periods in recent Rhode Island history." Furthermore, he maintained that the table showed the summer of 2003 being a "more normal" summer.[34] He argued that her averaging methodology also fails to recognize the impact of increased sewer rates and the loss of major commercial customers. Therefore, he continued to recommend use of the Test Year data for developing rate year revenues at current rates.[35]

Discussing Rate Case Costs, Mr. Woodcock stated that he believed that WWD will need to file a new rate case in less than twelve months in order to meet debt service coverage amounts and IFR requirements. He indicated that while the Company has been able to wait three years between rate cases, that will be changing and that if WWD does not have sufficient funds in its restricted rate case account, it will have to use funds from other line items to pay rate case expenses. Therefore, he continued to recommend a 100% increase over the amount approved in the last rate case.[36]

Turning to the debt service allowance, Mr. Woodcock argued that Ms. Crane's averaging methodology would not satisfy the bond resolution because he believed the

[33] Id. at 3.
[34] WWD Exhibit 3 (Rebuttal Testimony of Christopher Woodcock), pp. 2-3.
[35] Id. at 1-4.
[36] Id. at 6-7.

correct interpretation of the bond resolution requires rates each year to cover that year's debt service funding requirement. Therefore, he did not believe that Ms. Crane's suggestion to collect less than what is required to be paid in FY 2006 was in compliance with the requirements of the bond resolution.[37]

Finally, addressing the operating reserve, Mr. Woodcock continued to maintain that the Operating Reserve be calculated on total expenses and not just the O&M expenses. He argued that "concentrating only on the variability of costs is a mistake – one also must consider the variability of total revenues." His concern arose from the 3% difference between his projected sales and Ms. Crane's. [38] Mr. Woodcock then argued that 1.5% on total revenues is insufficient and should be revisited in another docket.[39]

V. Division's Surrebuttal Testimony

On December 9, 2004, the Division submitted the Surrebuttal Testimony of Ms. Crane wherein she did not alter any of her recommendations. She continued to maintain that using only Test Year consumption for projecting Rate Year consumption would significantly understate the usage during the Rate Year.[40] She argued that "while Mr. Woodcock has discussed factors potentially impacting on water sales, he has not shown that either of these factors have actually impacted sales of WWD in the Test Year."[41] Ms. Crane dismissed Mr. Woodcock's suggestion that a 1.5% Operating Reserve is insufficient based on the fact that it was not raised in the initial filing.[42] Finally, with regard to the energy supply contract and the Maintenance-Roads and Walks, Ms. Crane

[37] Id. at 7-8.
[38] Id. at 8.
[39] Id. at 8-9.
[40] Division Exhibit 3 (Surrebuttal Testimony of Andrea Crane), pp. 2-3.
[41] Id. at 3.
[42] Id. at 4-5.

maintained that WWD had not provided sufficient additional information during the Rebuttal phase of its case to change her recommendations.[43]

VI. Hearing

Following notice, a public hearing was held at the Commission's offices, 89 Jefferson Boulevard, Warwick, Rhode Island, on January 5-6, 2005 to assess the evidence.[44] The following appearances were entered:

FOR WOONSOCKET WATER	Kristen Sherman, Esq.
FOR THE DIVISION :	Leo Wold, Esq. Special Assistant Attorney General
FOR THE COMMISSION:	Cynthia G. Wilson, Esq. Senior Legal Counsel

WWD presented Mr. Woodcock as its first witness. He noted that 82% of the requested increase consists primarily of three components: (1) an increase to IFR constituting approximately 37% of the request, (2) an increase for existing debt service constituting approximately 34% of the request, and (3) an increase for existing personnel constituting approximately 11% of the increase. The main component of the remainder of the request resulted from declining water sales. Mr. Woodcock indicated that the proposed rates are based on the cost allocation study approved by the Commission in the past.[45]

Discussing the approved level of employees, on cross-examination, Mr. Woodcock agreed that in the last docket the Commission did not specify the number of authorized positions, but rather, approved a Settlement that provided funding for 33

[43] Id. at 5-6.
[44] A previous hearing was held in the City of Woonsocket on September 30, 2004 at 7:00 p.m. for the purposes of taking public comment.
[45] Tr. 1/5/05, pp. 12-15.

positions.[46] With regard to the salary upgrade request, Mr. Woodcock suggested that the Commission could assure itself the funds, if approved, are used for that purpose through the creation of a restricted account.[47]

On cross examination, Mr. Woodcock conceded that the Test Year weather was wetter than average or normal when compared to the 105 years between 1895 and 1999. He noted that of the 105 years, only two other Junes were wetter. Likewise, twelve other Augusts were wetter. July 2003 was ranked at 71 out of 105. Similar temperature comparisons contained in Mr. Woodcock's Rebuttal Testimony were based on the 108 years between 1895 and 2003. The temperature rating for June 2003 was 52 out of 108 years of Junes.[48]

In response to questioning, Mr. Woodcock was unable to state with certainty when WWD will be filing its next rate case, but opined that the Company will require an increase in rates to cover an upcoming new bond issue. He opined that the Company will file in the first half of 2005, if not the first quarter in order to have rates in place in time to meet the first debt service payments associated with the new bond issuance. He further opined that the rate case expense for the instant matter would be in excess of $95,000.[49] Mr. Woodcock clarified that the cost of the Division proceeding associated with the issuance of the bonds would be paid for, not as a regulatory expense, but as a cost of issuance from the bonds.[50] He opined that the cost of appearing before the Commission for rates associated with that bond issuance may be approximately $50,000 to $70,000.[51]

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[46] Id. at 16-17. Mr. Marvel later testified that, given the current complement of 33 filled positions, if the Commission only authorized funding for 32 positions, one employee would have to be laid off. Id. at 169.
[47] Id. at 84-85.
[48] Id. at 24-28.
[49] Id. at 30-32.
[50] Id. at 38.
[51] Id.

With regard to rate design issues, Mr. Woodcock indicated that while he utilized the cost allocation methodology approved by the Commission in Docket No. 2099, he utilized updated information. He agreed that one of the factors that shifted costs was the loss of the large customers. However, he maintained that it was not a major factor and "suspected" that the legal requirement that IFR cost allocation has to be based on consumption probably impacted the shift toward higher metered rates more than the loss of customers.[52]

With regard to property tax expense during the rate year, Mr. Woodcock agreed that the best numbers available to WWD for the 2005 tax expense were the 2004 actual expenses and the 2005 tax bill from the Town of North Smithfield. These expenses total $121,865 in the Rate Year.[53]

Mr. Woodcock clarified that the amounts projected for the CWFA bonds for the CY 2005 through 2007 are the actual costs not including the requirement that WWD seek an additional 25 percent of net revenues. He explained that the 25 percent contingency amount is made up through IFR funding. He indicated that in the event WWD fell below the 125 percent net revenue requirement, there would be no immediate default, but rather, a review of the reasons. He opined that the investment community may become concerned with the result being increased borrowing costs for WWD.[54]

WWD presented Mr. Emerson Marvel as its second witness in support of its filing. Mr. Marvel clarified that he works under the supervision of the Woonsocket City Director of Public Works. However, Mr. Marvel is in charge of the day-to-day

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[52] Id. at 40-41.
[53] Id. at 59-60.
[5454] Id. at 60-64. In his testimony, Mr. Marvel testified that he had advised the City administration that a rate increase would be necessary to support the CWFA bond payments. Id. at 158.

operations.[55] Mr. Marvel noted that in accordance with the Woonsocket City Charter, the Mayor is required to approve a rate filing before it can be filed with the Commission.[56] He explained that the WWD account is set up as an enterprise fund which means that the WWD revenues are funneled through dedicated accounts. Payment of expenses is also made from those accounts. He confirmed that for the last ten years, following some disagreement with the City, the WWD budget has been based on the rates approved by the Commission.[57]

Addressing the 2004 Roads and Walks policy, Mr. Marvel stated that there was a memorandum from the City engineer that identified the roads and walks policy at issue in this case. He described it as a "one page note." To the best of Mr. Marvel's knowledge, the policy was originated in the City engineer's department, which is a subset of the Public Works Department. Mr. Marvel testified that he was asked for input at the time and had indicated he believed it was excessive. He did not know whether or not the Mayor approved the policy change and indicated the policy was not an ordinance and to the best of his knowledge, was not brought before the City Council.[58] Mr. Marvel testified that the policy is specific to the age of the street and to the minimum size of the patch allowed on a street that is five years old or less. He clarified that curb to curb paving means that the minimum width of the patch is 25 feet and the length of the patch is 50 feet, or the distance across the road. So, he explained, if the Company has to open the street at a width of three and one half feet down the street for a distance of 115 feet on

[55] Id. at 101-02.
[56] Id. at 103-04.
[57] Id. at 135-36.
[58] Id. at 107-10, 113. The one-page diagram was provided in response to a record request.

a street that is less than five years old, the patch would be 140 feet by 50 feet.[59] Mr. Marvel did not have knowledge as to whether or not the other public utilities were required to comply with the policy.[60]

Addressing the competitive electric supply contract, Mr. Marvel testified that he did not participate in the procurement process. He stated that the participants in the process were the Public Works Director, the Eisenhardt Group and Mr. Eaton's law firm. He guessed that the Public Works Department provided Constellation New Energy with the account numbers for the various City Departments. He confirmed that he, as Superintendent of the regulated entity, WWD, did not provide those account numbers. During the hearing, upon review of the electric bills submitted in response to a data request, Mr. Marvel recognized that the water treatment plant had been charged an energy rate below the contract rate for the water treatment plant, but which matched the amount quoted for the wastewater treatment plant. He also acknowledged that WWD had been charged late fees on certain occasions. With regard to the payment of the electric bills, Mr. Marvel testified that he does not pay the bills directly; but that those bills are processed by the Public Works Department and he could only guess that they had been paid late. He asserted that ratepayers "should never pay in excess of what they're actually being charged…"[61]

Mr. Marvel acknowledged that no contract had ever been executed for purposes of regionalization and privatization studies. He agreed that the Eisenhardt Group and others had performed work for the City regarding regionalization and privatization

[59] Tr. 1/5/05, p. 106.
[60] Id. at 113-14. WWD's response to a record request indicated that to the best of WWD's knowledge, the policy was not being applied consistently to all of the public utilities.
[61] Id. at 153-56.

activities and were billed $53,198.00, for which the City then charged the WWD account. Mr. Marvel explained that with the exception of the expenses related to the regionalization and privatization studies, all expenses except utility bills are incurred through purchase orders originated by Mr. Marvel's office. The regionalization and privatization expenses charged to WWD were initiated by the Director of Public Works.[62] He testified that although he did question the first bills related to the regionalization and privatization, he ultimately signed off on an expense initiated by his superiors that appeared to relate to the WWD.[63] However, while Mr. Marvel indicated that in order to pay this expense, he had to find funds that could have been used for other purposes, he has never allowed WWD to take money from any of the restricted accounts to cover expenses not specifically allowed by those restricted accounts.[64] He conceded that the deficit may have been less if WWD had not spent those funds but that it is difficult to quantify whether any projects or routine expenses were delayed as a result of the privatization and regionalization expenses. However, he noted that the amount is small compared to the overall budget.[65]

Mr. Marvel also agreed that there were no reports or other supporting documentation showing the work that had been done but for invoices. Mr. Marvel testified that he was unaware of any documentation the Public Works Director may have. With regard to the extent of his involvement in the studies, Mr. Marvel stated that he was involved in a meeting in October 2003 during which there was a general discussion about

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[62] Id. at 124-26, 139-40.
[63] Id. at 141-42, 150. Mr. Marvel pointed out that there are other City officials who are authorized to expend funds on behalf of the Water Department, some of those expenses of which Mr. Marvel never reviews. Id. at 150-51.
[64] Id. at 151.
[65] Id. at 151-52, 168.

trying to market excess capacity to the Town of North Smithfield, and potentially to the Towns of Lincoln and Cumberland. He was also privy to an early draft inter-municipal agreement between Woonsocket and North Smithfield. He stated that, "from what I've gathered, from paying various invoices and having discussion with various people," the City wishes to explore regionalization or privatization in conjunction with the construction of a treatment plant. However, he was not entirely certain of the process, having not been further involved. He opined that if the City were to sell the plant, it would look to receive the proceeds from the transaction rather than returning the funds to the ratepayers. If that were the case, the Chairman questioned why the ratepayers should be expected to incur expenses associated with these studies.[66]

In response to a question, Mr. Marvel testified that he has been asked his opinion of the ramification of combining the WWD system with other systems in regard to treatment issues, distribution issues and capacity. When asked if he believed the WWD system, as currently structured physically would be able to participate in a regional system without upgrades, Mr. Marvel expressed some concern with the term "regional." He stated, "I view Woonsocket Water as already being a regional system. We supply more customers in the Town of North Smithfield than [North Smithfield's system] does. Regionalization or growth in the area is basically urban sprawl from the City of Woonsocket out into North Smithfield." In direct response to the question, Mr. Marvel stated that the system is in place, the infrastructure is in place to support that growth, yes." However, he did not address issues related to treatment.[67]

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[66] Id. at 124-134.
[67] Id. at 147-48.

Mr. Marvel stated that WWD has recently completed treatment process studies to determine the Company's needs. With regard to the treatment plant, he testified that WWD is "at a crossroads." He indicated that the decision to be made is whether to invest in the existing structure with significant maintenance work or to construct a new facility. He indicated such a decision, including whether or not to privatize any part of the treatment plant would be "an administrative decision."[68]

With regard to the requested salary upgrades, Mr. Marvel testified that WWD has been experiencing difficulty attracting qualified candidates for job openings and furthermore, has been losing qualified employees to smaller, less complicated water systems that offer higher salaries.[69] He testified that this request is the first step toward parity with what other water systems offer.[70]

On redirect examination, Mr. Marvel testified that over the past twenty years, WWD has experienced a downward trend in consumption. He attributed that trend to a loss of business flow and customers. Additionally, he testified that the Constellation contractual issue was the subject of negotiations between the supplier and the City of Woonsocket. He opined that a resolution would occur within sixty days of the hearing.[71]

The Division presented Ms. Andrea Crane in support of its position. Ms. Crane first indicated that after hearing Mr. Woodcock's testimony regarding consumption calculations, she agreed that her adjustment for the loss of the mill fire customers most likely resulted in an overstatement of pro forma rate year consumption. She estimated that the impact of a recalculation could reduce rate year revenues at current rates by

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[68] Id. at 149.
[69] Id. at 171-74.
[70] Id. at 177-80.
[71] Tr. 1/6/05, pp. 5-9. On later redirect, Mr. Marvel testified that the rate case account should remain restricted in order to ensure sufficient funds availability when rate cases are necessary. Id. at 155-56.

approximately $24,000.[72] On cross examination, Ms. Crane discussed her rationale for using a three year average rather than a single year, noting that the factors of temperature and rainfall are the most significant factors affecting consumption. She noted that economic factors can impact usage by customer, but with regard to overall sales, they are not as significant. Further, she testified that while residential sales may fluctuate as a result of each of these factors, commercial sales are less likely to fluctuate. She testified that when calculating consumption, one cannot base an estimate on one of the factors, but rather, must take each into account to get a more accurate forecast.[73] Finally, she reiterated her position that "the most accurate way to predict pro forma revenues is to look at consumption per customer over some period of time, generally three to five years, and use an average of consumption per customer applied to a pro forma level of customers in order to determine total usage and then you price that out."[74] Absent availability of that data, an average of total consumption can provide a proxy that is better than using a single year because variations occur every year.[75] With regard to the appropriate three-year period over which to average consumption, Ms. Crane testified that it would be reasonable to use the periods FY 2002, FY 2003 and FY 2004. She had initially used the three periods FY 2002, FY 2003 and CY 2003.[76] Ms. Crane conceded that the overall trend of consumption appeared to be a downward one, but still maintained that in order to address yearly fluctuations, use of an average is still appropriate.[77]

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[72] Id. at 12-13.
[73] Id. at 83-94.
[74] Id. at 95.
[75] Id.
[76] Id. at 141-42. When performing her initial calculations, consumption information was not yet available for FY 2004. Id.
[77] Id. at 143-44.

On cross examination, Ms. Crane testified that the difference in her recommendations regarding funding of salaries and benefits was due to the fact that she was recommending funding of 32 rather than 33 employees. She disputed the utility's position that it would need to lay off one employee if her recommendation was accepted by the Commission, opining that the Company could find the funds from its operating reserve or from other fungible sources. She pointed out that a company does not normally have a full complement of employees every day of a year.[78]

With regard to Harris Pond expenses, on cross examination, Ms. Crane continued to assert that WWD had not provided the Division with sufficient information during discovery to reach the same conclusions as the Company had in its filing. Although she responded to several hypothetical situations regarding electricity and chemical costs, her ultimate opinion did not change because she contended that WWD had not provided the information upon which the hypothetical costs were based, thus causing her recommended funding to remain unchanged.[79] Thus, she maintained, the claimed electricity expenses related to Harris Pond should be reduced consistent with the adjustment contained in her pre-filed testimony.[80]

With regard to rate case expense, Ms. Crane testified that she used the same amortization period as WWD, but used a lower overall number. In response to a question as to whether or not WWD would have sufficient funds in the Rate Case account if the utility had to appear before the Commission prior to the expiration of the three year

[78] Id. at 23-26, 32.
[79] Id. at 34-43.
[80] Id. at 61-71.

amortization period, Ms. Crane testified that her response would depend on several factors including timing and costs.[81]

Addressing funding of debt service for Clean Water Financing, Ms. Crane continued to assert that her annual allowance would provide WWD with sufficient funds over a three-year period to meet the reserve obligations. She conceded that her allowance would not be sufficient by itself in 2006 or 2007, but maintained that because she was allowing more than is required in 2005, there would be sufficient funds in 2006 and 2007.[82]

On cross examination, Ms. Crane accepted Mr. Woodcock's representation that his schedules did not anticipate a shift from semi-annual to quarterly billing. She conceded that WWD would not collect the entire rate year amount within twelve months through semi-annual billing. However, she indicated that not all of the expenses will be incurred within the twelve month period and stated that restricted accounts provide some protection to the utility.[83]

Addressing the electricity costs, Ms. Crane reiterated her position that the allowance provided for WWD's electricity costs should be based on the average of the wastewater treatment plant rate and the rate for the rest of the City, including WWD. She continued to maintain that her position stems from the fact that the refreshed bid increased from the indicative for the City and WWD while it decreased from the indicative bid for the wastewater treatment plant. While conceding that customers with a high load factor can receive better rates than others with a low load factor, she testified that if both bids had gone up or both had gone down, she would not have been surprised

[81] Id. at 45-46.
[82] Id. at 47-54.
[83] Id. at 55-61.

or concerned. However, because they went in opposite directions, with regard to the wastewater treatment plant going down, she was "at a loss as to why that would be appropriate" if the reasoning for the changed bids was the result of changes in the wholesale market prices. Therefore, she believed an allowance based on a blended rate was more appropriate for ratemaking purposes.[84]

With regard to the billing errors between the City and Constellation, Ms. Crane opposed requiring ratepayers in the future to pay any difference between the contract price and the price billed because such costs were incurred prior to the rate year. It would not be appropriate for them to pay retroactive costs.[85] Likewise, for the same reason and also because not previously addressed by the Commission, with regard to the funds already spent on regionalization and privatization, Ms. Crane did not believe that in the future, ratepayers should be credited for those costs paid prior to the rate year.[86]

Addressing the operating reserve, Ms. Crane indicated that her recommendation to base the reserve number on only operating expenses was based on prior Commission orders and based on the concept that the reserve was originally set up to cover fluctuations in costs associated with the operations of the utility. She noted that in the past, when the Commission had approved an operating reserve on the overall revenue requirement, fixed costs were a lower percentage of the overall costs than they are now.[87]

The Division presented Mr. Stearns to provide updated calculations for electricity costs with regard to the impact of the Narragansett Electric Company's distribution rate settlement which was ruled on during the pendency of the instant matter. Furthermore,

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[84] Id. at 75-82.
[85] Id. at 121-23.
[86] Id. at 125-30.
[87] Id. at 102-07.

the Commission had subsequently approved changes to Narragansett Electric Company's transmission and transition charges. The result was a change in the rates that will be charged to WWD during the rate year. Mr. Stearn's calculations resulted in a reduction to the rate year expenses of $1,335.[88]

VII. Post-Hearing Briefs

On February 2, 2005, WWD filed a post-hearing brief to address recovery of energy supply costs, calculation of pro-forma consumption, funding of employees, funding of Harris Pond costs, funding of the rate case account, funding of the debt service reserve, funding of the operating reserve, funding of roads and walks, and funding of regionalization and privatization studies.

Addressing the consumption projections, WWD argued that use of a three year average ignores the downward trend in consumption over time, thus making the use of the Test Year consumption more accurate.[89] Regarding the funding level for employees, WWD argued that it currently has 33 employees and would need to reduce that amount if funding were not provided for that level. WWD argued that the Division did not present any evidence to contradict Mr. Marvel's testimony that service would suffer if only 32 employees were funded.[90]

With regard to the energy supply costs, WWD argued that it is simply seeking to recover the contract costs pursuant to the RFP issued by the City.[91] With regard to Harris

[88] Id. at 146-52.
[89] Id. at 4-5.
[90] Id. at 5-6.
[91] WWD's Brief, pp. 2-3.

Pond related electricity expenses, WWD argued that virtually all costs are related to electricity and not, as argued by the Division, at a 60/40 ratio of electricity to chemicals.[92]

Addressing rate case expenses, WWD argued that annual funding should be increased because WWD expects to file a new rate case shortly after the close of the instant matter. WWD noted that the level and method of funding is a policy call for the Commission.[93] Regarding the debt service reserve account, WWD argued that rather than collecting funds sufficient in year one that can be carried over to subsequent years, the bond indenture requires the highest amount needed in the next three years to be collected each year, assuming that each year is viewed separately without regard to the funding already available from the prior year.[94] With regard to funding of the operating reserve, the Company contested changing the application of the operating reserve from the entire revenue requirement to only operating expenses outside of a generic docket.[95]

Addressing the change in City policy regarding repaving of roads, WWD argued that the policy is being applied to other utilities as well as the water department and the associated costs should be built into rates.[96] Finally, with regard to the regionalization and privatization study related costs, WWD agreed with the Division that it would be inappropriate to attempt to recover the funds spent prior to the rate year through a reduction to the rate base. With regard to prospective costs, the Company argued that a single comment of a single commissioner justified the expenditure of $53,000 on studies

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[92] Id. at 7.
[93] Id. at 7-8.
[94] Id. at 8-9.
[95] Id. at 9-10.
[96] Id. at 10-11.

and negotiations and further justifies continued expenditures up to $100,000 on further studies.[97]

On February 3, 2005, the Division filed a post-hearing memorandum to address calculation of pro-forma consumption, calculation of salaries, funding of roads and walks, recovery of energy supply costs, funding of Harris Pond costs, funding of the debt service reserve, calculation of property taxes, funding of regionalization and privatization studies, funding of the rate case account, and funding of the operating reserve.

The Division noted that it had updated its adjustment regarding the rate year revenues at current rates to reflect Ms. Crane's testimony at the hearing. With regard to the methodology to project pro forma consumption, the Division noted that use of a multi-year average is "a methodology that has been adopted by the Commission in countless numbers of rate cases, and accounts for wide variations that occur due to weather and other factors."[98] The Division argued that WWD's use of a single year to project consumption provides an abnormally low projection.[99]

With regard to salaries and wages, the Division argued that the Commission has not authorized WWD to employ 33 positions, but rather, has previously allowed funding for 33 positions. The Division further argues that just because WWD had 33 positions filled just prior to the rate hearing that this level of funding is appropriate. In support of this argument, the Division pointed out that throughout the Test Year WWD was operating with an average of 31.75 positions, thus supporting the Division's recommended funding of 32 positions. Finally, the Division argued that, with the

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[97] Id. at 11-13.
[98] Division's Post-hearing Brief, pp. 2-3.
[99] Id. at 3.

exception of the Study Upgrades, WWD should not receive funding for salary increases beyond that which is allowed by its labor agreements.[100]

Addressing the policy change for Maintenance to Roads and Walks, the Division argued that the new paving requirements were implemented, not as an ordinance, but as a policy of the City's Public Works Department. In arguing that the Commission should deny recovery through rates, the Division noted that the Commission has systematically invalidated such requirements where they result in unreasonable ratepayer expense. Furthermore, the Division indicated that WWD has not shown that the policy is being implemented in a nondiscriminatory way.[101]

With regard to the Light and Power contract, the Division argued that WWD provided no evidence to impeach Ms. Crane's reasoning that for ratemaking purposes it is appropriate to average the two final bids received by the City and allow the averaged amount to be recovered through rates.[102] Addressing the Light and Power costs relative to Harris Pond, the Division argued that WWD failed to present any evidence to show that electricity costs would be substantially higher in the Rate Year than in the Test Year and further, failed to rebut Ms. Crane's downward adjustment to the claimed pro forma amount.[103]

Regarding the Debt Service Reserve levels, the Division noted that when years 2006 and 2007 are viewed in isolation, the Division's recommended funding level does not meet the requirements of the Bond Trust Indenture. However, the Division argued that when those two years are viewed with the funding level of 2005, because the costs in

[100] Id. at 4-7.
[101] Id. at 7-9.
[102] Id. at 9-11.
[103] Id. at 11-12.

2005 are lower than the funding level, the Division's recommended annual funding covers all three years once the 2005 balance is applied.[104]

With regard to funding of property taxes, the Division noted that its recommendation is reasonable in light of the fact that the actual property tax bill was lower than WWD's initial projection.[105]

Addressing expenses related to regionalization and privatization, the Division argued that where there is no clear plan or contract for specific activities related to regionalization and privatization, there is no basis for allowing WWD to recover costs for such activities through rates. In addition, the Division pointed out that Mr. Marvel had testified that he already believed his system to be a regional one.[106]

With regard to rate case expense account funding, the Division argued that the requested 100% increase over the test year is unreasonable because it does not take into account funds already accrued in the account. The Division recommended a 50% increase to recognize potential increased costs during the recovery period.[107]

Finally, addressing the operating reserve funding, the Division pointed to several recent Commission decisions allowing an operating reserve to be calculated only on operating expenses rather than the overall revenue requirement. The Division noted that the Commission has recognized that the purpose of the allowance is to address unexpected fluctuations in operating expenses; expenses which fluctuate more than debt service related expenses. The Division argued that since the majority of WWD's

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[104] Id. at 12-14.
[105] Id. at 14.
[106] Id. at 15-16.
[107] Id. at 17-18.

requested increase is related to debt service and IFR expenses, it is reasonable to continue the recent trend of basing the allowance on the operating expenses only.[108]

VIII. Initial Commission Findings

There are ten issues that were not resolved during the proceeding: (1) projected consumption; (2) number of authorized positions; (3) cost for roads and walks; (4) light & power related to the new electric contract; (5) costs related to Harris Pond; (6) property taxes; (7) legal services and engineering services related to privatization and regionalization; (8) rate case expense; (9) debt service requirements; and (10) operating reserve funding.

First addressing Rate Year revenues at current rates based on consumption, the Commission notes that WWD used only the test year consumption of CY 2003, a wet cool year, as the projected Rate Year usage. The Division recommended using a three year average as more representative of a "usual" year. The Commission agrees with using the most recent three year data of FY 2002, 2003 and 2004, after adjusting out lost industrial usage, as represented on WWD response to Commission Data Request 1-15. This is essentially the same as the Division's adjustment in its post-hearing brief. Calculation of the rate year consumption was 1,782,046 CCFs. Under this methodology, WWD would have collected $56,505 (after netting out incremental power and chemical costs of $6,804) more in revenues at current rates than WWD projected in its filing. The result was a $56,505 reduction to WWD's claim.[109]

With regard to the number of authorized positions and associated funding, the Commission notes that the last order authorized a specific number of funded positions of

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[108] Id. at 18-19.
[109] This calculation was affected by the Commission subsequent ruling on WWD's Motion to Reopen Proceeding. See infra Section IX of this Order, pp. 36-39.

36. However, WWD is currently operating with 33 positions filled, the number funded in Docket No. 3512. WWD requests continuation of funding for 33 positions. The Division is recommending funding of 32 employees. There is no indication that WWD is overstaffed or understaffed at 33 funded positions. Therefore, the Commission now authorizes funding for 33 positions in this docket. However, to the extent WWD requested an increase in salaries in excess of the increase provided in the labor contracts, the Commission will only allow in rates the amount of the increase equal to that which is provided in those contracts. The result is a $10,192 reduction to WWD's claim.

WWD requested salary upgrades as a result of a comparison of its salaries to other regulated water utilities in Rhode Island. The Division supported the upgrades. However, because of the adjustment made to the contractual increases, an adjustment to WWD's claim in the form of a $459 reduction must also be made to the upgrades. The Commission is requiring WWD to restrict these funds to ensure they are used for upgrades. Likewise, WWD's calculations for longevity and payroll taxes will be reduced.

With regard to maintenance related to Roads and Walks, the Commission notes that WWD indicated that there is a new City policy requiring curb to curb paving on all roads less than 5 years old. However, in a response to Record Request 2, WWD indicated that it believed the policy was being applied inconsistently to the utilities. WWD subsequently provided a document indicating that NEGas had done curb to curb paving in two instances, but the document did not indicate whether or not that was pursuant to the policy, only that it was done. The Policy is not an ordinance, it consists only of sketches, and it appears to be applied inconsistently. The WWD has not made its case that its ratepayers should be paying for a policy that tripled the utility's costs in one year when it is not clear there is a policy being applied to all utilities doing business in Woonsocket. Furthermore, the production of only sketches appears to be similar to the ordinances the Commission invalidated in Docket Nos. 2624, 2641, and 3485. Because the FY 2004 costs were so out of line with the prior four years, the Commission will calculate the funds allowed in rates based on a five-year average of $94,588 rather than the three year average of $116,797 recommended by the Division. The only reason the Commission is not excluding FY 2004 costs from the average is due to Mr. Marvel's testimony that paving costs are rising along with rising oil costs, a contention not rebutted by the Division. The result is an $86,033 reduction to WWD's claim for Roads and Walks. WWD should not utilize ratepayer funds for curb to curb paving unless the policy is applied equally to all utilities after the opportunity for all utilities to challenge the policy. Of course, the City is free to pass any ordinance it chooses.

There are several issues related to Light and Power. The first is relative to the new Constellation contract for energy supply. WWD was included in a City Request For Proposal for a competitive energy supply contract. TransCanada bid 5.7 cents per kWh for the entire City for four years. Constellation bid 5.72 cents per kWh for all city usage except the wastewater treatment plant, which was bid at 5.4 cents per kWh for five years. The Division recommends using a weighted average and allowing only 5.5 cents per kWh. The Commission rejects this approach for two reasons: (1) electric costs for the wastewater treatment plant are paid out of sewer rates (through the sewer enterprise fund), not the general city account, and (2) the Division's position could hurt ratepayers in the future if a bid were to come back lower for the water system and the City wanted to average the rates for ratemaking purposes. It would appear inconsistent to treat the two cases differently. However, the Commission does agree that although Constellation provided a five year contract and TransCanada a four year contract, for purposes of setting rates, the TransCanada contract would have been more beneficial to ratepayers. Therefore, the Commission will allow funding through rates for the energy supply based on 5.7 cents per kWh, resulting in a $469 reduction to WWD's claim.[110]

In addition, WWD shall not use ratepayer funds to address any Settlement between the City of Woonsocket and Constellation New Energy for billing disputes arising out of the account mix-up between Constellation New Energy and the City. It was the City of Woonsocket's responsibility to provide the correct account numbers to Constellation New Energy for billing purposes, not the Superintendent of the Water Department. Ratepayers should not suffer because of something over which the Superintendent had no control. The City should resolve the issue without the use of ratepayer funds. To approve otherwise would constitute retroactive ratemaking (i.e., allowing future ratepayer funds to be used for past mistakes). In addition, the superintendent should monitor all bills paid by the City for water department activities and ensure that ratepayers are not paying late fees/interest charges. Mr. Marvel testified that his department does not pay the bills, but rather the City does. He did not believe ratepayers should be responsible for late fees when the funds are available to pay the bills.

The next issue is electric costs relative to Harris Pond. WWD requested $25,000 in the rate year. The Division calculated the cost of chemicals versus electricity and

[110] A portion of this holding was affected by the Commission subsequent ruling on WWD's Motion to Reopen Proceeding. See infra Section IX of this Order, pp. 36-39.

came up with an adjustment. WWD contested the basis for the adjustment, but did not provide evidence of an alternative. The Commission finds that a more than fourfold increase over the three year average of electricity costs and almost tenfold increase over FY 2004 was not supported by the evidence. Therefore, the Commission takes administrative notice of the semi-annual reports filed in FY 2002, 2003 and 2004. As shown in those reports, the three-year average of power costs relative to Harris Pond, as filed by WWD is $5,350. This amount, once adjusted for the contractual increase in power costs becomes $6,907. Since WWD included Test Year costs for Harris Pond of $1,097, the required net increase is $5,810. The result is a $19,190 reduction in WWD's claim.

The last issue regarding electric costs results from the impact of the decisions in Docket Nos. 3617 and 3648 rendered after WWD filed its case. In Docket No. 3617, the Commission approved new distribution rates for Narragansett Electric. In Docket No. 3648, the Commission approved new transmission and transition rates for Narragansett Electric. The result of these decisions on WWD's electricity costs is a $1,335 reduction to WWD's claim.

With regard to Property and Fire Taxes, the Commission notes that since the filing of WWD's case, the utility received the 2005 tax bill from the Town of North Smithfield and it was lower than projected. Applying the actual taxes to WWD's claim results in an $87,757 reduction to WWD's claim for property taxes.

The Commission accepts the Division's recommendation to disallow legal and engineering costs associated with privatization and regionalization. Mr. Marvel testified that he believed the system was already a regional one. He also testified that if the City sells the system, it will most likely make the decision not to return the proceeds through rates, but rather through tax reductions. Therefore, the taxpayers should pay for these costs. With regard to the funds already spent, the Commission finds that a passing comment by a commissioner that was not addressed in any Order, is not a "directive" to spend ratepayer funds. Furthermore, even if it could be considered a directive, no work product ever came out of it. WWD shall not use any additional ratepayer funds for this endeavor. The result is a $100,000 reduction to WWD's claim.

The Commission accepts the Division's recommendation to allow $30,000 funding of the restricted Rate Case Account. WWD did not adequately justify a 100% increase over the amount allowed in Docket No. 3512. Even if WWD does not experience three years between rate cases, an additional 50% over the previously allowed funding should provide WWD with the resources to commence a filing when it needs to. The result is a $10,000 reduction to WWD's claim.

The Commission accepts the Division's recommendation to allow the three year average funding of Debt Service. WWD argued that it is required to collect the required level of funding in each year, $687,348 (FY 2005); $782,795 (FY 2006) and $778,285 (FY 2007). Further, WWD suggested the appropriate calculation would be the average of FY 2006 and FY 2007. The Division argued that as long as the water department is funded to the correct level over the three year period used by WWD, funding is sufficient. WWD's argument fails in that its request of $780,540 does not cover CY 2006's requirement. The Division's recommendation of $749,476 provides more funds than are necessary in CY 2005 and less in the remaining two years. However, because there is an excess in year one, the fund will have sufficient carry-over in years two and three to satisfy the required funding level. If, in the next case, WWD produces evidence from its financial consultant for debt service or from Bond Counsel regarding interpretation of the bond covenant to which the Division has the opportunity to respond, the Commission may revisit the funding level. The result is a $31,064 adjustment to WWD's claim.

The Commission accepts the Division's methodology of calculating the Operating Reserve. The Operating Reserve should be 1.5% on all operating expenses rather than the entire revenue requirement. As the debt level of the water and wastewater utilities has been increasing, the Commission has been moving away from including it in the calculation of the operating reserve. An operating reserve is appropriately calculated on operating expenses which can fluctuate, whereas debt service, IFR and Renewal & Replacement are more stable. The recent exceptions to this position have been settlements reached between the parties wherein the Commission determined that the overall result was just and reasonable. The result is a $54,161 adjustment to WWD's claim.

The result of the Commission's initial adjustments indicated that WWD had a total cost of service of $7,082,775 and a revenue requirement of $6,867,194 from rates. Revenue at current rates produces $5,265,182. The revenue deficiency and required increase to rates was $1,602,012, or 30.43%. The effect on a typical residential customer using 100 CCF was an increase of 29.38% or $85 per year. (Old rates $290. New Rates $375). These rates were made effective for usage on and after February 18, 2005. The Commission accepts WWD's rate design as reasonable. The Division did not challenge the methodology. Subsequently, WWD filed a Motion to Reopen Proceedings based on concerns raised by Commission staff regarding billing frequency. The Commission's final determination of this matter is contained in Section IX of this Order, below.

The Commission reiterates comments made from the Bench during the hearing regarding Mr. Marvel's testimony. It is imperative that witnesses understand that while their goal is to testify in support of their position, such testimony still needs to be truthful and forthcoming. Those are the qualities the Commission received from Mr. Marvel, despite concerns he may have had regarding the direction of the testimony. Such testimony allowed the Commission to properly balance the needs of the Company with those of the ratepayers.

Finally, the Commission reminds WWD that in accordance with R.I. Gen. Laws § 39-1-7(a), the Commission may have its judgments enforced by the Superior Court. In the event WWD violates a Commission order and no adequate remedy is available at the administrative level, the Commission will not hesitate to seek any remedies that may be available in court to protect the WWD ratepayers.

On March 8, 2005, the Commission approved the Compliance tariffs filed by WWD in accordance with the Commission's February 17, 2005 decision.

IX. Commission Determination of Motion to Reopen Proceeding

On June 6, 2005, after being advised by Commission Staff that there appeared to be a discrepancy between the frequency of billing in the Compliance tariffs which were approved by the Commission on March 8, 2005 and an apparent change in frequency of billing from semi-annual to quarterly, WWD filed a Motion to Reopen Proceeding. Attached to the motion was a letter to Commission legal counsel and a revised compliance which illustrated the effect of WWD's change to quarterly billing, from semi-annual billing, on total revenues. On June 16, 2005, at its Open Meeting, the Commission discussed and ruled on the Motion to Reopen Proceeding.

This case is unique in that the Commission's initial decision was rendered five months before the expiration of the suspension period. Under Commission Rule of Practice and Procedure 1.26(a), a party needs to meet three criteria: (1) the Motion is filed prior to the issuance of a written order; (2) the Motion must state good cause why new evidence should be allowed; and (3) the Motion must be made more than ten days before the expiration of the suspension period. In this case, the parties and Commission allowed WWD time to file its Motion although an Order could have been issued sooner, partially because the good cause shown was the Commission's own inquiry into the apparent inconsistent billing practice, and the suspension period had not yet expired. Finally, the Division had consented to WWD filing a Motion to Reopen and when it did, the Division did not object to either the form or substance of the Motion.

In its Motion, WWD explained that while it could be expected that revenues would increase by $233,315 as a result of the billing change, that increase is based on the assumption that consumption and expenses were exactly as projected in the rate case. WWD argued that consumption was less than allowed and expenses were more than allowed by the Commission at its March 8, 2005 Open Meeting. Due to reduced consumption, WWD contended that revenues were only increased by $21,000 not $233,315. The Company claimed there are added costs of $8,319 due to more frequent bill mailings and increased electricity costs from a competitive supplier.

In light of new information provided to the Commission, the Commission will revise allowed consumption, but will not revise the methodology as requested by WWD.

Such a departure from prior Commission practice and the original findings in this matter would require an additional hearing. The original approved consumption was based on three (3) fiscal year: FY 2002, FY 2003 & FY 2004. Using the most recently available information, the Commission will base consumption on three (3) calendar years: CY 2002, CY 2003 & CY 2004. This revised calculation produces a consumption figure of 1,764,369 HCF, which is lower than originally calculated. The revised consumption results in a $14,788 net reduction to WWD's original claim.

WWD indicated that electric costs would be $20,613 more than allowed by the Commission due to an increase in the per kilowatt hour cost of competitive electric supply. The Commission accepts WWD's argument that electric costs are higher than originally allowed and is willing to allow the Company to collect those increased costs.

With regard to the increased mailing costs associated with more frequent billings, the Commission does not believe that a change from semi-annual to quarterly billing was a spur of the moment decision by the Company. The Commission notes that WWD had an opportunity to discuss this change and the associated costs that would appear in the rate year. Since the Company did not raise this issue during the course of this docket, it should not be allowed to recover $8,319 in increased expenses associated with quarterly billing[111].

The Commission finds that WWD is allowed to retain $77,885 of increased revenues resulting from the change in billing frequency to cover the $57,272 consumption shortfall and the $20,613 in increased electric expense. Additionally, WWD

[111] In fact, during the hearing process, in response to a comment by Division witness Crane that WWD billed quarterly, WWD witness Woodcock responded "I'm wondering if looking at that (tariff sheet) if that would refresh your recollection that Woonsocket bills semiannually." 1/6/05 Transcript page 55.

shall increase funding of its restricted IFR account by $155,430. This change will increase total annual IFR funding to $1,755,430.

The result of the Commission's final determination in this matter indicates that WWD has a total cost of service of $7,258,818 and a revenue requirement of $7,043,237 from rates. Revenue at pre-rate year rates produces $5,223,464. The revenue deficiency and required increase to rates is $1,819,773, or 34.84%. The effect on a typical residential customer using 100 HCF is an increase of 39.14% or $114 per year. (Old rates $290 per year. New rates $404 per year.) Schedules PUC-1-16, attached, provide an overview showing the various positions of the parties and a summary of the Commission's decision.

Accordingly, it is hereby

(18307) ORDERED:

1. Woonsocket Water Department's General Rate Filing of July 13, 2004 is hereby denied and dismissed.

2. Woonsocket Water Department has a total cost of service of $7,258,818 and a revenue requirement of $7,043,237 from rates, resulting in an increase to rates in the amount of $1,819,773, or 34.84%, effective for usage on and after February 18, 2005.

3. The Commission finds Woonsocket Water Department's rate design to be reasonable.

4. Woonsocket Water Department shall restrict the following accounts in the following amounts: Rate Case Expense - $30,000, Debt Service - $1,512,993,

Renewal and Replacement - $150,000, Infrastructure Replacement - $1,755,430, Chemicals - $213,884, Study Upgrade Funding - $50,839.

5. Woonsocket Water Department shall not use ratepayer funds to pay late fees or interest charges on past due accounts if there are funds available to pay such accounts by the due date.

6. Woonsocket Water Department shall not use ratepayer funds for the purposes of paying any amounts due for past electric service from Constellation New Energy.

7. Woonsocket Water Department shall not use ratepayer funds for the purposes of regionalization or privatization studies undertaken by the City of Woonsocket after January 1, 2005.

8. Woonsocket Water Department shall not use ratepayer funds to perform curb to curb paving unless such paving would have been required by the City of Woonsocket prior to February 2004.

9. Woonsocket Water Department's Compliance Tariffs filed on February 21, 2005 are hereby approved.

10. Woonsocket Water Department shall comply with all other instructions contained in this Report and Order.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO OPEN MEETING DECISIONS ON FEBRUARY 17, 2005, MARCH 8, 2005 AND JUNE 16, 2005. WRITTEN ORDER ISSUED JULY 21, 2005.

PUBLIC UTILTIES COMMISSION

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Elia Germani, Chairman

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Robert B. Holbrook, Commissioner

Schedule PUC-1

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

REVENUE REQUIREMENT SUMMARY

	WWD Claim (A)	Division Recommended Adjustments (G)	Division Recommended Position (G)	WWD Claim (A)	Initial Commission Adjustments	**Initial Approved Position**	**Reconsideration Adjustments**	**Revised Approved Position**
1. Personnel Costs	$1,405,222	($46,377)	$1,358,845	$1,405,222	($11,020) (B)	**$1,394,202**		**$1,394,202**
2. Maintenance and Servicing	1,107,576	(268,607)	838,969	1,107,576	(294,783) (C)	**812,793**	**20,613 (H)**	**833,406**
3. Operating Supplies	131,419		131,419	131,419	0	**131,419**		**131,419**
4. General Charges	4,729,818	(44,612)	4,685,206	4,729,818	(41,907) (D)	**4,687,911**	**155,430 (I)**	**4,843,341**
5. Plus Operating Reserve	110,611	(54,339)	56,272	110,611	(54,161) (E)	**56,450**		**56,450**
6. Total Cost of Service	7,484,646	(413,936)	7,070,710	7,484,646	(401,871)	**7,082,775**	**176,043**	**7,258,818**
7. Less Miscellaneous Income	(215,581)		(215,581)	(215,581)		**(215,581)**		**(215,581)**
8. Total Net Revenue Requirements	$7,269,065	($413,936)	$6,855,129	$7,269,065	($401,871)	**$6,867,194**	**$176,043**	**$7,043,237**
9. Operating Revenues @ Present Rates	5,208,677	56,609	5,265,286	5,208,677	56,505 (F)	**5,265,182**	**(41,717) (J)**	**5,223,465**
10. Revenue Deficiency	**$2,060,388**	**($470,545)**	**$1,589,843**	**$2,060,388**	**($458,376)**	**$1,602,012**	**$217,760**	**$1,819,772**
11. Increase over Present Rates	**39.56%**		**30.19%**	**39.56%**		**30.43%**		**34.84%**

Sources:
(A) Testimony of Mr. Woodcock, Schedule 1.
(B) Schedule PUC-3, PUC-4, and PUC-5.
(C) Schedule PUC-7, PUC-8, PUC-9, PUC-10, PUC-11, PUC-12, and PUC-13.
(D) Schedule PUC-6, PUC-14, and PUC-15.
(E) Schedule PUC-16.
(F) Schedule PUC-2.
(G) Division Brief
(H) Additional electric costs per WWD Motion to Reopen
(I) Additional IFR Funding Required by Commission
(J) Schedule PUC-2

Schedule PUC-2

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

OPERATING REVENUE

	Initial Findings			Reconsideration	
1.	FY 2002 CCFs	1,737,031	(A)	CY 2002 CCFs	1,779,360
2.	FY 2003 CCFs	1,805,432	(A)	CY 2003 CCFs	1,767,665
3.	FY 2004 CCFs	1,803,674	(A)	CY 2004 CCFs	1,746,083
4.	Three Year Average	1,782,046			1,764,369
5.	Company Claim	1,755,220	(B)		1,755,220
6.	Recommended Adjustment CCFs	26,826			9,149
7.	Current Retail Rate / CCF	$2.36	(C)		$2.36
8.	Gross Revenue Adjustment	$63,309			$21,592
9.	Incremental Power and Chemical Costs	(6,804)	(D)		(6,804)
10.	Net Revenue Adjustment	**$56,505**			**$14,788**

	$14,788
	($56,505)
	($41,717)

Sources:

(A) Annual Sales Net of Lost Customers as reported
on response to Comm 1-15

(B) Testimony of Mr. Woodcock, Schedule 2, page 3.

(C) Testimony of Mr. Woodcock, Schedule 6.1.

(D) CCF per Line 11 X $0.2536 / CCF, as shown below:

$252,289	Power per Woodcock, Sch. 1, page 1.
213,884	Chemicals per Woodcock, Sch. 1, page 2.
(469)	Adjustment per Schedule PUC-8.
(19,190)	Adjustment per Schedule PUC-9.
($1,335)	Adjustment per Schedule PUC-10
$445,180	Total
1,755,220	Sales per Woodcock, Sch. 2, page 3.
$0.2536	Incremental Costs per CCF.

Flows to: Operating Revenue on PUC-1

Schedule PUC-3

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

PERMANENT SERVICES

1.	FY 2004 - As Approved in Docket 3512	$1,079,581	(A)
2.	Annual Increase of 3% to 12/31/05	4.545%	(B)
3.	Pro Forma Salary and Wage Increase	$49,067	
4.	Pro Forma Salary and Wages	$1,128,648	(C)
5.	Company Claim	1,138,840	(D)
6.	Recommended Adjustment	**($10,192)**	

Sources:
(A) Comm. Approved Funding for 33 positions in Dkt 3512
(B) Reflects 3% annual increase for 18 months.
(C) Line 1 + Line 3.
(D) Testimony of Mr. Woodcock, Schedule 1, page 1.

Flows to: Personnel Costs on PUC-1

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

STUDY UPGRADE COSTS

1.	Average Upgrade Adjustment (%)	4.50%	(A)
2.	Recommended Salary and Wage Adjustment	($10,192)	(B)
3.	Recommended Upgrade Adjustment	**($459)**	

Sources:
(A) Derived from Testimony of Mr. Woodcock, Schedule 1.1, page 1.
(B) Schedule PUC-3.

Flows to: Personnel Costs on PUC-1

Schedule PUC-5

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

LONGEVITY COSTS

1.	Average Longevity Adjustment (%)	3.62%	(A)
2.	Recommended Salary and Wage Adjustment	($10,192)	(B)
3.	Recommended Upgrade Adjustment	**($369)**	

Sources:

(A) Derived from Testimony of Mr. Woodcock, Schedule 1.1, page 1.
(B) Schedule PUC-3.

Flows to: Personnel Costs on PUC-1

Schedule PUC-6

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

PAYROLL TAXES

1.	Recommended Payroll Adjustments	($11,020)	(A)
2.	Payroll Tax Rate	7.65%	(B)
3.	Recommended Adjustment	**($843)**	

Sources:
(A) Schedules PUC-3, PUC-4, and PUC-5.
(B) Testimony of Mr. Woodcock, Schedule 1.1, page 1.

Flows to: General Charges on PUC-1

Schedule PUC-7

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

MAINTENANCE - ROADS AND WALKS

		(A)	
1.	FY 2000	$40,000	
2.	FY 2001	82,550	
3.	FY 2002	77,679	
4.	FY 2003	64,046	
5.	FY 2004	208,666	
6.	Three Year Average	$116,797	
7.	Five Year Average	$94,588	
8.	Pro Forma Recommendation	$94,588	(B)
9.	Company Claim	180,621	(C)
10.	Recommended Adjustment	**($86,033)**	

Sources:
(A) Response to DIV-1-1.
(B) Reflects three year average.
(C) Testimony of Mr. Woodcock, Schedule 1, page 1.

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-8

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

LIGHT AND POWER - NEW CONTRACT

1.	Test Year Kwhs-WWD	2,342,429	(B)
2.	Per kWh charge per TransCan refreshed pricing @ 12/16/03	$ 0.0570	(A)
3.	Pro Forma Energy Cost	133,518	
4.	Company Claim	133,987	(B)
5.	Recommended Adjustment	($469)	

Sources:
(A) Response to COMM 1-3
(B) Testimony of Mr. Woodcock, Schedule 1.1, page 3.

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-9

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

LIGHT AND POWER - HARRIS POND

1.	FY 2002 Power Cost	$5,066	(A)
2.	FY 2003 Power Cost	$8,402	(A)
3.	FY 2004 Power Cost	$2,582	(A)
4.	Three Year Average Harris Pond Costs	$5,350	
5.	Pro Forma Rate Year Increase	29.11%	(C)
6.	Pro Forma Harris Pond Cost	$6,907	
7.	Test Year Actual Cost	$1,097	(B)
8.	Pro Forma Rate Year Adjustment	$5,810	
9.	Company Claimed Adjustment	$25,000	(D)
10.	Pro Forma Adjustment	($19,190)	

Sources:

(A) From Semi-Annual Reports Submitted to Commission
(B) DIV 1-16

(C) Increase from $103,418, per Testimony of Mr. Woodcock, Schedule 1.1, page 3, to $ 133,518 per Schedule PUC-8.
(D) Testimony of Mr. Woodcock, Schedule 1.1, page 3.

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-10

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

LIGHT AND POWER COSTS - NEC

1.	Recommended PUC Adjustment	**($1,335)**	(A)

Sources:
(A) Revised Testimony of Mr. Stearns.

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-11

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

PROPERTY AND FIRE TAXES

1.	FY 2004 Tax (Marvel Sch D)	$141,958
2.	Reduction in FY 2005 N. Smithfield per response to Comm 1-13	($20,093)
3.	Rate Year Tax Expense	$121,865
4.	Company Request	$209,622
5.	Adjustment to Company Request	($87,757)

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-12

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

LEGAL SERVICES

1.	Company Claimed Adjustment	$50,000	(A)
2.	Pro Forma Adjustment	**($50,000)**	

Sources:
(A) Testimony of Mr. Woodcock, Schedule 1, page 1.

Flows to: Maintenance & Servicing on PUC-1

Schedule PUC-13

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

ENGINEERING SERVICES

1.	Company Claimed Adjustment	$50,000	(A)
2.	Pro Forma Adjustment	**($50,000)**	

Sources:
(A) Testimony of Mr. Woodcock, Schedule 1, page 1.

Flows to: Maintenance & Servicing on PUC-1

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

RATE CASE COSTS

1.	Recommended Annual Funding	$30,000	(A)
2.	Company Claim	40,000	(B)
3.	Recommended Adjustment	**($10,000)**	

Sources:
(A) Testimony of Ms. Crane, page 25.
(B) Testimony of Mr. Woodcock, Schedule 1, page 2.

Flows to: General Charges on PUC-1

Schedule PUC-15

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

DEBT SERVICE COSTS-CWFA LOAN

	Calendar Year	Interest (A)	Principal (A)	Fees (A)	Total	
1.	2005	$273,032	$375,250	$39,066	$687,348	
2.	2006	348,845	385,000	48,950	782,795	
3.	2007	341,260	390,000	47,025	778,285	
4.	2008	332,329	400,000	45,075	777,404	
5.	2009	322,049	410,000	43,075	775,124	
6.	Three Year Average (2005-2007)				$749,476	
7.	Company Claim				780,540	(B)
8.	Recommended Adjustment				**($31,064)**	

Sources:

(A) Testimony of Mr. Marvel, Schedule B, page 3.
(B) Testimony of Mr. Woodcock, Schedule 1.1, page 4.

Flows to: General Charges on PUC-1

Schedule PUC-16

WOONSOCKET WATER DEPARTMENT

RATE YEAR ENDING DECEMBER 31, 2005

OPERATING RESERVE

1.	Personnel Costs from PUC-1	$1,394,202	
2.	Maintenance and Servicing from PUC-1	$812,793	
3.	Operating Supplies from PUC-1	$131,419	
4.	General Charges from PUC-1	$4,687,911	
5.	Total Expense Excluding Op. Reserve	**$7,026,325**	
6.	Less:		
7.	Renewal & Replacement	($150,000)	
8.	IFR	($1,600,000)	
9.	Debt Service	($1,512,993)	
10.	Operating Expense Excluding Op. Reserve	**$3,763,332**	
6.	Operating Reserve (1.5% x Ln 10)	$56,450	
7.	Company Claim	$110,611	(A)
8	Adjustment	($54,161)	

Sources:
(A) Testimony of Mr. Woodcock, Schedule 1, page 2.

Flows to:Operating Reserve on PUC-1